TEXAS DEPARTMENT OF MOTOR VEHICLES BOARD MEETING

Wednesday, March 20, 2013

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

Victor Vandergriff, Chair
Laura Ryan, Vice Chair
Robert "Barney" Barnwell, III
Blake Ingram
Cheryl E. Johnson
Raymond Palacios
Victor Rodriguez
Marvin Rush
Johnny Walker

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PROCEEDINGS

MR. VANDERGRIFF: Good morning. My name is Victor Vandergriff, and I'm pleased to welcome you here today to the meeting of the Board of the Department of Motor Vehicles.

I'm now calling the meeting for March 20, 2013, of the Board of the Texas Department of Motor Vehicles to order, and 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 March 12, 2013.

Before we begin today's meeting, please place all cell phones and other communication devices in the silent mode.

I also want to note to the board that the mikes are very good, they pick up our movement in our chairs when we're rolling or any other thing, so to note that, please, and try to minimize that as much as you can.

And if you wish to address the board during today's meeting, please complete a speaker's card at the registration table. To comment on an agenda item, please complete a yellow card and identify the agenda item. If it is not an agenda item, we will take up your comments during the public comment portion of the meeting.

And now I'd like to have a roll call, please of

1	the board members.
2	Vice Chair Ryan?
3	MS. RYAN: Present.
4	MR. VANDERGRIFF: Board Member BArnwell?
5	MR. BARNWELL: Present.
6	MR. VANDERGRIFF: Board Member Ingram?
7	MR. INGRAM: Present.
8	MR. VANDERGRIFF: Board Member Palacios?
9	MR. PALACIOS: Here.
10	MR. VANDERGRIFF: Board Member Rodriguez?
11	MR. RODRIGUEZ: Here.
12	MR. VANDERGRIFF: Board Member Rush?
13	MR. RUSH: Here.
14	MR. VANDERGRIFF: Board Member Walker?
15	MR. WALKER: Present.
16	MR. VANDERGRIFF: And let the record reflect
17	that I, Victor Vandergriff, am here as well. We do have a
18	quorum. Board Member Johnson is absent today.
19	With that, I do not see that we have any cards
20	from the public, so I think we can go into just kind of a
21	general announcement phase.
22	I've been asked to read you a letter in terms
23	of board matters. Cheryl Johnson has ably served this
24	board, representing the tax assessor-collectors since its
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inception in November of 2009, and she will not be

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continuing with us once her replacement has been named; that has yet to be done. But she has sent Governor Rick Perry a letter, and she asked that I read that to the board members today. So I'm certainly pleased and privileged to do so.

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"Dear Governor Perry, In October 2009 I was called upon by your office to serve the State of Texas in the capacity as a board member of the newly created Texas Department of Motor Vehicles, a call that was both humbling and exciting -- humbling because I am simply a county tax assessor-collector and never expected to be called upon to serve you and the citizens of Texas in such a manner; exciting because as a member of its first board, the opportunities were boundless. A culture change was needed, and I understand firsthand the significance of this as I changed one in the Galveston Tax Assessor-Collector office.

"There have been many wonderful opportunities for our board to make a difference, starting with defining a vision and philosophy of the agency, an activity that I was honored to facilitate and committed to see accomplished. There have been many difficult but important decisions we've had to make that I spent days agonizing over, never losing sleep because for me it was always about doing what was right and good for Texas and

Texans.

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"So thank you. Thank you for trusting me in 2009. Thank you for the honor of serving the many people and industries that the Texas Department of Motor Vehicles touches each and every day. Thank you for the friendships forged. This experience has shaped me as no other and I will be forever grateful having had the opportunity.

"I am hopeful that I leave the Texas Department of Motor Vehicles in a better place than it started and trust that it is in good hands.

"I remain respectfully, Cheryl Johnson, County
Tax Assessor-Collector, Galveston County."

So very appreciative of Cheryl's service. We certainly hope to have her back here in the future to recognize her service. We'll do that at an appropriate time. And I have no doubt that we will see Ms. Johnson here, in her official capacity and also as an interested citizen, before this board in the future as well.

But again, thank you for letting me read that for Cheryl. She very much would appreciate that.

I also would like to note that we do have one committee assignment that I'd like to make, and that is to move Mr. Rush from the Projects and Operations Committee to the existing vacancy in the Administrative Committee. So that is just an announcement to give to you.

And I'll come back here in a second. We did have one speaker's card that I just got, so with that, I will stop my comments for the moment, except to say that on board appointments we'll have a new board member coming onboard, a tax assessor-collector. We have been notified that Mr. Barnwell and Mr. Palacios will be appointed and they will be back with us, so congratulations to both of you for that, and we'll look forward to your continued service.

You know you're signed up now for another five years or six years.

MR. BARNWELL: Seven.

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MR. PALACIOS: That's a long time.

MR. WALKER: Will you live that long?

MR. PALACIOS: I hope so.

MS. RYAN: Knock on wood, please.

(General laughter.)

MR. VANDERGRIFF: I want to go back to the public comment portion of the agenda. I take that back, it is not on public comment, I thought it was, but it says it's on agenda item 6.E, so we will wait and have that comment then -- 6.C -- I'm sorry -- it will be our legislative report.

So with that, if there's no comments from the board members, anybody have anything they'd like to bring

up?

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(No response.)

MR. VANDERGRIFF: All right. With that, we will proceed to our next item on the agenda which is the consent agenda. Mr. Harbeson.

MR. HARBESON: Good morning. My name is Bill Harbeson. I am the director of the Enforcement Division, and I'm here today to present the consent agenda.

There are 43 enforcement agreed orders before you. These are cases where after a case was initiated, staff and the respondent/licensee have reached an agreement. There are nine enforcement NOVs. These, similarly, are contested cases but of a minor range, essentially a citation issued in the field and the licensee has decided to settle the case by returning the order with the civil penalty. There are six enforcement motions for dismissal, there are thirteen Lemon Law settlements and dismissals before you, and there's two franchise cases where a dismissal is being sought today.

And with that, I am asking that the board approve these matters.

MR. WALKER: I so move that we take the recommendation of the staff on the consent agenda.

MR. RUSH: Second the motion.

MR. VANDERGRIFF: We have a motion and a

second, motion from Mr. Walker, second from Mr. Rush. 1 we have any discussion? 2 3 (No response.) MR. VANDERGRIFF: Seeing none, please raise 4 your right hand in support of the motion. 5 6 (A show of hands.) MR. VANDERGRIFF: The motion carries 7 8 unanimously. MR. HARBESON: On the contested cases today, 9 10 the Enforcement Division has presented you with eight motions for disposition. These, again, are cases where a 11 contested case was initiated, the respondent failed to 12 13 appear at the State Office of Administration, and we have now presented to you a proposed order for your approval, 14 15 and staff today recommends and requests that you approve these orders. 16 17 MR. RODRIGUEZ: So moved, Mr. Chairman. MR. VANDERGRIFF: We have a motion from Board 18 19 Member Rodriguez. Do we have a second? 20 MR. BARNWELL: Second. MR. VANDERGRIFF: Second from Board Member 21 22 Barnwell. Any discussion? MR. INGRAM: Just a clarification of the 2.3 24 motion. The motion is to approve multiple, 1 through 8? 25 MR. VANDERGRIFF: They should be in your book.

1	MR. INGRAM: I think 1 through 8 is on agenda
2	item 3.
3	MR. WALKER: Do we have these in the book?
4	MR. INGRAM: I think they're individual orders
5	of dismissal. Yes?
6	MR. HARBESON: These are individual orders
7	based on defaults, so staff has prepared a motion that's
8	presented to the board, requesting that an order be
9	entered granting the default and imposing civil penalties
10	for revocation, as the case may be.
11	MR. RODRIGUEZ: That's list B in item 3.A.1
12	through 8. Correct?
13	MR. HARBESON: It would be 3.A.1 through 8.
14	MR. VANDERGRIFF: Would you prefer that those
15	be done individually?
16	MR. INGRAM: No. I'm just trying to make sure
17	I understand the motion.
18	MR. PALACIOS: It's all the cases under 3.A,
19	excluding B, right, we're not talking about B?
20	MR. HARBESON: Yes, sir.
21	MR. INGRAM: Okay. I got it. My apologies, I
22	was just not up to speed on it.
23	MR. VANDERGRIFF: We have a motion and a
24	second. Any further discussion?
25	(No response.)

MR. VANDERGRIFF: Seeing none, all those in favor please raise your right hand in support of the motion.

(A show of hands.)

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MR. VANDERGRIFF: The motion carries unanimously.

With that, we're on to item 3.B on the agenda.

MR. GLADNEY: Good morning. My name is Mark Gladney for staff. I'm here to present three warranty performance proposals for decision for your consideration today. No parties have responded to staff notices to address the board at today's meeting with regard to any of these three cases.

The first case is Vinita v. Nissan. This is a case that was remanded back to SOAH, a hearing was held on October 3 of last year. The complainant complained of clutch failure on a 2011 Nissan Sentra purchased March 4 of '11 at Ogden Nissan in McAllen. The first repair was on April 29 of '11 at 1,300 miles for clutch issues and the clutch assembly was replaced. As I said, that was at 1,300 miles. Clutch failure again occurred at 3,900 miles and the vehicle returned for repair on September 12 of 2011.

At that particular point, the respondent Nissan declined the warranty repair due to an allegation of

driver abuse and negligence in operating the manual transmission vehicle. The respondent also stated that the warranty did not cover such repairs for wearable parts and the dealer declined warranty repair since the manufacturer declined to pay for any type of repair. The complainant then towed the vehicle to another dealer who also declined repair, and then eventually towed it to a non-Nissan repair shop.

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The record evidence shows no further clutch issues since the last repair by the non-Nissan repair shop, and the complainant seeks reimbursement for expenses incurred due to the vehicle being out of service and for the payment of the repair at the non-Nissan shop.

SOAH determined that there was insufficient evidence presented by Nissan of abuse and filed for the complainant and recommended reimbursement for \$1,625.96 for towing charges and repairs. Staff concurs with the PFD findings and recommends adoption of the proposed order with the corrections noted in your packet.

MR. RODRIGUEZ: I've got a question, Mr. Chairman.

MR. VANDERGRIFF: Sure.

MR. WALKER: Don't we need a motion first?

MR. VANDERGRIFF: He can ask questions before a motion.

MR. RODRIGUEZ: Mr. Gladney, they filed this under 604 but it was an erroneous claim under 604.

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MR. GLADNEY: Yes. It was originally filed as a 604 case. The complainant failed to pay the \$35 filing fee, and therefore, it would have morphed into a 204 case.

MR. RODRIGUEZ: So when you say morphed into a 204, who makes it a 204 case?

MR. GLADNEY: Well, in this particular situation, this one is kind of on me. What happens is when a complainant comes in and files a Lemon Law complaint, they also have to file the \$35 filing fee. It will come into Enforcement Division administration, it will be sent over to the Comptroller's Office to process the check, the application will come back to us with a receipt number from the Comptroller's Office saying that this has been paid, and then we will code it as a 604.

In this particular case, what had happened was it as filed as a 604, the complainant said that yes, I'm going to pay the \$35 filing fee, and we had erroneously believed that he had filed the \$35 and we didn't find out until after the first hearing, so that's why it was remanded back as a 204 because he hadn't paid the money for a 604.

MR. RODRIGUEZ: My central question is having not filed properly under 204 and having filed a 604,

number one and number two, having not attached the 1 2 appropriate filing fee, are those errors fatal, and if 3 they're not fatal, who decides they're not fatal? Just wondering. 4 MR. GLADNEY: Well, 604 has a higher standard 5 6 of proof as far as the elements that have to be proven. 7 MR. RODRIGUEZ: I understand. I'm just saying who decides -- if I come and file a claim under X and it 8 can be the most wonderful claim but it's not an X claim, 9 10 it's a Y claim, therefore, I lost my opportunity to properly claim. In this case we have a 604, somebody 11 decided it's a 204, and I'm just wondering who decides 12 13 that and do we pick and choose, or is it just automatic? MR. GLADNEY: No. It's under statute. A 604 14 15 Lemon Law case is going to be for new vehicles. Now, in 16 this particular case --17 MR. RODRIGUEZ: I understand that. Somebody filed a 604 case. Right? 18 19 MR. GLADNEY: Yes. MR. RODRIGUEZ: Okay. That's an erroneous 20 claim. 21 22 MR. GLADNEY: Yes. MR. RODRIGUEZ: Who decides -- is that error 2.3 24 fatal? That's all I'm asking, is it fatal, yes or no.

That's all I'm asking.

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MR. GLADNEY: Fatal in what respect? 1 2 MR. RODRIGUEZ: That it's not a proper claim. 3 MR. GLADNEY: If you have a new vehicle you can file the 604 claim, as long as it's timely, and in this 4 particular case it would have been timely, but because 5 6 they didn't pay the \$35, it's not a 604, it wouldn't be a 7 604. They have to have the \$35 as well. MR. RODRIGUEZ: And the absence of the fee, 8 that's another point. All I'm just trying to figure out 9 10 here, somebody walks in with a 604 claim and we decide it's not a 604, we're going to fix it for you, it's a 204, 11 12 and I'm just wondering do we do that for everybody. 13 That's all I'm trying to figure out. MR. GLADNEY: In accordance with our rules, we 14 15 will evaluate every case that comes through the door. 16 MR. RODRIGUEZ: I understand. MR. WALKER: You're not understanding his 17 question; I understand his question. What gives you the 18 right to take it from a 604 to a 204? 19 20 MR. GLADNEY: According to our rules, and also the statute, it's required that there be a \$35 fee 21 22 included in a 604 case. If you don't file the fee but you have a 604 claim, the statute requires not only proving up 2.3 24 that it's eligible for 604, but also as part of the

eligibility, you have to have the \$35 fee.

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MR. WALKER: We understand that. You're still not giving the question.

MR. GLADNEY: Okay.

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MR. WALKER: What gives you the authority to take and change it, or do you have the authority -- he's asking do you have the authority to take it from a 604 without just throwing it out and saying it's not correct and making these refile it and do it themselves. He's asking who has -- do you have the authority to change it from a 604 to a 204, that's the question.

MR. GLADNEY: Yes. Under statute and under the rule, we do. You have to have not just the application that shows it to be a 604, but you also have to have the \$35 fee, that's statutory.

MS. RYAN: And in any scenario where the fee was not filed, statute allows the agency to move it.

MR. GLADNEY: At that point it would not be a 604 case, it would be a 204 case.

MS. RYAN: Consistently.

MR. HARBESON: Maybe I can help. It's essentially sort of the lesser included part of a 604. You're always going to be, at a minimum, looking for getting it fixed. If you can't meet the threshold for getting it repurchased -- which this consumer didn't because of the failure in filing -- we still have an

ongoing request to at least get it fixed. So there's always that lesser bump down to 204; because we didn't reach the 604 threshold, it immediately becomes a repair case for 204.

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MR. WALKER: How often do we see a 604 go forward in these Lemon Law cases? How often do we see a 604 Lemon Law case go through to completion? I see lots of rejected ones. I mean, do we ever see a Lemon Law case go through?

MR. GLADNEY: The vast majority of our cases are 604s, a very small percentage are 204s, so you might see maybe approximately 10 percent of our cases are going to be 204 cases, so that might be anywhere from 25 to 30 cases.

MR. HARBESON: And you will not see those cases because under the statute they come to the director of the Motor Vehicle Division. It's one of the strange parts of the statute.

MR. WALKER: My question is how often do we grant a Lemon Law case. I've never seen one.

MR. HARBESON: I'd have to come up with the numbers, but I sign off on quite a few of them, and I'd like to say the vast majority of these are where the manufacturer has reached an agreement to go ahead and repurchase the vehicle, and so the dismissal is an order

of repurchase. And I can get you the numbers, exactly how 1 2 many of those we sign. MR. WALKER: We see all the rejections, but I 3 just never see how many actually go through. 4 MR. HARBESON: You're not going to see the 604 5 6 cases up here because they're Motor Vehicle Division director cases. But I can get you the stats on how many 7 8 of those repurchase cases, the 604 cases go all the way 9 through. 10 MR. RODRIGUEZ: Let me ask this question this way: This is a claim that was erroneously filed, that 11 failed to comply with the requisite for a filing fee, and 12 13 you're still coming here and telling us we should do X. MR. GLADNEY: That's because you have 14 15 jurisdiction over a 204 case. 16 MR. RODRIGUEZ: That's not my question. 17 question is am I correct saying that this was a case that was erroneously filed, they didn't pay the filing fee, and 18 19 you're still here asking us to do X with this. MR. GLADNEY: Well, that's because this is a 20 remand back from a 60r case which it should not have been, 21 22 and it was remanded back to SOAH for 204 consideration. MR. RODRIGUEZ: I understand all that. At the 2.3 24 end of the day, it's a 604 case filing which is not a

correct filing, and they did not pay their filing fee, and

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in spite of that, you're asking us to take this action on 1 it. 3 MR. GLADNEY: Yes, because it went back to the court for the consideration that it should have had in the 4 first place. 5 6 MR. RUSH: Let me ask a question. If he'd have paid the fee, would it have been a 604? 7 8 MR. GLADNEY: If he'd have paid the fee, it 9 would have been a 604, yes. 10 MR. RUSH: That doesn't make any sense. MS. RYAN: Would the outcome have been 11 different? 12 13 MR. GLADNEY: The outcome most likely would have been different because you have a higher standard 14 15 there, you'd have to not only prove that there was a 16 defect, but you also have to prove that it was a substantial impairment that affected use, market value or 17 it was a safety hazard. So it's quite possible that under 18 19 that set of circumstances the complainant may not have prevailed. Of course, again, I could be speculating. 20 MS. RYAN: Was the consumer given the option to 21 22 pay the \$35? MR. GLADNEY: Yes, they were. They were told 2.3 24 on several occasions. We handle hundreds of these cases 25 every year and this may happen one time, this might be the

only time in a fiscal year that you might see something 1 like this. Normally the process is if you pay, you get 3 your 604; if you don't, you don't, you won't get a 604. MS. RYAN: Do you automatically get a 204 when 4 5 you don't pay? 6 MR. GLADNEY: You would get a 204. 7 MS. RYAN: And that's consistent. So on a new 8 car complaint there's two ways to go, 604/204. requires the \$35 fee; if you don't pay the fee with that 9 10 filing, it automatically goes the 204 route. Correct?

MR. GLADNEY: Right.

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MS. RYAN: And that's part of the statute.

MR. GLADNEY: That's part of the statute, and it's also part of a rule that the board adopted last year, 215.2032, and basically it's saying if it's determined that the complaint does not meet the minimum Lemon Law or warranty performance requirements, the complaint will be processed in accordance with the procedures set forth in the subchapter in our procedural rules. And that's the standard way that we would handle a case of this nature.

MS. RYAN: So when it's filed, it goes into the system and it can go one of two ways, and the person filing is aware of that, and that determination is made on whether they make the \$35 filing fee or not?

MR. GLADNEY: Right. And I think I mentioned

this before, we have a lot of people that will file 604s, they want a replacement vehicle or they want a refund, and for any number of reasons, it doesn't qualify for a 604, but it doesn't stop people from asking for a new car.

They can ask for it but they may not qualify for it and they may not be able to prove it up.

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MR. PALACIOS: Mr. Gladney, I guess since we're going forward on this, I'm just curious. The complainant forfeited their right to pursue purchase under 604 because they wouldn't pay a \$35 fee. Now, what's the process there: do we automatically reject it and say you didn't pay the \$35, or do they have the opportunity at some point to pay the \$35? Because there's a big difference between a 604 and a 204.

MR. GLADNEY: In this particular instance, had they paid the \$35 before the case went to hearing, then it would have been a 604. And this complainant was contacted by the case advisor on numerous occasions, you know, get this thing filed. And I think there was just simply confusion that the \$35 had been filed and we did not find out until after the first hearing was held, so the first hearing was held under 604. Then we discovered he had not paid the filing fee, that's when we came back to you and requested that this be remanded back to SOAH for 204 consideration.

MR. PALACIOS: But I guess in a bigger case, would we give the complainant the option to pay their \$35?

They may have had a legitimate case for a 604, and for \$35, it just seems to me that's a small amount of money to make a difference between repurchase or repair. So I guess in our process, do we allow complainants, I guess, the opportunity to come up with the \$35, or do we automatically say sorry, you didn't pay the money, it's going to 204 now?

MR. GLADNEY: In a situation like that, if

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they're 604 eligible and they didn't pay the fee, we will contact them and we'll say: Look, you've got to pay this \$35 fee. And again, as long as they pay that fee prior to the time that it gets to the hearing stage, then it can be coded as such in our system as a 604, notice of hearing will go to SOAH as a 604. This is one of these rare occasions where this one just kind of fell through the cracks in this particular case.

MR. BARNWELL: So it never should have been noticed.

MR. GLADNEY: It should have not been noticed as a 604, it should have been noticed as a 204.

MR. BARNWELL: But it was filed as a 604, it shouldn't have been noticed, period.

MR. GLADNEY: Not as a 604, no.

MR. BARNWELL: So the statute says, as you were 1 2 pointing out a minute ago, that as a sub-part if you don't 3 qualify 604, you're automatically 204? MR. GLADNEY: If you don't pay the \$35, yes. 4 MR. BARNWELL: No, no, no. If you don't 5 6 qualify 604, you're automatically 204? 7 MR. GLADNEY: Yes, because we will go 8 through --MR. BARNWELL: Let's say I filed a 604 and I 9 pay my 35 bucks and they say there's no way in the world 10 that you need a new car, I might differ with that but I 11 lose on that. Can I still win on the warranty on a 204, 12 13 or do I have to refile? In that particular instance, and 14 MR. GLADNEY: 15 if I'm understanding you correctly, we're going to review 16 each complaint that comes through based on what is in our 17 rules and what is in statute, so if you came and you bought -- say you bought a 2012 but you bought it used 18 19 with, say, 10,000 miles, well, if you file a 604, you're not going to get 604 relief because you bought a used car. 20 But if you bought that car new and it was within the 21 statutory period, yes, you could file the 604 but you'd 22 better make sure you file that \$35. 2.3 24 MR. BARNWELL: Let's say I file a 604 and I'm

qualified to file the 604, however, I don't meet the

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burden of proof for the 604. They pour me out, I get nothing on that. However, there is a warranty issue that I do qualify for because there's a lesser burden of proof for that, so I proved that there's a warranty item but it doesn't rise to the level of getting me a new car. Does SOAH render a decision on the 204, or do I have to refile the 204?

MR. GLADNEY: No, you don't have to refile the 204 because under a 604, if the problem can be repaired, if it can be corrected through repair, then 604 allows for repair relief. So it's not going to be a situation where if you file a 604 --

MR. BARNWELL: So this person here, Vinita, if they paid the \$35, they would have gotten, probably, one of two kinds of relief: either a new car or replacement of vehicle, or the warranty repairs which 604 also covers.

MR. GLADNEY: Or a refund. So they have three options.

MR. BARNWELL: Or a refund.

MR. GLADNEY: Yes.

MR. BARNWELL: But because they didn't pay the \$35 fee, it had to be sent back over to SOAH to be readjudicated on the basis of a 204 because it didn't meet the 604 requirements.

(512) 450-0342

MR. GLADNEY: Right.

ON THE RECORD REPORTING

1	MR. BARNWELL: Is that a statutory requirement
2	on the \$35?
3	MR. GLADNEY: Yes, sir.
4	MR. BARNWELL: Okay. I'm cool with it.
5	MR. HARBESON: They would be back where we are.
6	That's the only thing they could offer this consumer is
7	the repair relief which he still was seeking, originally
8	seeking, and that's what's in front of the board today.
9	MR. GLADNEY: Board Member Rodriguez, I'm not
10	entirely sure if I answered your question but I'm trying.
11	MR. RODRIGUEZ: Just one more question. On a
12	204 is there a filing fee associated with that?
13	MR. GLADNEY: No.
14	MR. RODRIGUEZ: No filing fee.
15	MR. GLADNEY: No, no filing fee.
16	MR. INGRAM: Mr. Chairman, I'd like to make a
17	motion to approve the final order granting 2301.204 relief
18	after remand for this case.
19	MR. VANDERGRIFF: We have a motion. Do we have
20	a second?
21	MR. RUSH: Second.
22	MR. VANDERGRIFF: Second from Board Member
23	Rush. All those in favor please raise your right hand in
24	support of the motion.
25	(A show of hands: Barnwell, Ingram, Palacios,

Rush, Ryan and Vandergriff.)

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MR. VANDERGRIFF: All those opposed?

(A show of hands: Rodriguez and Walker.)

MR. VANDERGRIFF: The motion carries six to two, with Board Members Rodriguez and Walker voting against.

The next one up is Cathy Aldridge and Lloyd Aldridge v. General Motors.

MR. GLADNEY: Yes. In this particular case this was another case on remand to SOAH. The original hearing was held on April 25 of 2012. After a remand order was given on August 14, 2012, SOAH issued an order for the parties and reopened the evidentiary record to submit additional evidence to satisfy the board's order, and gave the parties 30 days to do so. The complainant submitted a letter, GM submitted nothing.

In this particular case, the complainant purchased a used 2006 Chevy HHR with 25,000 miles on it in June of 2006. The complainant suspected prior damage to the vehicle that had not been disclosed at the time of the sale. The complainant reported problems with the airbag light, compressor and car vibration. The respondent Chevrolet -- or GM disputed any current problem with the vehicle. The vehicle had 104,000 miles at the time of the hearing, the warranty had expired in 2008, the last

warranty repair was made in September of 2008 at 36,008 1 miles which would have been basically eight miles over the 2 3 three-year, 36,000-mile warranty. The issues that were noted in the complaint 4 were not reported during the warranty period. SOAH found 5 6 no evidence of substantial impairment at the time of the 7 hearing and the PFD recommended dismissal in this case. 8 Staff concurs and recommends adoption of the proposed 9 order in the packet. 10 MR. VANDERGRIFF: Do we have any questions of Mr. Gladney? 11 12 MR. INGRAM: Move that we approve the final 13 order denying 204 relief. MR. WALKER: Second. 14 15 MR. VANDERGRIFF: We have a motion from Mr. 16 Ingram and a second from Mr. Walker. Any discussion? 17 (No response.) MR. VANDERGRIFF: Seeing none, all those in 18 19 favor please raise your right hand in support of the motion. 20 (A show of hands.) 21 MR. GLADNEY: The last case is DeLong v. Ford 22 In this particular case, SOAH conducted a 2.3 Motors. 24 hearing in this matter on November 2, 2012. complainant alleged that the new 2009 Ford F-250 purchased 25

on Halloween of 2009 had engine problems when the vehicle was at or below one-quarter tankful of gas and made whining noises at speeds 40 to 50 miles an hour. The complainant took the vehicle in for servicing for these issues six times in 2011.

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The respondent Ford claimed that it was a design characteristic with regard to the fuel issue. The SOAH ALJ did not necessarily accept that explanation as credible and recommended reinspection and repair related to the fuel issue. Staff intends on having one of our techs present at the time of the reinspection if the board grants the proposed order

Staff concurs with the PFD and recommends adoption of the proposed order.

MR. WALKER: I have a question on this one.
Why did we not grant or why did SOAH not grant the charges that were incurred by the person prior to us saying that
Ford needs to fix the car? There's a \$287 charge that the car dealer made them pay prior to that, prior to us ruling that they should have covered this under the warranty. I understand maybe the rental car, why we don't reimburse that, but shouldn't the complainant be reimbursed for costs that they were incurred by the dealership for having to pay to fix the car when it was actually a warranty issue?

1	MR. RODRIGUEZ: That's on your list of untimely
2	exceptions. Right?
3	MR. GLADNEY: Pardon?
4	MR. RODRIGUEZ: The judge decided those claims
5	were untimely.
6	MR. GLADNEY: Yes.
7	MR. RODRIGUEZ: Untimely meaning that they were
8	not filed within the time constraints.
9	MR. GLADNEY: The exceptions, yes.
10	MR. VANDERGRIFF: Well, I thought this said
11	didn't cover because it's not covered under the Act, I
12	think, or something like that.
13	MR. GLADNEY: And I'm not even showing that the
14	judge even considered that or even addressed it in his
15	findings.
16	MR. WALKER: Yes, they did. It's on your page
17	under State Office of Administrative Judges right here.
18	MR. GLADNEY: This is the DeLong case.
19	Correct?
20	MR. WALKER: DeLong, yes.
21	(General talking.)
22	MR. INGRAM: It's the third page past the final
23	order.
24	MR. WALKER: It's on the back side of our page
25	right here.

MR. VANDERGRIFF: To Mr. Harbeson from the 1 2 presiding administrative judge. 3 MS. RYAN: The ALJ is stating that the reimbursement of those types of expenses would only be 4 under 215.209, and the ALJ does not recommend -- and since 5 6 the ALJ did not recommend a repurchase or replacement, then the reimbursement isn't applicable, based on SOAH. 7 8 (General talking.) MR. VANDERGRIFF: I apologize. We have 9 conferences up top and at the table. That's all right. 10 just wanted to identify it for the court reporter's 11 records. 12 13 MR. GLADNEY: With regard to your question related to the \$287, we have in the past in 204 cases 14 15 where repair has been authorized, we've authorized 16 expenses, repair-related expenses, and a \$287.11 charge 17 that looks like they incurred for parts for attempts to repair the vehicle, that could be reimbursed to them. 18 19 what that would require is a modification to the proposed order in the packet to include a reimbursement of \$287.11. 20 MR. WALKER: So do I need to make a motion to 21 that effect? 22 MR. GLADNEY: Yes, I think you would. 2.3 24 MR. WALKER: Are you ready for a motion? 25 MR. VANDERGRIFF: I think at this point a

motion would be appropriate and then we would have 1 discussion. MR. WALKER: I'd like to make a motion that we 3 accept the recommendations of the staff on the ruling on 4 the Lesa DeLong case against Ford Motor, and amend that to 5 6 reimburse the out-of-pocket expenses of \$287.11 for parts 7 that were purchased prior to the ruling to try to fix the automobile. 8 MR. INGRAM: I'll second that. 9 10 MR. VANDERGRIFF: Do we have any discussion on this motion? 11 12 (No response.) 13 MR. VANDERGRIFF: Seeing no discussion, I'll call for your vote. Please raise your right hand in 14 15 support of the motion. 16 (A show of hands: Ingram, Palacios, Rush, 17 Ryan, Vandergriff and Walker.) MR. VANDERGRIFF: All those opposed? 18 19 (A show of hands: Barnwell and Rodriguez.) MR. VANDERGRIFF: The motion carries six to 20 two, and Board Members Rodriguez and Barnwell voting 21 against. 22 MR. GLADNEY: That's all I have. 2.3 24 MR. VANDERGRIFF: The next item on our agenda is item 4, and these are resolutions for individual 25

consideration.

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MS. BREWER: Good morning. My name is Sharon Brewer. I'm the director of Human Resources at the Texas Department of Motor Vehicles.

This order proposes the adoption of repeal of Section 208.7 concerning transition of vacant positions. The board approved the publication of the proposed repeal at the November 2012 board meeting, and I'd like to thank Board Member Johnson for her interest in addressing this rule.

When House Bill 3097, 81st Legislature, Regular Session 2009, created the Texas Department of Motor Vehicles, Section 6.03 of that bill provided that the Texas Department of Transportation could transfer vacant positions to the department through a memo of understanding. The transfer of the vacant positions was intended to provide positions for administrative functions of the Texas Department of Motor Vehicles. The department was to give first consideration to an applicant who, as of September 1, 2009, was a full-time employee at the Texas Department of Transportation.

This preferential provision was included as a hard-coded statement in the department's Human Resource

Management System used for hiring the initial 66

identified administrative positions. By July 1 of 2011,

66 positions had been filled, the provision was removed 1 from the department's Human Resource Management System by 3 the Texas Department of Transportation on November 4 of 2011. 4 This proposal to repeal was published in the 5 6 November 23, 2012 issue of the Texas Register. comment deadline was December 27, 2012. No comments were 7 received and there are no fiscal implications. 8 9 I recommend that repeal be adopted. 10 MR. RODRIGUEZ: That we repeal or we adopt a new rule that repeals it? 11 MS. BREWER: Correct. 12 13 MR. VANDERGRIFF: It's been published, noticed, no comments were received, and so the recommendation is 14 15 adoption. 16 MR. PALACIOS: I move that we adopt the 17 recommendation to repeal. MS. RYAN: Second. 18 19 MR. VANDERGRIFF: We have a motion from Board Member Palacios and second from Vice Chair Ryan. 20 I would note that this is one well in coming. 21 22 When we started it was all TxDOT folks, and though some great people there, now to see a DMV personality and be 2.3 24 able to hire accordingly, so that's great.

ON THE RECORD REPORTING (512) 450-0342

All those in favor of the motion please raise

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your right hand.

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(A show of hands.)

MR. VANDERGRIFF: All those opposed.

(No response.)

MR. VANDERGRIFF: The motion carries unanimously. Thank you.

Next up is Mr. Elliston on B and C under 4.

MR. ELLISTON: Good morning, Mr. Chairman, members. For the record, my name is Randy Elliston. I'm the director of the Vehicle Titles and Registration Division.

Before you today is our request for approval for final adoption with changes of amendments to the Texas Administration Code, Title 43, Chapter 217.3 and Chapter 217.22.

As you may recall, in March of 2012, the board created the Tax Assessor-Collector Special Advisory

Committee on Standards. The creation of this was in compliance with House Bill 2357 of the 82nd Legislative

Regular Session which created the Transportation Code

520.004 that required the department to establish standards for uniformity and service quality for the titling and registration of vehicles by counties. These rules would implement the consensus of that committee, as well as clarification of existing rule.

Amendments suggested by the standards committee includes five major areas:

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Number one is requiring that a tax assessor-collector hold hearings for an interested person who has been refused a title, has a title revoked or has a title suspended in accordance with Transportation Code 501.052.

Number two, it provides for consistency in charging fees was added, including that a county may charge a \$25 fee one time for a mechanic's lien that it processes.

Number three would be the amendments explain that if a person has been arrested or cited for operation of a vehicle without registration, then the full amount of the registration fee would be collected and that the month would be set back to the original month of the registration.

Number four, a subsection was added to require an applicant provide proof of eligibility for arm plates. An application for farm plates must be accompanied by a copy of the applicant's Texas Agriculture or Timber registration card issued by the Texas Comptroller of Public Accounts. The card must be current, it must be legible, contain a registration number and be in the name of the person or the DBA in which the vehicle will be registered.

The fifth one is that the rule also proposes that any county tax assessor-collector employees would be required to complete five department online introductory training modules within the first six months of their hire and an additional five modules of the county tax assessor-collector's choice within the first year of the hire. A new county tax assessor-collector would have been required to complete the online county tax assessor-collector within the first year of election or appointment, and the department would have allowed a county to substitute its own training if it had training that was in place.

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As required by statute, these proposals were published for public comment in the November 23, 2012 issue of the *Texas Register*. Comments were received from tax assessor-collectors in the counties of Aransas, Brazoria, Cherokee, Hood, Midland, Montgomery, Randall, Refugio, Victoria, Wheeler, Wichita and Young. Comments were also received from the Tax Assessor-Collectors

Association of Texas and then formally by the Department of Motor Vehicles Standards Committee.

All commenters asked that the department not adopt Sections 217.3(j) and 217.22(n) that requires training standards for tax assessor-collectors and their staff. There were no public comments received regarding any other section of these proposed rules.

Since the rule was proposed, the department has learned that the Tax Assessor Collectors Association of Texas has proposed legislative changes to include a training program. At this time the department recommends that you not adopt Sections 217.3(j) and 217.22(n) that requires the training but that you adopt all other sections of the rule. This will allow the department to have more time to discuss the training issues with the tax assessor-collectors and also see what comes out from any legislative changes that may occur.

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MR. WALKER: Question. You just want to exclude only the section referencing the requirements that within six months they have to take the five module training that we have put together a program to train the tax assessor-collectors staff members. Is that correct?

MR. ELLISTON: That's correct. The piece for the tax assessor-collector and their staff, that whole section requiring training, we're asking that you exclude that.

MR. WALKER: But doesn't House Bill 2387 -- or 2357 require that we go out here and come up with a standard?

MR. ELLISTON: The bill was very broad in that it says we'll set standards, it doesn't say in what form or what those standards will be, it just gives the board

authority to set standards.

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MR. WALKER: And if we had standards and we went and looked at how we were going to train and we had a committee forum which would have been made up of the tax assessor-collectors, why wouldn't have all of this been hashed out through the committee process before we created the rule?

MR. VANDERGRIFF: Can I jump in here for a second? Do you mind if I do that, Mr. Elliston?

MR. ELLISTON: Be my guest, sir.

MR. VANDERGRIFF: You are correct. The committee process, I think, worked in the sense that the tax assessor-collectors and the department got together and talked about this and the committee members actually agreed upon this training standard, and there is a difference between what the tax assessor-collectors are proposing in the legislature and what this is. training standard here was on the front-line personnel that are touching the RTS system, not on the tax assessorcollectors themselves. The tax assessor-collectors are currently regulated by the Texas Department of Licensing and Regulation and they're requesting to be moved out of that and have their own continuing education requirement for them as tax assessor-collectors policed by, in effect, their association. So that addresses them, this addresses the staff.

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Where the challenge was is the communication between the members of their committee and their state association, and given that this legislation was pending and we don't know exactly what will happen with that, that may take on a different tack, you never know how the committee process flies in the legislature, that the agreement was not that there will not be a training standard.

And I am personally firmly committed, I think it is reasonable to have a training standard for the people that are handling the products of the State of Texas. I equate it to my time as a car dealer, I certainly had a don't tread on me attitude in terms of telling me how to sell the vehicles and the system that I wanted, but yet, we do get training modules for parts counter people, for technicians, for salesmen on the product that we sell, and that's really, in effect, what we were talking about here.

So I fully expect this to come back up. We have had meetings that I participated in, as well as Cheryl Johnson -- who, of course, is not with us today -- Randy, the executive director. I think the full expectation is that we will readdress this in the summer, bring a rule back to this board with respect to training,

and I'm certainly personally committed to doing that. And I think that the TACA, the Texas association of county tax assessor-collectors is committed to working in that process as well.

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MR. WALKER: But if you read some of these letters from some of these tax assessor-collectors -- and I sure don't think that six months of hiring, somebody being trained within six months is an unreal expectation.

MR. VANDERGRIFF: And remember, they can also substitute the training modules which were designed -- the tax assessor-collectors designed the training modules that the department has, but they are free to substitute their own if they choose to.

MR. WALKER: And some of the letters say don't tell me how to train my people which, to me, says I'll train them the way I want to train them without going to your standards. I mean, we're trying to come up with a standard that says this is how we address the people of the State of Texas uniformly over 254 counties, not that my standards are different in Harris County than they are in Dallas County or Tarrant County. The legislature wants to standardize how we treat all people within the state. Is that not correct?

MR. VANDERGRIFF: That is correct. And I fully expect this to come back up. I also believe and

understand that the department is keeping better track of the -- through their regional offices, the department has to correct a lot of things that are done at the field level at the tax assessor-collector offices, and so I think we're keeping a better record of that -- at least I certainly hope we are to be able to discuss that when we bring the tax assessor-collector committee back together.

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MR. WALKER: So we're wanting just to throw out all the work that was done for the last year on this deal in order to take and start all over from ground zero on training?

MR. ELLISTON: Member Walker, actually the training piece was just a small piece of what the committee addressed. There were a whole number of things, and in fact, everything that we've talked about in this rule today is a product of that in trying to standardize how work is done from one county to the other. The training is just a small piece of it. I think what we're asking here is to buy a little time to get to the end of the legislative session. We don't want to put something in place that if the legislature does something that will change, we might have to then change our rule. We're very close to that point, it will give us time to work on it.

So the work was done, I think it was good work, the committee did a lot of really good things, this was

just a small piece of it, so we're just asking to set that aside for the moment. We will bring it back to you once we see what occurs in regards to the tax assessor-collectors. Do they have any training or not, we don't know that, we won't know until after the session. Once we know that, then we'll come back to you with a new proposal.

MR. VANDERGRIFF: And I firmly believe that the new proposal will certainly not be any less than what the current one is and it will be a stronger, more unified proposal with the tax assessor-collectors' support.

MR. WALKER: But the \$25 fee for the filing for the mechanic's lien, the farm plate tag requirements, all that is going to stay in the rule and go forward?

MR. ELLISTON: That's correct.

MR. WALKER: Okay.

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MS. RYAN: Quick question. One some of the feedback it references that they already use some of the training that the DMV offers. Would those modules change or would it be a continuation, just more of an accountability factor?

MR. ELLISTON: These modules have been in place for quite some time. They're online, they're free, they're very easy for them to use, and they do frequently use them, and we can see that they are using some of these

modules. So they would be the same ones, we would continue to update, we would add to them. We were going to have to add a module for the tax assessor-collector themselves when they're either elected or appointed to the new position. We didn't currently have that, we were working on that one. So we will be adding to it as this moves forward.

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MS. RYAN: So if it is voted to remove the standards piece but go with everything else, is it possible between now and summer, after the session to see what comes out, to get an update on which counties are using the modules and how frequently before we make a determination as a decision factor on what the next steps should be?

MR. ELLISTON: Yes, ma'am, we can track all of that. And this will not preclude them, if you vote on this today to remove this section, it will not stop them from using the modules, it will be just like it is today, and a good number of them are currently using them.

MS. RYAN: I think it would be good to see what's being used voluntarily and how it's being used before we move forward.

MR. VANDERGRIFF: Yes. I think that's an excellent suggestion. Many of the counties are using the modules.

MR. BARNWELL: When we pass a rule like this, let's say that we left it in, for just a moment, and a give tax assessor-collector says, well, I'm not going to do it, what happens then? What enforcement provisions are there in that, what penalties for non-compliance are there?

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MR. ELLISTON: Well, there is no penalty for non-compliance for this rule, so other than the fact of us telling them you're not doing what we're asking you to do. The tax assessor-collectors are elected officials, they swear an oath to do their job and those kinds of things, and we can usually work with them pretty well.

MR. BARNWELL: Okay. Well, I was just wondering because there's no point in having a rule if they don't have to abide by it. These are more guidelines than anything else.

MR. ELLISTON: Well, they're set in rule, so rule is, in effect, law, but it's just like a law just like we had with our front license plate, if there's no penalty for it, I'm kind of in a little catch there. But these are guidance and it's more so than just me writing a memo or a registration title bulletin out saying do something, this is the board saying this is how we want you to proceed.

MR. BARNWELL: Well, waiting on the legislation

then would seem to be the way to go. 1 MR. ELLISTON: Yes, sir, I think so. 2 3 MR. RODRIGUEZ: I have two questions, one for an question, the other one more a commentary. 4 Part of this set of changes intends to clarify 5 6 that if a person has been arrested or cited for operation of a vehicle without registration, then the full annual 7 8 registration will be assessed. Is that correct? 9 MR. ELLISTON: Yes, sir. 10 MR. RODRIGUEZ: It's not clear to me, one, how we determine that, and number two, if I have been arrested 11 or cited for operation of a vehicle without registration 12 13 and I walk into your shop and I say I want to register my vehicle, are we going to prove a nexus between my arrest 14 15 and that vehicle or any arrest in another vehicle? MR. ELLISTON: This is a real odd section of 16 17 the statute, and what happens is if you go in to register your vehicle and you're late, you have a five-day grace 18 19 period --20 MR. RODRIGUEZ: I understand. MR. ELLISTON: So if you're on the sixth day 21 and you go into a tax assessor-collector's office, they 22 are supposed to ask you the question: Have you received a 2.3

I understand. I'm just saying

citation regarding this vehicle?

MR. RODRIGUEZ:

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is the intention of this rule to have a direct link 1 between the particular arrest or citation and the vehicle 3 intended to be registered? MR. ELLISTON: No, sir. The intention of the 4 rule is to tell the tax assessor-collector if they have 5 6 received a citation, you will set their month back to the 7 month that it was. In other words, if they had a number 8 8 on their registration sticker --MR. RODRIGUEZ: I understand that. But I'm 9 10 just asking is the intent for this to link the specific registration I'm walking in with with that arrest, or is 11 it any arrest? I mean, I got pulled over and cited for 12 13 operating another vehicle, today I want to register this other vehicle. 14 15 MR. ELLISTON: No, sir. It is specifically for 16 a citation or arrest for expired registration on that vehicle. 17 MR. RODRIGUEZ: On that vehicle. 18 19 MR. ELLISTON: Yes, sir. 20 MR. RODRIGUEZ: And my question is: clearly stated in the rule? 21 22 MR. ELLISTON: It is stated in the rule and it's stated in the state statute also, it says the same 2.3 24 thing.

MR. RODRIGUEZ: So there is a direct connection

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between the question and that vehicle. 1 MR. ELLISTON: Yes, sir. It has to be a 2 3 citation or arrest having to do with the expired registration on that vehicle. 4 MR. RODRIGUEZ: On that vehicle. 5 6 MR. ELLISTON: Yes, sir. MR. RODRIGUEZ: I didn't see it but I'm just 7 8 wondering. MR. ELLISTON: Yes, sir. 9 10 MR. RODRIGUEZ: Number two, the discussion about the training, you're suggesting we pull it off to 11 see what the legislature does, more or less. Is that 12 13 right? MR. ELLISTON: Yes, sir. 14 15 MR. RODRIGUEZ: Why not leave it in and if the 16 legislative session comes up with something different, 17 we'll just take it out of there? I'm just wondering. MR. ELLISTON: It would be going back through 18 19 another rulemaking process. MR. RODRIGUEZ: I mean, if they don't do 20 anything, we're going to go through a rulemaking process 21 anyway. Right? 22 MR. ELLISTON: Yes, sir, but it may be expanded 2.3 24 at that point. It may be that we would need to expand it

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at that point.

MR. VANDERGRIFF: Let me be more succinct.

There is a distinct possibility that if we pass the rule that they would make an effort to do something different in the legislature, and if we come back to the table on this after the session, then I think that we will, both sides, be able to come up with an agreement with respect to training that will be universally supported.

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MR. INGRAM: And just to follow on, is that, obviously, because of the staff's recommendation, it wouldn't be fair to the tax assessor-collectors at this point to put it back in today as far as leaving it?

MR. VANDERGRIFF: I would propose if the majority of the will of the board was to do that, that we still table that part and allow those tax assessor-collectors that would otherwise have been here, both for or against it, to be allowed to give you the benefit of their counsel.

MR. BARNWELL: Inasmuch as the legislature is in session now and we're talking about a relatively short period of time before this new legislation is passed, assuming it is passed, then I don't have a problem with waiting on these two little rules, especially considering the amount of kickback that we're receiving from the collectors now. That's just my position on it.

MR. VANDERGRIFF: Mr. Ingram.

MR. INGRAM: Two questions, and they're not terribly relevant -- sorry. One, the tax assessor, when that person is just standing there wanting to get a registration, how do they know if someone has had a ticket or citation?

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MR. ELLISTON: They ask the question and the person either tells them yes, or no, I have not. If they say no, they have not, then they will set that at whatever month they currently are in. However, when they get to the court, the court will then fine them heavier in that regard, so they'll get treated differently when they get to the court with the citation.

MR. INGRAM: Oh, I see. So if they lie, then they're going to get hit on the backside.

MR. ELLISTON: That's correct. In fact, it's probably a whole lot stiffer for them once they get to the court if they do that.

MR. INGRAM: The secondary thing is on the training modules that exist today, are they interactive modules, or how are those modules set up currently? Are they just a videotaped series?

MR. ELLISTON: They're online on the computer.

We have a contractor who builds these for us, it's a

voice, it talks to them on the modules, and then they read

it and they take a test and that sort of thing. They can

actually print a certificate off showing they've completed 1 the training. So it gives them a lot of tools there so 2 3 that they can show that they have had the training. MR. INGRAM: So there's like a test at the end. 4 There's nothing interactive in the middle but there's a 5 6 test at the end. 7 MR. ELLISTON: Right. MR. INGRAM: Would it be possible at some point 8 for me to see one of those modules to understand what's 9 out there? 10 MR. ELLISTON: Sure. We'll give you the whole 11 12 test.

MR. INGRAM: I don't want the test.

MR. BARNWELL: I'd like to see the grade.

(General talking and laughter.)

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 $$\operatorname{MR.}$ ELLISTON: We'll be more than happy to do that for you.

MR. VANDERGRIFF: This may be an appropriate time, it's not exactly on point, but I want to note this, that it's been noted to me by several people that in the rules related to new and used vehicles and the training sessions that Mr. Harbeson puts on, that there are a number of people that do not understand what their obligations and requirements are, basic obligations and requirements as a dealer, independent or franchise, and

those sessions have been very beneficial, those training 1 sessions. And I think that the department, with the tax 3 assessor-collectors' support and assistance, can come up with a more robust training program to be helpful to the 4 front-line staff there, as it has in the dealer licensing 5 6 and administration issues. 7 MR. WALKER: I have two questions. One is both 8 of you are police officers or have been, but why do you 9 keep mentioning this word arrest? Generally isn't it a citation for having an expired registration on a vehicle? 10 They don't haul you off to the jail for that, do they? 11 MR. ELLISTON: Well, they could. 12 13 MR. WALKER: So if my registration is expired on my car driving back to Houston today I could be hauled 14 15 down to jail for that? 16 MR. RUSH: Particularly you. 17 (General talking and laughter.) MR. ELLISTON: I've made several calls trying 18 19 to make that happen but apparently they haven't caught you 20 yet. But it's a classic misdemeanor. It would be 21 22 very rare for that to occur, but it could. 2.3 MR. WALKER: But you can arrest somebody, haul 24 them to jail for that.

ON THE RECORD REPORTING (512) 450-0342

MR. ELLISTON: Yes, sir. A speeding citation

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is about the only thing that you're required to issue a citation for a promise to appear.

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MR. WALKER: And the other thing is do we not have any county tax assessor-collectors here to speak up today on this proposal?

MR. ELLISTON: We've had a lot of discussion with the tax assessor-collectors. Obviously you've seen the written comments that came in. After the written comments came in, we've had another sit-down with them. We've talked to the tax assessor-collectors association since this has occurred. I believe if we table this today and move forward, we will probably get to the end of this process and have a more expanded training, maybe have some more bells and whistles in it by the time we get to the end, however, that's still yet to be seen.

MR. WALKER: So what you're surmising is that what we're doing today is going to be less than what we're going to be doing in the future?

MR. ELLISTON: There's a potential of that, yes, sir.

MR. VANDERGRIFF: I firmly believe that. I've certainly made that personal commitment to not only this board but to the tax assessor-collectors that we'll work together on a robust training requirement, and they've committed to do that. And so they know at the very least

this would come back before us.

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MR. WALKER: But if you read the letters, the letters are basically anti-training. It's like we appreciate training but we don't want you to tell us how to train, or my people don't have time to take off the counter and go back here and do training. I'm thinking we've got a module, can't you do it at your kitchen table at night while you're at home?

MR. VANDERGRIFF: Oftentimes what happens -and I've seen this in several of our industries -- is that
fever gets frothed up and it gets displaced from reality,
and I think in this case the letters that you have here do
not necessarily reflect the reality of either what the
department did and proposed with full support from the
committee, it more reflects the --

MR. BARNWELL: You all have to excuse me. My phone has gone crazy, I apologize.

(General laughter.)

MR. VANDERGRIFF: -- it's reflecting up a frothing up of emotions over a training requirement. It has its seeds, if you will, in a belief that the tax assessors themselves are elected officials and should not be subject to any requirements by any state agency, and that's one of the things that they're working on with respect to the legislation is trying to remove themselves

1	from the review and authority of the TDLR, the Texas
2	Department of Licensing and Regulation.
3	MR. RODRIGUEZ: Can I go ahead and make a
4	motion on this, Mr. Chairman?
5	MR. VANDERGRIFF: Absolutely.
6	MR. RODRIGUEZ: I motion that we adopt the rule
7	as posted except for 217.3(j) and 217.22(n).
8	MR. VANDERGRIFF: Do we have a second for that
9	motion?
10	MR. BARNWELL: Second.
11	MR. VANDERGRIFF: Second from Mr. BArnwell.
12	MR. WALKER: But doesn't 217.22 include the
13	farm stuff?
14	MR. ELLISTON: It's 22(n). It's only taking
15	out 217.22(n).
16	MR. WALKER: Just 217.22(n).
17	MR. ELLISTON: Yes, sir.
18	MR. WALKER: Okay.
19	MR. ELLISTON: The farm stuff is still in
20	there.
21	MR. WALKER: Only 217.22(n) comes out.
22	MR. ELLISTON: No. 217.3(j) and 217.22(n), one
23	of them is in the registration rule and the other one is
24	in the title rule, that's why it's in two different
25	places.

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MR. RODRIGUEZ: My motion is in concert with 1 the recommendation of staff today, and that is to remove 2 3 those training pieces until further clarification is done. MR. VANDERGRIFF: So we do have a motion and a 4 second that's been clarified by a question from Mr. 5 6 Walker. Any further questions? 7 (No response.) 8 MR. VANDERGRIFF: All those in favor please raise your right hand in support. 9 10 (A show of hands.) MR. VANDERGRIFF: All those opposed. 11 12 (No response.) 13 MR. VANDERGRIFF: The motion carries unanimously. Thank you. 14 MR. ELLISTON: Mr. Chairman, on the next item 15 16 before you today is our request for approval for final adoption of the repeal of Texas Administrative Code, Title 17 43, Section 217.34. This proposed repeal was posted in 18 19 the Texas Register in accordance with statute, and no 20 comments were received from the public. This section, if you remember, we spoke about 21 22 it before posting, is it was originally adopted January 1, 1976, it relates to registration fee credits, it's no 2.3 24 longer necessary, it conflicts with current statute, it's confusing to the public. There were no comments and ask 25

that you adopt the resolution to approve. 1 MR. RODRIGUEZ: Move we adopt, Mr. Chairman. 2 3 MR. VANDERGRIFF: We have a motion. Do we have a second? 4 5 MR. RUSH: Second. 6 MR. VANDERGRIFF: Second from Board Member Rush. All those in favor please raise your right hand in 7 8 support. (A show of hands.) 9 10 MR. VANDERGRIFF: All those opposed. 11 (No response.) MR. VANDERGRIFF: The motion carries 12 13 unanimously. Thank you, Mr. Elliston. Mr. Archer. 14 15 MR. ARCHER: Good morning, Mr. Chairman and 16 members of the board. For the record, my name is Jimmy Archer and I'm the director of the Motor Carrier Division. 17 For the board's consideration, this is the 18 19 proposed adoption of the repeal of 43 Texas Administrative 20 Code, 218.63, Annual Report which requires household goods dealers to submit an annual report to the department. 21 22 proposed adoption also includes an amendment to Section 218.50 to eliminate the reference to 218.63. This 2.3 24 proposed repeal was presented to the board at the November 25 8 board meeting, it was published in the Texas Register on November 23. No comments have been received.

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TxDMV is proposing adoption of the repeal regarding the requirement for household goods dealers to submit an annual report to the department. This rule currently requires every household goods dealer to file an annual report which must include the total number of shipments, the total number of claims that resulted in mediation coordinated by the department, and the total number of claims resolved after a lawsuit was filed. This is an annual self-report filed by the carriers of household goods.

There are no longer any good business reasons to require the report. There are faster ways for the shippers to obtain more current information than the information that's contained in the annual report, such as they can go on to our complaint management system and look up for themselves the history of the household goods carrier and they can see if there have been any complaints filed.

The Texas Motor Transportation Association.

concurs with this proposal. Also, the department has the authority to access the records it needs to conduct any type of investigation and the department does not use the annual reports.

I respectfully request the board approve the

1	proposed adoption of this repeal of Section 218.63 and the
2	amendment to Section 218.50 to eliminate the reference to
3	218.63.
4	MR. WALKER: I so move that we accept the
5	motion of staff to remove 218.50 and to repeal 218.63 from
6	the Motor Carrier Act.
7	MR. VANDERGRIFF: Do we have a second?
8	MS. RYAN: Second.
9	MR. VANDERGRIFF: Second from Vice Chair Ryan.
10	Any questions?
11	(No response.)
12	MR. VANDERGRIFF: Seeing none, please raise
13	your right hand in support of the motion.
14	MR. RODRIGUEZ: I just want to clarify. You're
15	asking that we adopt the rule. Right?
16	MR. WALKER: They're removing the rule.
17	MR. RODRIGUEZ: He said removing.
18	MR. INGRAM: It's the amendment to 218.50 and
19	the repeal of 218.63. Correct?
20	MR. ARCHER: Yes.
21	MR. WALKER: Thank you, Victor.
22	MR. VANDERGRIFF: All those in favor of the
23	motion please raise your right hand.
24	(A show of hands.)
25	MR. VANDERGRIFF: The motion carries

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unanimously. Thank you, Mr. Archer.

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We are now on 5.A, the briefing and action items. Mr. Taylor on the automation projects.

MR. TAYLOR: Good morning. My name is Jonathan Taylor. I'm the director of the EPMO here at the Texas Department of Motor Vehicles.

The last time I was before you I went through a detailed line by line of every one of the projects, their budgets, timelines and descriptions. I will save you all from that this time and focus more on, as was brought up, the action items and our problem children.

The good news is some giant projects are going well. Several of the projects that are more public-facing are going very well. Those include Web/Dealer, LACE, Fleet Plus, RTS, a lot of those are doing well. We have some other core functional separation from TxDOT projects, what we really consider our core functionality as far as the agency itself, that need some help. Those include some of the first ones on this active projects sheet, I believe it's the second of a set of documents from the EPMO.

As we get more involved in the discovery of these projects and really what they're supposed to do in the long term, we find that some of the assumptions that we had made a year ago or even six months ago were

untested assumptions, specifically, the connectivity that this agency and these buildings have in between this location and our TACs, this location and our regional centers, and this location and other buildings. Those connections are simply not as robust as anyone thought. It's kind of like you inherited a boat and you're telling your kids you're going to go bass fishing and then you show up and the primary color of the boat is Bondo, and when you walk up to it there's a bucket and an oar in it but there's no motor. Right? Well, it's still your boat and it's still what you've got to travel with.

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So there's a series of things that we took a look at that once we looked at the headquarters communications infrastructure project, the regional office communications infrastructure project, especially the WAN/LAN separation project -- and I think I told you guys last time all about how those allow us to own our own network -- the scope of those projects and what we thought we had physically, physical infrastructure-wise doesn't exist. Things like we knew we had fiber between buildings, but that fiber hadn't been tested. When we went ahead and tested it, we knew that some would fail, we ended up with about 95 percent failure.

So we're going to have to pull fiber in places we didn't expect to pull fiber, we're going to have to run

conduit in places we didn't think we would have to run conduit, and we're going to have to even do some trenching in some locations for regional offices that no one would have guessed. And we have to do that if we want two things. First, if we would like to be our own agency. I don't think we really have too much of a choice in that because the law says that that's what we're going to do. And second, if we want to be able to run the more robust call center functionality that we want in the future, if we want to have things like redundant call managers, if we want to do things like a consistent service delivery throughout the TACs, throughout our regional centers, and to this campus, those are the things we have to do. To perform outstanding customer service, we have to beef up our actual core infrastructure.

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So what we've done is we've taken a new look at all of that. Now that we have project managers -- and we've had project managers for a few months, the whole EPMO office is fairly new in this agency -- we've gone and started peeling the onion back and started new designs.

Now, as you'll see on your chart, I've listed all of those things as on time or on budget as no. More appropriately is I don't know. But for the first time in a while I can't really be sure that I'm going to be on time and on budget so I'm going to raise a big red flag that I don't

know if I'm going to be on time and on budget.

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Do I think I'll be on time? Yes. Do I think I'll be on budget? On the vast majority of these, yes; some of these, no. Specifically, the WAN/LAN separation. I've got about \$50,000 left in that budget, and as I said, some of the assumptions that had been made even a year ago on what exists between this campus and other campuses, what fiber exists, what physical boxes need to control that information, those were not tested yet, and now that we've tested them, some of them don't work.

We are definitely going to need increased funding for the WAN/LAN project to make those things work. When we look at a plan, what we want the future state of this agency to be, what we have will not suffice, period. Matter of fact, it won't even suffice for what we have right now.

I've asked Joshua Kuntz, the interim CIO, to give us a little more update on what that WAN/LAN separation project would require. The long story made short is we absolutely have to have more funding on that particular project to be able to move forward and to simply connect us with all the counties and to connect us with all the campuses in a way that will allow us to do the things that we have to do in the future and to be our own agency.

MS. BREWSTER: Mr. Chairman, one second please. 1 2 The purpose for this is that this board has approved the 3 agency to use \$1.2 million on this project, approximately \$1.2-, and we are going to be requesting an increase in 4 that budget, and Mr. Kuntz will go further into that. 5 6 MR. INGRAM: Before we start that, I've just got a couple of questions, if you don't mind. 7 8 MR. TAYLOR: Yes, sir. MR. INGRAM: How was TxDOT surviving with 95 9 10 percent of their fiber dead? MR. TAYLOR: I'll answer first and then I'll 11 kick it over to you. The buildings that they connected 12 13 and the ways that they wanted connected, they're not doing the things between their buildings that we have to do now 14 15 that we own them, and they were never intending to support 16 the functionality that we say that we have to support. 17 They're not trying to do what we're trying to do. 18 MR. WALKER: Before we go forward, you're 19 asking, it looks to me like, \$170,000. Have we got any hard paper estimates about what this is going to actually 20 cost? 21 22 MR. TAYLOR: Yes. And it's more than that. MR. KUNTZ: For the record, my name is Josh 2.3 24 I'm the interim chief information officer for the

Department of Motor Vehicles.

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Yes, to answer your first question on the fiber connectivity, the fiber that TxDOT is currently actually utilizing works. There is other fiber in those conduits that they are not currently using, has been there for a very long time, and when we had testing done on it, it failed at the levels that we would need to produce the connectivity, specifically to the Bull Creek location to provide the level of digital voice services that are required to properly implement a call center to support those locations.

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MR. INGRAM: Is this fiber primarily between Bull Creek and here?

MR. KUNTZ: This is both between Building 1 and the Bull Creek location and Building 1 circumventively,
Building 1 to Building 6 to Building 5 where we have our data center, where the actual hardware is located that will be supporting all of those services.

MR. INGRAM: I'm kind of curious, before we set the original budget, did we test any of that fiber?

MR. KUNTZ: No, sir, they did not.

MR. TAYLOR: We knew it existed. As I said, the untested assumption was that we could use it.

MR. KUNTZ: Member Walker, you had asked about the amount of the funding that we're requesting and whether or not we have actual estimates. The reason why

this is coming to you only today is that we were not going 1 to bring you a request for funding that we did not have 3 actual quotes to purchase the equipment and services. This represents actual hardware and professional services 4 quotes that we have and are ready to move forward on in a 5 6 very quick manner in order to get ourselves back onto schedule to facilitate those separations that we're trying 7 to make from TxDOT and their infrastructure. 8 9 MR. WALKER: This doesn't have to go through DIR, does it? 10 I'm sorry, sir? 11 MR. KUNTZ: MR. WALKER: This doesn't have to go through 12 13 DIR, does it? MR. KUNTZ: These contracts are through the DIR 14 15 direct contracting system, the DBITS contracts. They do 16 not have to go through -- these are not purchases through 17 the data center consolidation, if that's what you're asking. 18 19 MR. WALKER: So we don't need to go get competitive bids, we just need to go use a vendor that's 20 been approved by DIR? 21 MR. KUNTZ: Correct, because DIR has already 22 done the competitive bidding for the pricing. 2.3

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we're thinking we're going to need?

MR. WALKER: And so how much money is it that

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MR. KUNTZ: \$300,000, sir.

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MR. RUSH: How much?

MR. KUNTZ: \$300,000.

MR. RUSH: For what?

MR. KUNTZ: \$170,000 is additional hardware and \$130,000 is professional services to validate the environments, do the actual configuration, both of the campus core infrastructure and the boundary layer infrastructure, engineer our campus-wide capability for desktop access and enterprise digital voice. That's making those connections that would actually support the call centers that we're trying to implement and ensure that we have both disaster recovery and business continuity built into all of these systems.

MR. WALKER: And since we operate on a legislative appropriation request, where do we go get the money, the \$300,000?

MR. KUNTZ: Yes, sir. The hardware purchased under this WAN separation is primarily supporting the connectivity of the county offices back to the RTS application and the other DMV resources. As such, there are funds that are currently on track to be unexpended, specifically earmarked for county support, those are the funds that we will be utilizing to pay for this.

MS. RYAN: So in essence, you're asking us to

1	increase this project but the funds are being transferred,
2	so that budget will be decreased.
3	MR. KUNTZ: Correct. It's a budget that is
4	currently on track to not be spent, spent and lost,
5	actually.
6	MR. WALKER: And we have the authority to do
7	that, I assume?
8	MR. VANDERGRIFF: Yes.
9	MR. RUSH: Let me ask a question.
10	MR. TAYLOR: Yes, sir.
11	MR. RUSH: Your projection is \$38,667,397. Is
12	that correct?
13	MR. TAYLOR: Say again, sir.
14	MR. RUSH: The bottom number here, total
15	project budget.
16	MR. TAYLOR: For all of the projects? Yes.
17	That's not just for this one.
18	MR. RUSH: I understand that. You're telling
19	Noah about the flood. Okay?
20	MR. TAYLOR: Right.
21	MR. RUSH: Well, how sure are you of that?
22	Don't let your mouth overload you?
23	MR. TAYLOR: No, I won't. So how sure I am on
24	that whole \$38 million
25	MR. RUSH: How comfortable are you?

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MR. TAYLOR: So the vast majority of these projects, I'm extremely comfortable. I'd be surprised if I missed that number by more than 10 percent.

MR. PALACIOS: How do you know that? On this one project alone we're off 25 percent.

MR. TAYLOR: Yes.

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MR. PALACIOS: So have you delved into the others?

MR. TAYLOR: On some of the projects, yes. Fortunately, the really big projects is the yes. The smaller ones like this, yes, I'm off 30 percent on this project and it still comes up to \$300,000. When you compare that to projects that we're going to spend \$20-and \$30 million on, it's a drop in the bucket.

But yes, on every one of these projects, we've gone back and said they're a series of -- and I've said this several times -- they're a series of assumptions that have been made on what is available to us. Had to go back and challenge those assumptions, so on all these we've gone back and done that. The project that will cost more money, one is WAN/LAN, the other is this headquarters communications and infrastructure plan.

If we take a look at that charter, that's going to cost more money, matter of fact, it's going to cost considerably more money. It's kind of a budget issue that

is a bucket of money issue, because the original charter that we did this assumed that that project would be completed out of moves funding. Doesn't really make a lot of sense, actually. The later phases of it are moves, some of these projects are automation and the later phases are moves projects. It doesn't necessarily have to be that way. There are software solutions, there are other solutions that can make that project in particular much, much faster, we don't need to wait two years on it.

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So when I say that some of these projects, specifically WAN/LAN and headquarters communications and infrastructure will cost more money, it will cost more money but it's dollars that are in another budget already that we just planned on spending at a later date that we don't have to spend on a later date because we'll lose it anyway.

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

MR. VANDERGRIFF: Please.

MS. BREWSTER: I think it's also important to note that on many of these projects we have built in contingency funding above and beyond what we believe the amount will be, to address Member Rush's question, so that we do have a contingency there if something unexpected occurs. I don't believe that that was done for any of the core infrastructure projects and that is why you are

1	seeing us come before you now to ask for additional
2	funding.
3	MS. RYAN: Are you looking for a motion to
4	grant that additional funding?
5	MR. TAYLOR: If there are no other questions,
6	then yes, ma'am.
7	MR. RUSH: I've got another one. What I'm
8	looking at here, just glancing at it and trying to figure
9	out pretty close where I think we are, you're basically
10	telling me that of this, that above all of these you're
11	about 44 percent you don't know for sure, there's a no
12	answer to it.
13	MR. TAYLOR: To tell you that I do know for
14	sure, 44 percent of the dollars?
15	MR. RUSH: Let me ask this here. It says on
16	time, on budget.
17	MR. TAYLOR: Yes, sir. So on actual
18	projects
19	MR. RUSH: But 44 percent of them, there's
20	something iffy about them. Right?
21	MR. TAYLOR: Yes, sir, absolutely.
22	MR. RUSH: I'm glad this thing is recorded
23	because I'm going to wait about two years and see what you
24	tell me.
25	MR. TAYLOR: Okay, sir. Fair enough.

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MR. RUSH: I'll play it back to you. I've been 1 playing mine back since '07 when I started at \$15 million 2 and it's now at \$80-. So we'll see what it costs, boys, 3 because you're in a different land than you've ever been 4 in your life, I think. 5 6 MR. TAYLOR: Yes, sir. 7 MR. KUNTZ: Yes, sir. And to be more specific about the reason why we're coming forward with this now is 8 that this is the foundation for which all of the other 9 10 projects are being built upon and we are very close to having to stop because we're out of funding on it. 11 12 MR. RUSH: This is just the tip of the iceberg, 13 get ready. MR. KUNTZ: Yes, sir. These other 14 15 communications projects are in motion and we still have 16 funding that we can move through. MR. RODRIGUEZ: I just have one question, Mr. 17 Chairman, and that's of the executive director. Are you 18 19 in concurrence with this request? 20 MS. BREWSTER: Yes, Member Rodriguez, absolutely. 21 22 MR. RODRIGUEZ: You want a motion for approval of such? 2.3 24 MR. VANDERGRIFF: We do, we need a motion.

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MR. RODRIGUEZ: So moved.

1	MR. RUSH: I second.
2	MR. WALKER: Well, what is the motion, for
3	additional funding or transfer of funding?
4	MR. VANDERGRIFF: It's a transfer of funding.
5	MR. WALKER: It's a transfer, isn't it?
6	MR. PALACIOS: The \$300,000.
7	MR. WALKER: It's not for additional funding
8	MR. KUNTZ: We're asking for additional
9	spending authority.
10	MR. WALKER: Okay.
11	MR. PALACIOS: It's \$300,000 is the total?
12	MR. TAYLOR: Yes, sir.
13	MR. KUNTZ: Yes, sir.
14	MR. WALKER: What is the confirmation of the
15	account number that we're transferring from? And maybe
16	that's a Linda Flores question, I don't know.
17	MR. VANDERGRIFF: It will be coming from the
18	county growth and enhancements capital funds. I don't
19	know what the number is of that.
20	MR. KUNTZ: Index 3255. I was ready.
21	MR. WALKER: Do we have a second?
22	MR. VANDERGRIFF: Mr. Rush seconded.
23	I do want to note that I'm impressed that Mr.
24	Walker knew to ask for an index number. That's good.
25	MR. RODRIGUEZ: It's his registration we're

worried about.

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MR. WALKER: I'm not going to let you follow me home.

(General laughter.)

MR. VANDERGRIFF: And I also want to note, I'm sure it's not lost on the executive director and the senior staff, that the board continues to have a very watchful eye over the money and the budget of this, that it's a floating number and that makes us all nervous.

MR. TAYLOR: And I would like to say one of the reasons why it's a floating number is because we are challenging all of the assumptions that have been made previously, we are taking all of the projects apart, and in that discovery we have more information, that's the job.

MR. VANDERGRIFF: And I'm personally very supportive of that approach because I think it's been needed and therefore, we probably have always had these holes in our numbers, we just didn't know it before.

MR. TAYLOR: I can guarantee you had these holes and you just didn't know it.

MR. VANDERGRIFF: So I'm very supportive of that.

MR. TAYLOR: I've been shot at before, but don't shoot the messenger.

MR. RODRIGUEZ: Mr. Chairman, just a commentary on this point. At the end of the day, this is what we have to do if we want to deliver on the charge that the legislature has imposed on us here. I mean, we have to. Technology is going to drive the end result.

MR. VANDERGRIFF: We'll also come back to the automation. We have a legislative update and also I'll make that with respect to where our budget request is at this point. The board needs to hear that as well, how it impacts.

MR. RODRIGUEZ: You have a motion and a second.

MR. VANDERGRIFF: We do have a motion and a second. All those in favor please raise your right hand

in support.

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MR. VANDERGRIFF: The motion carries unanimously. Thank you very much.

(A show of hands.)

MR. TAYLOR: I have one more major issue that you have in your packet, and that is the Registration and Titling System refactoring independent verification validation project. This is a project envisioned by the board some time ago. The EPMO picked it up when I came on and started the EPMO this last fall. We have taken that charge and that project and moved forward. We are at a point that we have completed the statement of work, we

have put through the Department of Information Resources quality assurance team and received approval. We are at the point where I need to request -- and I don't have a copy of the resolution itself but I think you guys do -- to request that the executive director be allowed to enter into a contract for independent verification validation to find a company to do that and that the budget authority for that not to exceed \$2.5 million.

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To back up on what IV&V is, it's referred to as IV&V, we call that independent verification validation. This is specifically for the RTS refactoring project and we would like to have a vendor onboard either by the time that we have an RTS refactoring vendor on or very, very, very shortly afterwards. This particular project is really that second check. This is going to be a massive project, it's going to be an incredibly complex project, and the board previously, in my opinion, was very forward-looking and very cautious and wise to hire someone else to look over our shoulder. IV&V, I mean, the easiest way to say it is it's somebody else, it's not us, it's not just the DMV and not just the vendor coming and saying are you building the right thing and are you building it right.

MR. RODRIGUEZ: I have a question of legal counsel on this. Margaret, is 5.A in the agenda?

MS. WILSON: Is 5.A in the agenda?

1	MR. RODRIGUEZ: Yes. That's what we're on
2	right now, right, 5.A?
3	MS. WILSON: Oh, I think so.
4	MR. VANDERGRIFF: Is the IV&V contract
5	MS. WILSON: What we're talking about right
6	now?
7	MR. VANDERGRIFF: Yes. Is it noticed properly
8	where he can bring this up?
9	MS. WILSON: Yes, it is.
10	MR. RODRIGUEZ: So we can do anything that has
11	to do with contracts under 5.A. right now, we don't have
12	to list them any further than that?
13	MS. WILSON: I can't say that you could do
14	anything, but you can do this.
15	MR. RODRIGUEZ: My question is that it's
16	specifically now before us and that the requisites are
17	posted.
18	MS. WILSON: Yes, sir, it is.
19	MR. TAYLOR: And to make clear, I do not have a
20	contract in front of you, I am asking for the authority
21	for the executive director to enter into a contract at a
22	later date that is a do-not-exceed dollar amount. That's
23	what I'm asking for today.
24	MS. RYAN: May I make a motion that might
25	clarify what we're granting authority on? I'd like to

make a motion based on the request to authorize the agency's executive director or her designee, in consultation with the chair of the Projects and Operations Committee, to negotiate and finalize by making any necessary changes that are in the best interest of the department, a contract between the Texas Department of Motor Vehicles and a duly selected vendor from the Texas Department of Information Resources deliverables based IT services vendor regarding independent verification and validation of the refactoring of the Registration and Titling System. The amount payable under the contract shall not exceed \$2.5 million. In addition, I also move to authorize the agency's executive director to execute the contract, as well as any amendments to the contract.

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MR. VANDERGRIFF: That's the motion. Do we have a second?

MR. WALKER: I'll second.

MR. VANDERGRIFF: All right. A little bit further discussion, or commentary, I guess I'd put it, is I do want to note, and obviously Mr. Taylor recognized this and acknowledged that the board had been insistent that an IV&V vendor be put in place. That is true. I also want to acknowledge that Mr. Rush was one of the first ones to remind us of his own personal situation and the fact that perhaps day two he put the IV&V vendor in

place, and if he'd had it day one, he might have had a little bit more succinct knowledge of where his project was heading at that time. And so it's a very valuable tool. I appreciate him bringing that up and appreciate the board.

MR. RUSH: Can I send you a bill for it? (General laughter.)

MR. VANDERGRIFF: And appreciate the executive director and Mr. Taylor addressing the need for this.

Yes, Mr. Ingram.

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MR. INGRAM: I have one comment, and actually you made a comment that made me just a little bit nervous and it may not have been intentional, but you said that you wanted to have this contract executed before, or if not, soon thereafter. I'm not comfortable with soon thereafter in this kind of environment. I think that that contract has to be in place before you sign or do anything with a vendor for refactoring, because what's going to happen, in my opinion, if you bring them on after, if the IV&V comes on after you've already selected the vendor, got it going, even if it's 20 days after, you're going to have a problem with the IV&V guys saying well, you didn't negotiate this right or you didn't get this set up correctly. I'm just worried that that really is a must to have the IV&V in place before we move forward.

1	MR. WALKER: Can I speak to that? Margaret, go
2	ahead.
3	MS. WILSON: The real question is did you get
4	what you asked for, not did you get the right thing. IV&V
5	does not judge whether you asked for the right thing but
6	are you getting what you asked for.
7	MR. INGRAM: It's almost semantics to me,
8	though.
9	MR. TAYLOR: And we can accommodate your
10	request, sir.
11	MR. WALKER: Well, we've already hired legal
12	counsel.
13	MS. BREWSTER: Thank you, Mr. Chairman.
14	It is and has always been the intent of this
15	agency to have the IV&V vendor on prior to contract
16	execution. We will do that.
17	MR. TAYLOR: We can certainly accommodate your
18	request, sir.
19	MR. VANDERGRIFF: Mr. Palacios.
20	MR. PALACIOS: The \$2.5 million that you're
21	asking for, I assume that's within the scope of the
22	\$20,430,000 on your chart of expenditures. I mean, it's
23	already been funded.
24	MR. TAYLOR: Yes, that is the budget amount.
25	This is, again, a DBITS contract, this is not an RFP.

This is what's always been in that budget. 1 MR. PALACIOS: So I don't have the details of the \$20,430,000, but the \$2,500,000 that you're asking 3 for, is that in accordance with what originally had been 4 forecasted when you came up with this original budget for 5 6 \$20,430,000? 7 MR. TAYLOR: Yes, and because it is a DBITS 8 contract, it doesn't have to be -- it's a fairly opaque 9 thing -- sorry -- fairly transparent thing. Department of 10 Information Resources has already gone out to a series of vendors as part of this DBITS contract and said these are 11 12 the people who can do it, we can see what they've done, we 13 can see how much it's costs. This isn't like a bit RFP, it's much more transparent. 14 15 MR. PALACIOS: The concern I have, the \$20,430,000, I want to make sure that this \$2,500,000 that 16 17 we're asking for now --MR. TAYLOR: Fits inside the larger budget. 18 19 MR. PALACIOS: -- it fits inside but it doesn't increase that larger budget. 20 MR. TAYLOR: No, sir. It's all one budget, it 21 includes the RTS, the hardware and IV&V, it's all wrapped 22 up with a single index actually inside this office as 2.3

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MR. VANDERGRIFF: Any further questions?

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well.

(No response.) 1 MR. VANDERGRIFF: We do have a motion and a 2 3 second, so all those in favor please raise your right hand. 4 (A show of hands.) 5 6 MR. VANDERGRIFF: All those opposed. MR. RODRIGUEZ: I'm going to abstain, Mr. 7 Chairman. 8 MR. VANDERGRIFF: Okay. We have one 9 10 abstention, and that's Board Member Rodriguez, and the motion otherwise carries by a vote of seven to one 11 abstention. 12 13 MR. TAYLOR: Thank you. I have no additional updates at this time. Are there any other questions at 14 15 this time. 16 (No response.) 17 MR. TAYLOR: Thank you very much. MR. VANDERGRIFF: I had previously noted at the 18 19 beginning of the meeting, I went out of order and noted the one committee assignment, just a reassignment there, 20 and we'll revisit this topic once we have the new board 21 22 member from the tax assessor-collector community onboard. Please proceed. 2.3 24 MR. ELLISTON: Mr. Chairman, members, for the record, my name is Randy Elliston. I am the director of 25

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the Vehicle Titles and Registration Division for the DMV.

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The state's specialty plate vendor, My Plates, is requesting approval of two new specialty plate designs and one existing plate redesign, each of which are included in your briefing book. You'll also see them behind me posted on the board. The two new plates being proposed are the Pink Camo plate and the Yellow Rose of Texas plate. The redesign is the Texas Ex plate.

The applications for these plates have been reviewed and certified complete. The plate designs, as presented, meet all agency and legislative requirements. The agency requests your consideration for approval of these plates.

If you'd like to see what the Texas Ex plate looks like today, it looks like this, and they're asking to redesign what's on the board behind me, mainly just the difference over here on the logo.

MR. PALACIOS: I have a question, Mr. Elliston.

Do we need sponsors for each of the plates? Who
sponsored the Pink Camo and the Yellow Rose of Texas.

MR. ELLISTON: No, sir. In the My Plates program, there's no requirement for a sponsor. It's their design.

 $$\operatorname{MR.}$$ PALACIOS: So this is just a recommendation from May Plates.

MR. ELLISTON: That's correct. They can have 1 2 sponsors, they do have organizations that sponsor. Steve Farrar is here. I'm correct on that, Steve. Right? 3 This is your plate. Correct? 4 MR. WALKER: The Texas Ex plate is theirs? 5 6 MR. ELLISTON: No. Well, all of these are My Plates vendor plates, the Texas Ex, they do have a 7 8 sponsoring group which would be the Texas Exes Association. 9 10 MR. RODRIGUEZ: Randy, I have a question. area where the alphanumeric segment of the license is, 11 what do we call that? I know it's got a name in the 12 13 contract. MR. ELLISTON: The region of interest. 14 15 the part where the plate pattern is at. 16 MR. RODRIGUEZ: Region of interest. 17 where we put in our alphanumeric serialization of the license plate. 18 19 MR. ELLISTON: Yes, sir. 20 MR. RODRIGUEZ: Now, that region of interest is not supposed to be violated in any way. 21 MR. ELLISTON: It can't be encroached by 22 graphic design. 23 MR. RODRIGUEZ: So my question is why does that 24 region of interest moving around in those license plates. 25

MR. INGRAM: By that you mean the top one is 1 2 centered and the top two aren't. 3 MR. ELLISTON: The plates are allowed to have a graphic design over on the side. 4 MR. RODRIGUEZ: I understand that. I'm just 5 6 saying I know that I read through this stuff and I know 7 that the region of interest is sacred, but yet it's moving around here. 8 MR. ELLISTON: Well, the region of interest can 9 move around from left to right on the plate, it can move 10 up and down a little bit. 11 12 MR. RODRIGUEZ: It can? You're saying it can? 13 MR. ELLISTON: Yes, sir. MR. RODRIGUEZ: That's the first I've heard of 14 15 that. 16 MR. ELLISTON: Yes, sir. I don't believe 17 there's anything in our specifications that specifies the location that that can't move there. It does have 18 19 specifications of distances between the legend which is 20 the written part on the bottom and from the logo that's on the side, there is a distance there. But we have a great 21 22 number of our plates that the region of interest, or where that plate pattern is, is moved left to right to 2.3 24 accommodate for the logo.

Yes, sir.

MR. WALKER: I know that we've gone to a lot of 1 seven digits now on all the newer license plates. Do we 2 3 have enough space with these right here to go to seven digits, or are they strictly exclusive for six digits? 4 MR. ELLISTON: Most of these are six digits. 5 6 There is a regulation about how far it can be. I don't 7 believe we have any seven digits today that have the logo 8 over on the side because there is not sufficient space 9 there. 10 MR. WALKER: So on those particular plates that have like a Texas Ex, if I wanted to personalize that 11 plate with a seven digit deal there, it wouldn't be 12 13 allowed or would it be allowed? MR. ELLISTON: You can put it on any plate that 14 15 you have space to put it on, you can have the seven 16 digit -- if it will accommodate the seven digit character, 17 it could be personalized in that manner. MR. WALKER: Can I personalize the Texas with 18 19 seven digits? MR. ELLISTON: On this one here? I don't 20 believe you can because I don't believe there's space 21 22 there. MR. FARRAR: (Speaking from audience.) 2.3 24 answer would be no. That's strictly a six character

maximum.

MR. RODRIGUEZ: Just for the record, do you 1 want to put him on the record? 2 MR. FARRAR: Mr. Chairman, members. Good 3 morning. For the record, my name is Steve Farrar, I'm the 4 president of My Plates. And for the record, all of these 5 6 plates before you today are all maximum six character or 7 six spots on a license plate. None of these plates would 8 allow a seven character or seven letter combination to be 9 allowed to be purchased. 10 MR. RODRIGUEZ: Steve, is it your impression that the region of interest can be placed anywhere on the 11 license plate? 12 13 MR. FARRAR: Yes. The region of interest has a floating area within a plate. The standard issue plate, 14 15 as you're quite familiar with, has the numerical and 16 alphanumeric characters across the whole of the plate. 17 MR. RODRIGUEZ: Will you be so kind, that one point, both of you, send us that information that 18 19 indicates such? 20 MR. ELLISTON: Certainly, I will. And let me correct one thing, it's not correct to say that the 21 alphanumeric pattern can be anywhere on the plate, but it 22 can move left or right and be adjusted slightly up or 2.3 24 down, but it can't be just anywhere.

MR. RODRIGUEZ: All I'm asking is where does it

1 say so. MR. ELLISTON: I'll get that for you. 2 3 MR. VANDERGRIFF: Any further questions? (No response.) 4 MR. VANDERGRIFF: At this point, if there's no 5 6 further questions, I'd be pleased to entertain a motion 7 with respect to the plates. You can either do them 8 individually or we can certainly take them up collectively, all three. 9 10 MR. BARNWELL: I move we accept all the plates as submitted. 11 MR. RUSH: Second. 12 13 MR. VANDERGRIFF: We have a motion from Mr. Barnwell, second from Mr. Rush. Any further discussion on 14 15 the plates? 16 MR. WALKER: Could we change the color maybe on 17 that Texas Ex to maroon in the background? MR. ELLISTON: I don't believe that would be 18 19 acceptable, sir. 20 (General laughter.) MR. VANDERGRIFF: Seeing no further questions, 21 22 I will call for your vote. Please raise your right hand in support of the motion. 2.3 24 (A show of hands: Barnwell, Ingram, Rush, Ryan, Vandergriff and Walker.) 25

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MR. VANDERGRIFF: Please raise your right hand, 1 all those opposed. 2 3 (A show of hands: Palacios and Rodriguez.) MR. VANDERGRIFF: The motion carries six to 4 two, with Board Members Palacios and Rodriguez voting 5 6 against the three plates. 7 With that, we are to the report section, and 8 the monthly financial report, Linda Flores. MS. FLORES: For the record, my name is Linda 9 10 Flores. I'm the chief financial officer for the agency, and I'm reporting on expenditures and revenues for the 11 month ending January 2013. 12 13 With regards to expenditures, you'll notice a spike as opposed to December of 2012 and this is kind of 14 15 normal for the agency. We see certain spikes pretty much 16 every other months. These expenditures are related to 17 expenditures incurred for the license plate program such as --18 19 MR. VANDERGRIFF: Pardon me for one second. Let the record reflect that Board Member Rodriguez did 20 leave the room here at approximately 10:45 -- excuse me --21 22 10:50. MS. FLORES: As I was saying, the expenditures 2.3 24 are related to things incurred for the license plate 25 program, such as renewal stickers, printing, postage, so

we do see certain spikes occur pretty much every other 1 month. 3 While we exceeded the budget for January, you'll notice we also incurred underages for previous 4 months, so overall for each quarter we're pretty much on 5 6 target, if not under. 7 Revenues for the agency for registration are 8 shown on page 4 of your document, and I'll turn it over to Mike Endlich, the revenue estimator for the agency. 9 10 MR. ENDLICH: Good morning. For the record, I'm Michael Endlich, revenue estimator for the Texas 11 Department of Motor Vehicles. 12 13 As you'll see in this graph, there's a bid downtrend for the month of February. 14 15 MR. WALKER: Our books are on January. MR. ENDLICH: It should be for the month of 16 17 February is what I believe we're reporting on. Correct? I apologize, I have the wrong printouts. 18 19 MS. FLORES: February is better, so you'll see that next month. 20 MR. PALACIOS: That's what's up here, February? 21 This is, unfortunately, all the 22 MR. ENDLICH: way through February, even though we're actually just 23 24 addressing January, so keep that in mind. 25 So for the month of January revenue is coming

in pretty much as anticipated. We are seeing slight 1 growth over last January. We did see a lower December at 2 3 the last board meeting, but January and February, those revenues are actually making up for that. 4 MR. WALKER: Mike, can I interrupt your report? 5 6 MR. ENDLICH: Please do. MR. WALKER: The graph that you have up here on 7 8 this board right here is not the same graph that we're looking at right here. 9 10 MR. ENDLICH: And that's what I mentioned. graph we're showing here is what you should be seeing next 11 month, to be honest with you, because it's through 12 13 February. MR. WALKER: So my question is how can numbers 14 15 that are already historical numbers be changing going 16 forward. Because the month of November on your chart 17 right here is different than the revenue projections are on my graph. 18 19 MS. FLORES: They're the same. It's November, December, January. 20 MR. WALKER: Okay. November right here shows 21 about \$90 million and right there you're showing less 22 than -- oh, your numbers on the left are different. 2.3 24 MR. INGRAM: The axis is different.

MR. PALACIOS: The grid is a little different

but they're the same numbers.

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MS. FLORES: It's the same numbers.

MR. INGRAM: The Y axis is different.

MR. ENDLICH: Yes. I see what you're saying.

MS. FLORES: As a part of the discussion that occurred on capital projects, I'd like to turn your attention to page 15 of your document, 15 and 16. This is where we capture and report on a monthly basis detail regarding all of those projects that are provided to you every month by Mr. Taylor. So when they're talking about different line items for capital, this is where you can come back and kind of shore up those budgets against what's being reported to you.

And as our staff indicated, I can't create new appropriations, so bottom line, our budget is what it is, but we do have the ability to transfer from one line item to another, within certain parameters that we have to follow. So as they mentioned, there are available dollars in index 3255, technology replacement and upgrades for counties, so with your approval, they'll be moving those dollars from that line item to another budget category.

And that concludes the information for January 2013.

MR. BARNWELL: Is that the \$300,000 that Jonathan was talking about?

MS. FLORES: Yes, sir. 1 2 With regards to the My Plates revenue 3 estimates, we have not modified that revenue estimate at this point. We still believe that the vendor will 4 generate approximately \$28 million by November 2014. 5 6 MR. WALKER: Question on the May Plates deal. Is this an error or is this correct that there were only 7 8 \$3,787 worth of new plates sold in the month of January? 9 MR. ENDLICH: No, that's not an error, that's 10 what was sold. MR. WALKER: Only \$3,700? 11 MR. WALKER: No. There should not be a dollar 12 13 sign in front of that. That's the number of plates that were sold. 14 15 MR. WALKER: So it's the number of plates, not 16 dollars. MR. ENDLICH: Correct. The amount brought in 17 for the month is the five hundred eleven. 18 19 MR. INGRAM: On the financial detail section, page 2, your summary, your first -- your second bullet 20 point, I understand postal services, contracted services 21 related to My Plates, is that the production of the My 22 Plates, the cost for producing them? 2.3 24 MS. FLORES: Not My Plates. The contracted

services, these are temporaries that we employ to help

send out those plates to whoever is buying the plates, and 1 2 it's similar to the temporaries that we use for general 3 issue plates, and they're required through the TIDH vendor, Industries for Disabled and Handicapped. 4 MR. VANDERGRIFF: So to make sure I understand, 5 6 that money is really not My Plates per se, it's what we always do when somebody gets a temporary plate, whether a 7 general issue or a special plate. 8 MS. FLORES: Correct. 9 MR. INGRAM: When somebody gets a temporary 10 plate? 11 12 MS. FLORES: It's not a temporary. It's 13 temporary workers that we employ. MR. INGRAM: That's what I thought, temp 14 15 workers. 16 MS. FLORES: That we employ to send out those 17 plates. MR. INGRAM: Under the TIDH contract? 18 19 MS. FLORES: Yes, sir. MR. VANDERGRIFF: We probably should clarify 20 that a little better. 21 MR. INGRAM: And just to continue to show my 22 ignorance, the next item is Standard Register. 23 24 MS. FLORES: Standard Register is the vendor, 25 it's the name of the company that we employ for printing

1	our renewals.
2	MR. VANDERGRIFF: Linda, what was your response
3	on that? I'm sorry.
4	MS. FLORES: It's the name of the company that
5	we use to print our renewals.
6	MR. VANDERGRIFF: Again, that ought to be
7	perhaps identified a little differently.
8	MS. FLORES: Yes, sir.
9	MR. INGRAM: And so the trend line from
10	December to January where we're showing an inverse trend
11	line of what we had previously is being caused by what is
12	different from December?
13	MS. FLORES: For example, the postage services,
14	a million dollars.
15	MR. INGRAM: Oh. You have your machines.
16	MS. FLORES: Right, the meters.
17	MR. INGRAM: So you've got to re-up your
18	machines.
19	MS. FLORES: And we incur those costs on a
20	quarterly basis, it's not every month, so we spend about a
21	million dollars every three months on postage.
22	MR. WALKER: They love you when you call, don't
23	they.
24	(General laughter.)
25	MR. INGRAM: Wonder if it would be fair to say

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then November of your 2012 line had a spike, I wonder if that's you renewing your meters at that point.

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MS. FLORES: Probably so, but I can go back and find out for sure.

MR. BARNWELL: So we have cash flow. Is that what we're really talking about here?

MS. FLORES: Yes, sir. It's cash out the door.

MR. BARNWELL: What about, do you do any sort of accrual basis, financial statements with the state? I mean, because this is throwing darts in a dark room. The information we're getting from this does not give us a picture of where we are on an annualized basis, budgetwise or any other way. It's just: Hey, we spent a million bucks, and by the way, it was for postage.

MS. FLORES: State and local entities, as you know, Board Member --

MR. BARNWELL: Well, I don't know. I'm as ignorant as I can be about these things. I'm just trying to figure out how to understand this budgeting process, and I understand it's different because we also in the utility business, we have a very peculiar set of accounts under the FDRC, so they don't make a whole lot of sense, but we also go to the trouble to create books of account that a CPA and GAAP accounting methods would reflect what's going on as far as expenditures, prepays,

amortization of prepays, all of those things so that we can see what the trend is for our organization.

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And frankly, I'm sure it's very valuable, I don't see the point in seeing that we spent a million dollars two months ago on postage. I don't care about that, I care about what we're doing on an annual basis, what's the budget for postage on an annual basis, where are we on that, and I'm just not getting that from these graphs and charts and figures. For me, it would be more efficacious to have some real information that you could get your teeth into and see what's going on.

Now, I understand what's going on with the state legislative and the budgeting process and the way your job is confined and what you have to do, I understand that. I'm just saying that there ought to be something that would allow us as, quote-unquote, business people, allow Mr. Rush to look at it and understand it. Well, I'm just saying this for you, Marvin.

And so I'm just throwing that out. I'm just saying that this is frustrating to me because it's not very valuable. I see that we're spending a lot of money but the reason for the expenditure and how the expenditure fits into an annualized budget on our total business model is not there, so I don't have anything to base where we are on. And I think you can understand that, it's just

you might not be able to do anything about it.

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MS. BREWSTER: Mr. BArnwell, if I might just ask you a question to see if this would be a useful thing -- and then my followup would be to Ms. Flores to see if we are able to do this -- is to have basically at every board meeting projections as to where we are in comparison to meeting our annual budget based on actual costs and what we intend to spend and what has been encumbered. Is that something that would be useful?

MR. BARNWELL: If we could show to the extent that we've spent money, we've had to buy supplies, we're not going to use those supplies on the day that we buy them, we're going to use those supplies over a period of several months, and so we would throw that into some sort of a prepaid category and we would start to create a budget from that that we could say: Okay, this is where we are through the year, expect this expenditure. have extraordinary expenditures throughout the year, a million dollars for postage is not chickenfeed, but where are we as an organization financially through the year. And budget-wise, I'm having a difficult time, as you can imagine -- you know me pretty well, you know how difficult it is for me -- to get a picture of where the organization really is from a financial standpoint.

Yes, what you're saying makes sense. Anyway,

that's all I have.

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MR. WALKER: But aren't we getting that, Linda, from page 4 over here where you've got it actual to available budget on that?

MS. FLORES: Page 4 is a snapshot and it provides you with the expenditures incurred up to that particular point in time, so we do have year-to-date expenditures, and at the very top it tells you how much budget we have remaining, so we are providing some kind of review as to where we're at and perhaps where we should be.

Staff can certainly go back and reformat this entire document to provide you with a budget, expenditures, a projection for expenditures, and whether or not we believe we're going to hit our target or not. The big spike or the big difference, from our perspective, is the capital side of the house.

MR. BARNWELL: Cap ex is huge.

MS. FLORES: Because the others I can tell you pretty much what we're going to spend at any given point.

MR. BARNWELL: Sure. Well, we have two different kind of fish here: we have an op ex fish and we've got a cap ex fish, and they swim in different waters. Cap ex is something that we're -- and Mr. Rush alluded to this earlier -- we're trying to get our hands

around or our arms around with what's going on with the refactoring, the automation, the entire huge expenditure that's going to be made over the next several years, and so we're all working toward an understanding of what's going on there. But annual op ex is that other animal, other fish, and that one is something that would be nice to see where we are. Because we have a budget each year, don't we?

MS. FLORES: Yes, sir.

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MR. BARNWELL: And it would be nice to know where we are percentage-wise on the budget through the year, are we on target with where we want to be. And to the extent that we can have savings or that we determine that there may be some additional expenditure required, then we might get some warning about that and be able to do something about it, whereas, now instead of being proactive on any budget changes or additional expenditures or savings, we're reactive, and I'd prefer to be on the other side of that a little bit.

MS. FLORES: Yes, sir. Just for your information, we are in the process internally of having a mid-year review of our budget and where we're anticipating to be for the rest of the year.

MR. INGRAM: Ms. Flores, I think Johnny pointed out the information is probably in here -- it is in here,

my problem that I'm having and I'm struggling, I'm having to flip to too many pages, I'm having to flip from page 4 and looking at that expenditure and then from there I have to go and look at your other detail and go to that page and look at that, and it's a lot of movement trying to go back and forth, well, what is that number made up of, and if I could get it somehow simplified. I mean, you deal with it every single day, we look at it very infrequently.

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MS. BREWSTER: Mr. Chairman, if I might suggest that between now and the next board meeting that we work with the board on a format that is maybe more to what you're looking for so that we can be prepared to do that at the next board meeting.

MR. VANDERGRIFF: I think that's great. I know that the agency has done that in the past and kind of has moved towards what we have right now so I think there's been efforts made to try to do that. But one of the fundamental problems that probably exists, we haven't addressed it specifically, is that most of us that sit on these boards, if not all of us, are used to financial situations where you're creating your revenue and therefore you're also monitoring your expenses relative to the revenue that you're creating. In the world that we live in, we have an appropriated amount of money that the motivation is to make sure it's kind of a use it or lose

it, spend it, and it's a different mindset, not bad, it's just the way it is.

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And I think somehow in the discussions that you have going forward is to be able to look critically at each item to, as Mr. Barnwell pointed out, where are expenditures and where can we realistically look for savings, where did we miss it in requesting money. For example, in that 3255 -- I may have the wrong number on that index -- there's \$10 million there and we're drawing money out of there. What did we miss there that had such a larger balance than we needed? Was it because we just didn't allocate it properly, it was always there the need but we just didn't allocate it in the right account, or were we padding something somewhere? I think one of the frustrations of some folks is the belief that the government, by virtue of the appropriations process, pads in different places, rounds up, if you will. And I think the board is keenly interested in monitoring those expenditures and looking to save where we could.

I commend that the last biennium, the last fiscal year we returned -- excuse me -- the first one, we returned 90-something million back to TxDOT, we didn't spend it, and so that's good. And \$10 million last year, as the executive director pointed out to me. So the board should feel good that that process is happening, but what

we don't have is really a way to look at that to understand, to be sure that you're looking at that. So hopefully, you can incorporate that into Mr. Barnwell's and Mr. Ingram's and the whole board's issues.

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MS. RYAN: One piece to consider that might be a missing piece -- and Barny, tell me if I'm off -- but at the top where the year to date lapse is 42 and the available budget remaining 77 --

MR. BARNWELL: You're on page 4?

MS. RYAN: Page 4 at the very top. To the chairman's point of where are we off, where is there such a surplus, in what areas identify where that difference is so that we can see, and then help us understand is that a seasonality type piece where the money is there but it's all going to be lumped into six months from now we're going to spend it all so it really isn't a surplus. It's that window, to me, that is missing when we look at this information, and that might be kind of an accrual look.

MR. BARNWELL: There are several things. You know, we have an appropriated amount of money each year and we have revenues from various sources that are ongoing throughout the year and we can forecast what those revenues are, and I think you've done a great job of forecasting that, you've been right on the money on that -- in fact, they've even exceeded your expectations a

little bit, I think.

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I want to see a financial statement, is what I'm talking about. I'd like to see not only cash flow but also income/expense in the sense that I'm talking about, income being the money that we raise from our activities, appropriations, et cetera, and we have a cap ex portion over here that is a separate thing, that's not part of our ongoing revenue stream, that's part of an appropriation from the legislature, so it's also like having a, quote-unquote, investor put up the cap ex part of our thing. But we've got to operate this organization within the confines of what we're raising and we have to do it as efficiently as possible.

And I'm just looking for some metrics to help me understand because this is a big company, this is a big operation, and it's a very essential and critical operation to the State of Texas. So I'm just trying to get my arms around it and this would help me. Anything you can do in that regard would be appreciated, you know what I mean?

MR. INGRAM: And I'll just throw on just one quick comment. You're doing all this on Excel spreadsheets, so hats off to you just to be able to put this together. I know it's tough with the technology that you're using, so we appreciate it.

1	MR. VANDERGRIFF: The House didn't appropriate
2	better technology for the department, we'll see how the
3	Senate goes and conference, assuming that holds.
4	MR. WALKER: To Ms. Flores's defense
5	MR. INGRAM: That's what I just said, I just
6	gave her a compliment.
7	MR. WALKER: No, but you were saying when you
8	consolidate some of this stuff, over the last three years
9	the board has asked her expound on some of this.
10	MR. INGRAM: I'm not asking her to consolidate,
11	I'm just asking here where we're flipping less back and
12	forth between different sheets. I don't want it
13	consolidated, that's not the point.
14	MR. BARNWELL: I think having the detail is
15	wonderful, I don't have a problem with the detail.
16	MR. WALKER: And I don't either, I like the
17	detail.
18	MR. BARNWELL: I want to see it all brought
19	down into one or two pages where I can see the absolute
20	bare bones of what's going on, more or less totaling up
21	our other issues and items, and then we can get into the
22	detail. And you've got lots of detail and you do a great
23	job on this. I am not fussing about that, I'm just saying
24	that I need a little more to understand it myself.

MS. FLORES: Sure. And as Ms. Brewster

indicated, we'll work on some format and see if that will 1 2 help address some of these issues. 3 MR. BARNWELL: Thank you. MR. VANDERGRIFF: Thank you very much. 4 That's kind of a nice seque into the 5 6 legislative report, if you will. Oh, I'm sorry, I passed 7 over ABTPA. 8 And I don't know, Mr. Hansen, you have indicated it looks like 6.C, but are you wanting to talk 9 10 on 6.B, the Automobile Burglary and Theft Prevention? (Speaking from audience.) It's 11 MR. HANSEN: legislatively concerned, but the top is the Automobile 12 13 Burglary and Theft Prevention Authority. Mr. Chair, I'll let you make that call. 14 15 MR. VANDERGRIFF: Well, why don't we do it, 16 we'll let Mr. Caldwell come up and then after that you 17 come up, and then legislation will follow that so you'll be nicely wedged in between the two. 18 19 By the way, before that, I do need to note that very briefly earlier in the meeting Board Member Rodriguez 20 left the room at about 10:11 a.m. and returned at about 21 22 10:18 a.m. MR. WALKER: Victor? 2.3 24 MR. VANDERGRIFF: Yes. 25 MR. WALKER: Where is he?

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1	MR. VANDERGRIFF: He left again but he hasn't
2	left permanently.
3	MR. WALKER: Yes, he did.
4	MR. VANDERGRIFF: He did leave permanently?
5	MR. WALKER: He went home.
6	MR. VANDERGRIFF: All right. Well, I
7	apologize. I said he left and would be back. He left at
8	10:50.
9	MR. WALKER: At 10:50 he left and he's gone
10	home.
11	MR. VANDERGRIFF: 10:51, to be exact, but he
12	left then.
13	MS. FLORES: For the record again, my name is
14	Linda Flores, chief financial officer for the TxDMV, and
15	with me is Charles Caldwell with the Automobile Burglary
16	and Theft Prevention Authority program.
17	At the January 2013 board meeting, Mr. Tommy
18	Hansen addressed the board representing the Texas
19	Association of Vehicle Theft Investigators. The
20	organization represents law enforcement and insurance
21	investigators statewide.
22	Mr. Hansen provided an overview of their work
23	to address funding issues related to the ABTPA program,
24	and he also indicated that he wanted to meet with staff to
25	kind of talk through some issues. A meeting was held on

January 14, 2013 between Mr. Hansen, Tommy Woolsey and Captain Joe Canady. So from the staff side it was myself, Charles Caldwell and Ms. Brewster and Jeremiah Kuntz. We met with their staff, provided an overview of our appropriations request, our exceptional funding item request, and they wanted some additional information related to a supplemental appropriations request and a budget execution.

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I provided that information to them. A budget execution is only processed when the legislature is not in session. We're in session, so that was not an option. A supplemental appropriations is normally reserved for significant issues facing the state, such as Medicare or educational funding. So I know that House Bill 10 was filed and it did not include anything related to the ABTPA program.

We also, Ms. Brewster and I also attended a

January 31 ABTPA Board meeting and we provided an overview
of our appropriations request at that time. So as of

February 27 I've included where that exceptional item
request is in the process. We had requested \$2.9 million,
the House Appropriations Committee has not approved that
request, but it has passed in the Senate Bill 1 version.

So it's still alive and it will be addressed during
conference committee when the two groups come together. I

also know that one, two, three, four bills have been filed by different senators and representatives that will affect ABTPA fees.

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

MR. CALDWELL: For the record, my name is Charles Caldwell. I'm the director of the Automobile Burglary and Theft Prevention Authority.

As Ms. Flores mentioned, the request for the \$2.9 million went out, it didn't get approved by the House and Senate.

MR. WALKER: Charles, can you speak up? I can't hear you.

MR. CALDWELL: Can you hear me?

MR. WALKER: Yes, a little better.

MR. CALDWELL: I'm sorry. It was approved by the Senate.

Additional information that we sent over explained what would be done with the \$2.9 million, and I think that information is in your packet as well. It was sent to the House sub committee headed by Representative Darby that would outline some of the functions that the task force would take care of, some of the additional responsibilities, and what we could do with the \$2.9 million. And that's the orange document that you have in the packet.

1	Also, what we also did was there was an amount
2	of money that was based on revenue estimate that was being
3	collected that we wasn't getting according to the deal and
4	the fee that was being collected. There was additional
5	information given out by different task forces and by the
6	TAVTI legislative committee that was requesting the
7	additional money, the \$4- or \$5 million that we were not
8	getting. So that information went out with them as well.
9	I think that's pretty much what happened with
10	us. That's the reason why we're coming to you today, just
11	to let you know what's going on on our side. We are still
12	requesting the additional money. Hopefully that can go in
13	before the House bills are taken care of, and we'll
14	continue monitoring those.
15	MR. WALKER: This is not an action item, is it?
16	MS. BREWSTER: Mr. Chairman, if I might?
17	MR. VANDERGRIFF: Please.
18	MS. BREWSTER: This was brought up and put on
19	this agenda because the board had asked in the previous
20	meeting for an update on this.
21	MR. WALKER: It's just an FYI, no action.
22	MS. BREWSTER: Yes, sir.
23	MR. VANDERGRIFF: Right. If you recall, Mr.
24	Hansen spoke to us.
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MR. CALDWELL: If you have any questions, I'll

be glad to answer them.

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MR. VANDERGRIFF: I would at this time like to call up Tommy Hansen to speak.

MR. HANSEN: Hi. I'm Tommy Hansen, for the record. I'm with the Texas Association of Vehicle Theft Investigators, and as you well know, we have a vested interest in this program and have since its inception.

Our organization has been very much involved with this.

We would like to thank, first off, the DMV staff. Our meetings have worked out very well.

We have so far met with well over one hundred legislators and their staff, a number of them we've met with them multiple times, probably around 250 total meetings with legislative personnel, and we have a lot more on the agenda that we're working. We did focus on just last week about 90 percent of the House committee members that are on that committee affecting this. We seem to be okay on the Senate side.

We do have two bills of great interest. That's Senate Bill 626. Our goal and whole function here is the citizens of Texas are paying a fee, they should get a service for that fee, and we think that our program is a role model for the diversion of funds and has been since 1997. So 626 by Senator Watson is out there to help us get our dedicated fund status back. It takes the word

"may" out and puts "shall" as a wording on the back half of 1541, so basically it is an effort for us to get our full one dollar, not \$2.9 million, but the approximately \$5 million or so that we should be getting to do our functions.

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And then, of course, Senator Lucio's bill, 1387 has been filed. That bill includes that wording as well as it expands the scope of the authority to include a lot of areas of problems in the State of Texas, such as ATV thefts, golfcart thefts, equipment thefts, boat thefts. We still rank very high in all those categories, if not number one and number two in the nation. We're seeing spikes in thefts in those areas, specifically in heavy trucks and cargo, and of course, equipment we're number one and have been for a long time.

So our goal with those two bills hopefully to not only secure our funds but to provide the citizens of the State of Texas the service they deserve and the service they need so that we continue to address what we're doing.

We have added you all to our email list. I think you have seen we've made a point in all of our actions in the last session and this session as well that we're not playing any favorites to anyone, everything is above the table, so we let all the legislators know who we

visit with, who we talk to and what was accomplished, good or bad, on every day that we go to the Capitol and any activities after that. So we want to keep you all in the loop. And Ms. Brewster, we've had a lot of conversations with her concerning this. I will tell you that we are seeking your support as much as we can, because this is an important thing that needs to be done.

There's also several joint resolutions that have filed pertaining to just diversion of funds as a whole, making a constitutional change to not allow the State of Texas to take funds that are collected for specific fees or dedicated things and use those funds to balance the budget. Now, whether those will get through, we'll see, but there's been, I think, three of those filed so far out there, two in the Senate and one in the House have been filed. But those are also a direct effect on us if they do pass. It's a good thing for us.

And I'll end this with just me saying that our association is going to continue to be absolutely relentless in this and we're not going to give up until we get this fixed. It's the right thing to do, as one legislator said the other day, and that's what it is, it's the right thing to do for the citizens of the State of Texas.

Yes, sir, Mr. Walker.

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MR. WALKER: Tommy, on your fee where you're trying to get that dedicated -- and I understand what we're trying to do there or what you're trying to do -- there's two dollars of money that's being collected under that category, and if you're saying that you're trying to get the diversion stopped, I think there's two dollars out there.

MR. HANSEN: Yes, there is.

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MR. WALKER: So what's the explanation of the other dollar?

MR. HANSEN: The explanation of that is we were not in favor of that other dollar in the first place, but it was either take it or lose the whole program. Is that a diversion? Absolutely it is. But based on the way 1541 was written, we would be treading on dangerous, dangerous waters to try to go after that dollar as well. We can't even get the dollar that the bill says we're supposed to be getting now. So our focus is you've got to crawl before you walk. We want to focus our efforts on at least securing, as 1541 stated, the dollar, and then if the legislature -- and I think diversion of funds is the buzzword of the day in the Capitol right now, and has been this whole session, which is a wonderful thing. I think if there is a concern enough on their part about considering that dollar as a diversion or as a problem,

then that's up to them to remove that dollar and just 1 revert it back to a one dollar fee and give us our dollar. 2 MR. WALKER: But wasn't the intent of the 3 original bill, the one dollar was for Auto Burglary and 4 Theft? 5 6 MR. HANSEN: Yes. MR. WALKER: What was the intent of the second 7 dollar? 8 9 MR. HANSEN: General revenue, as far as we 10 know. MR. WALKER: It's a fee, it's a general revenue 11 fee, it's not Auto Burglary and Theft? 12 13 MR. HANSEN: No. It goes to the authority, it is very misleading. Ethically, it's totally wrong. We 14 15 fought against that the last session saying, you know, you 16 have taken part of this dollar in 1997, you were going to 17 do away with the program and continue to collect the dollar, and that was okay, and then now we're going to add 18 19 this dollar. And there were a lot of people that gave us grief the last session about the other dollar. It wasn't 20 our concept, it wasn't our idea, but it was a matter of 21 survival and so we had to bite the bullet and go with that 22 bill or we would have been out of business. 2.3 24 MR. WALKER: But if you stop diversion, doesn't 25 that stop the taking of the second dollar also?

MR. HANSEN: Actually, if the joint resolutions pass, it would stop that, yes, and then that would give us really probably the whole two dollars, but I'm not holding my breath on that one.

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We would be tickled to death to get our dollar. As Charles said, we did an extensive study with all the task forces, we have done a lot of research into the spikes in thefts that are going on, there's tremendous spikes in carjacking and violence as it's connected to motor vehicle crimes, cargo theft is off the charts in the State of Texas which is 18-wheelers are being stolen with the cargo, obviously, heavy equipment is a problem, marine theft is a problem, and so we did extensive numbers and checks.

If we could get our money -- we automatically think that \$5 million is ours to the ABTPA and it should be, in theory, but we understand the legislators to say what are you going to do with that money, and we provided those resources to them what it would take to expand and to increase our staffing to address those specific issues, and I think the total amount was actually around \$7 million. So we could use any of these monies that would go to the right cause to address our problem.

We've been in a budget lock really for a number of years here as far as the task forces are concerned, so

we're looking also at abating technology because these programs are extraordinarily technology driven. We operate on our bait car programs, trackers, license plate readers, everything we do is technology driven and we have to update that equipment and things, plus expand to address these other things. So that money will go to good use, I can assure you.

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But I understand what you're saying, but we have to be careful. If we start pushing too hard for that other dollar, I think it could come back to haunt us, and we've played the game down there too long and we know how it works, and if we could straighten out 1541, that would be a step in the right direction, then we'll fight for the other dollar at a later date.

I hope I answered your question, sir. I know where you're going with that and I just have to be careful with that.

MR. VANDERGRIFF: Please, Mr. Palacios.

MR. PALACIOS: Mr. Caldwell, if the \$2.9 million in appropriations passes the House, how are you going to determine which communities receive funding?

What's the mechanism for grantees, dollar amounts? Is it one set grant for each community or does it depend on the size?

MR. CALDWELL: That money will be added to the

amount that we're already giving out. We have an 8 percent cap. We have different criteria which different grantees have to reach in order to get a recommended amount of funding, so it will be open to all the grantees, so potentially all 29 grantees have the potential of getting additional funding because of that money. So how much, it would just depend on what their application says, what has been done previously, if they've met their goals and objectives for that year. We have a whole funding criteria that we look at before we make recommendations for funding for each one of our grantees.

MR. PALACIOS: But I understand you're providing new equipment and you've got, I guess, some other techniques that you're using, from what I'm reading here in your proposal. How does it work, do the agencies themselves buy the equipment?

MR. CALDWELL: Yes. If it's done through the application process, at the beginning they will put that in the application of what type of equipment that they want. A lot of them mainly is cars and trackers, as Mr. Hansen said, and surveillance equipment. They will specify that. They also give justification of what they're going to do with it so we can look it and make determinations. If they want five cars, depending on how much the cost is going to be, we may fund three, something

in that nature, and this is how they're going to use it.

So we have a full criteria which the grantees have to

follow in order to get that equipment.

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Also, as we've done previous, but we didn't get it at the time at the beginning of the grant period -which our allocation is in June, sometimes it comes after that point -- we make supplemental funding for the grants and it could be all equipment, and we'll put an RFP out and say we're only going to receive requests based on equipment, that's the only thing we're going to fund. So that's the only thing that they ask for, and it's up to the grantees to ask for certain equipment for there area and prove to us how they're going to use it and what the use is going to be.

MR. BARNWELL: I understand that part. What about back testing or looking back to see how efficient, effective these grants are, is there any mechanism for that?

MR. CALDWELL: Yes, sir. We review each application that comes into our office and if it's a continuation of a previous grant, we look at their goals and objectives from the previous year and then we look at their goals and objectives for that current year, what they're going to do, and the number of personnel, we look at the whole schedule.

1	MR. BARNWELL: Well, you look at the goals and
2	objectives but what about the accomplishments? You're
3	projecting for every \$103,000 a 1 percent drop in
4	automobile thefts and a 3 percent drop in burglaries.
5	Where do those numbers come from?
6	MR. CALDWELL: We don't apply a calculation
7	method to that.
8	MR. BARNWELL: That's what I'm wondering is
9	wouldn't it be more effective if you had some real proof
10	instead of projections based on percentages that appear to
11	be grabbed out of the air?
12	MR. CALDWELL: Well, we don't project
13	percentages, we look at actual numbers.
14	MR. BARNWELL: Well, there is a percentage in
15	the document I'm looking at that says for ever \$103,000
16	there's a 1 percent projected drop in automobile thefts
17	and a 3 percent drop in burglaries.
18	MR. CALDWELL: That's based on that request for
19	\$2.9 million and then the number of grantees that we have
20	and what the auto theft rate was for the area.
21	MR. BARNWELL: I understand. How effective is
22	ABTPA?
23	MR. CALDWELL: We've been very effective.
24	MR. BARNWELL: How do we know that? And I'm on
25	your side here. How do we know that?

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MR. CALDWELL: Because since 1991 we had 1 163,000 thefts and we're down to 63,000, so we reduced it 2 3 over 61 percent over a 20-year period. I even go and I brag to them and say this is probably the most successful 4 program in the State of Texas. It's just not getting the 5 6 publicity that it is and the consideration that it is. 7 Those guys, they've been tasked with another 8 responsibility of auto burglary without the resources to 9 do that, and we've been successful in reducing the number 10 of burglaries across the State of Texas. So every responsibility we've got, we've been successful in 11 reducing that responsibility, and particularly auto theft, 12 13 and we've done a tremendous job over that 21-year period with, like Tommy said, the same amount of money pretty 14

much for most of those years.

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MR. VANDERGRIFF: Charles, can I ask you a question, if I could -- and again, I'm supportive -- where do you account for that obviously over time the technology in vehicles and the anti-theft and burglary systems, the alarm systems in those vehicles have gotten better and more sophisticated, tracking mechanisms in cars are better and more sophisticated? Do you account for the impact of those? Because they surely have an impact. Manufacturers of cars use it all the time to show their impact.

MR. CALDWELL: I don't think we can count for

all of it, but for the majority of it, in several conferences and in international conferences, manufacturers have attended those conferences and talked to some of our auto theft guys. There have been a number of auto theft detectives that have mentioned certain items that can prevent cars from being stolen, and then later on you see some of that technology being picked up. So I am not sure if they are actually going to them directly, but even in some of our conferences there have been car manufacturers that have attended and have been able to talk to some of our guys and collect some of the knowledge that they have as far as detecting stolen vehicles and what they can do to prevent it.

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So I don't know if we can take credit for all the technology that's going on, but I think there is some conversation with some of these guys that are specialists in this area that they probably picked up some of those ideas.

MR. INGRAM: So Charles, obviously as the technology improves, thefts are going to go down. I mean, you have so many anti-theft measures in place that thefts will go down just by the nature of having the new technology, not necessarily by the efforts by the ABTPA. But have you looked at comparing how our rates have changed to another state, another large state that does

not have a similar organization to yourself, and maybe those numbers could give you better examples.

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MR. CALDWELL: One of the biggest things and the reason why our existence is so important is your insurance rates will stay low. As big as the State of Texas is and the number of vehicles it has, the insurance rate on a vehicle is pretty low, and that's because if there is a car stolen, these guys are out there to recover it. It helps the insurance companies, it helps the citizens of Texas. The only other comparable state -- Tommy, correct me if I'm wrong -- is California with the size that Texas has, and I don't think they have an auto theft --

MR. HANSEN: They have some regional funded programs through county tax money.

MR. INGRAM: Well, it would be interesting to compare California versus Texas when you look at the rate decline.

MR. HANSEN: If I may address. What we can tell you that on a national basis there are number of other states, in fact, there are about 13 other states that role model our program and they have all seen and experienced major reductions in thefts since the inception of their program. And an example of what happens when you don't do that is, for example, Maryland decided we've got

thefts down, we're going to do away with the program, and their theft rates went up immediately.

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Technology, to address your thing, Mr.

Chairman, has had an influence on it, however, about 50

percent of the cars in Texas are stolen because our

citizens decide to leave their keys in the car, so

technology doesn't function there. The flip side of that

is because of the technology, we're seeing the increase in

carjackings which is the violent aspect of it, so that's

an area that we have to address.

And Mr. Barnwell, I think the quickest way to report card for our organization is when you give out \$250 million in grants to fund approximately 200 officers for the entire State of Texas that have created a cohesive unit of one and sharing of information intelligence, like no other form of law enforcement, and surely not like narcotics who doesn't talk to each other, you add another \$200 million guestimated amount in local match funds to run these programs -- because I can assure you, what we get from them does not run my operation, it helps -- when that elite group has recovered about \$12 billion, just that group, not all officers, that group of approximately 200 officers recovering \$12 billion in recovered property of the citizens of the State of Texas for approximately a \$450 million investment, I'd put those numbers against

anybody. That is phenomenal and it shows the sheer dedication and the quality.

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These are 200 of the best of the best in the nation that we have doing this job, and they work cohesively as one, and that's what's made this program successful and will continue to make it successful.

MR. VANDERGRIFF: I would urge, because obviously this board has administrative authority, that's all we have over the program, but I would urge you to prove up some of these numbers by using the examples from a state like Maryland or explain away that 50 percent of the vehicles are stolen because the keys are in the car. Some of it's empirical but some of that is substantial data that I think would be helpful. Because the one thing I do hear when legislators will talk to me private about this -- because I will be supportive of it and remain supportive -- is that they don't have any hard data, they don't have any hard data. Everybody, I think, wants to be with this program, they understand the dollar, now two, was dedicated to it, so there's also that, but that's the one thing that you leave them an out.

MR. HANSEN: What we have done, to answer your question there, we do have a lot of good data, a lot of hard data, and we have now consolidated that into a package and that every single legislative office we get,

we download that into their computer, we make sure it's done right there, and we give them to make sure they have the equipment that we need. We're the best kept secret and we preach this to our task forces.

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MR. VANDERGRIFF: Can you send me that data?

I'd love to have that.

MR. HANSEN: Sure. I've got it on a thumb drive right there.

MR. WALKER: I think what Blake asked is probably the most relevant thing, is where do you index Texas with this program with respect to states who don't have this program, can you show that your program in Texas decreases burglaries more than it would in Louisiana that doesn't have the program.

MR. HANSEN: We can go back and tell you that the states that have put programs in place, who have modeled, most of them, after our program, have also seen the reductions. States that had programs and set them aside, such as Maryland and Florida, saw dramatic rapid increases. Maryland has reinstated theirs; Florida is in the process of doing theirs in kind of a hit and miss fashion.

MR. BARNWELL: I think that there's nobody on this board who opposes or is in any way hesitant to support the program. I think, as we all talk to our

respective legislators and senators and representatives, one of the problems that we have is finding some points that we can tell them in 25 words or less that mean something. For example -- because I'm on your side here -- impact of the ABTPA, the only thing it talks about is funding to other agencies and how much it's given away, but the impact of the ABTPA as far as getting the money is concerned is how effective is this thing. Because if we're spending a dollar out of the registration fee, are we getting a bang for our buck. And I think you are, but I don't think -- take this any way you want to -- I don't think you've done a very good job of giving me some ammunition. I'm shooting blanks at everybody, I'm saying just believe me, it's a really good deal.

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MR. HANSEN: Well, and I'll tell you something, we've talked about this since our last meeting here, and we'll take full responsibility. We should have been attending these meetings a long time ago, but we're also out trying to do our job, and so that's why we were here last time, that's why we're here today, and that's why we've been putting together these cohesive packages of information pertaining to that.

And the other areas that we do want to address, and it is in there and these are true numbers, is that we are number one now in the nation, and have been for some

time, on equipment theft, and these are areas that we wish to put some of those resources to address. The cargo theft, Texas is off the charts and increasing in that. We had a meeting just last week with NICB concerning the cargo theft. We've been number one or number two in the nation in just recent years. And of course, those are two thefts that interfere with commerce. When you're stealing heavy equipment off a job site or you're stealing an 18wheeler full of Sanyo TVS, you've cost somebody a whole lot of money here, much less the sales tax of that stuff being sold on the streets versus being sold out of a Wal-Mart store. And then, of course, we've been number three in the nation in marine-related theft. Now, a lot of that is pleasure craft but it's still if it's your boat, it's important.

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So we still have a lot of arenas that we need to address and including the increase in the violent aspect and a lot of our task forces are very much involved in carjacking investigations. So we have a lot of other arenas that we realize that we do have problems that we want to take the same success we've had elsewhere and move it to those areas.

MR. INGRAM: And you're doing a very nice job of explaining the need, so I get the need, you're doing that well, I don't think we're questioning the need.

We're just kind of like looking for the results. 1 MR. HANSEN: I mean, those numbers are there. 2 3 MR. RUSH: But you need to start telling people about it. 4 MS. RYAN: You have this data in a packet that 5 6 you'll get the chairman that he can then distribute to us to take a look at? 7 8 MR. HANSEN: I will gladly get that to you, 9 yes. 10 MS. RYAN: That may answer a lot of our questions. 11 MR. CALDWELL: And just to let you know, for 12 13 the last few years we've just been hit upside the head for trying to take our money, and that's what we've been 14 15 trying to do is show the reason if you take it, this is 16 what happens. And that's probably the reason why it's not 17 showing those numbers that you were kind of looking for to give you ammunition. But we can always flip that, we do 18 19 have that information. We've been trying to just show if you take this away, this is what happens. So it will be 20 easy to flip. 21 And I think to answer your question on some of 22 the comparison to other states, sometimes other states' 23 24 numbers are not up to par with ours, and they'll stop at

2009, we're at 2012 or '11 or '13, so we will stop at a

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later date. They're probably not a good comparison if you want to look at three or four years back what's going on.

We can still try to get them, and I can tell you we often say that no matter what, Texas is going to be number two in auto theft just for the sheer number of vehicles here in the State of Texas. But we can always get a comparison to other states and what they're doing, we'll just try to get more updated numbers.

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MR. WALKER: Let me ask a question, that brings up an interesting point. When you say Texas leads the nation in number of car thefts, well, do you compare that to a ratio of the number of cars in the states or to the overall volume? Because yes, Texas is the biggest state, yes, we probably have more cars in Texas than they have in New Mexico, so is it relevant to the percentage of cars or is it relevant to the total number of cars?

MR. CALDWELL: It is relevant to the total number of cars.

MR. WALKER: So that's why we lead is because we have more cars than the other states do.

MR. HANSEN: Actually, we're behind California, but we're usually number two.

MR. WALKER: So what's really important that you ought to be saying is that we don't really lead maybe the nation percentage-wise based on the number of cars,

but you ought to be saying that maybe there's more cars stolen in Texas but there's more cars in Texas than there every other state except for California. So maybe we're not the number one place that cars are stolen.

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MR. HANSEN: And we're not number one on car thefts.

MR. WALKER: Because what you're doing is you're hurting the effectiveness of your program saying that car thefts are the number one in Texas and the program hasn't fixed that problem.

MR. HANSEN: Well, we're not number one in car thefts and we haven't been, we have been in the top list for many years, but we are number one in those other categories of equipment theft and the truck and cargo theft industry right now. We're hoping to address that.

MR. BARNWELL: Do you have anybody, Tommy, who does your marketing or planning? I mean, you guys are pretty darn busy.

MR. HANSEN: Well, you have to understand -and I'm speaking for our behalf -- Charles's group does a
tremendous job in creating marketing as far as crime
prevention program. Because they're state employees,
they're limited on what they can do. We're not lobbyists,
we don't get any checks from anybody, and we're a group of
police officers out here who have other jobs to do who

come up here at three o'clock in the morning, spend all day, and go back home and go to work. So do we have a marketing scheme? You're probably looking at it, and the other guys are not here. But we're doing what we can do because we have a limited budget -- we have no budget, we have no budget. All we have to do is get out and discuss the program and that's all we have.

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MR. BARNWELL: That's going to have to change. You're going to get hammered on your appropriation request and this other stuff based on the way that the world is going right now. Texas is looking for money everywhere they can find it. If you don't have a crying need, you're going to get hammered.

MR. HANSEN: Well, and that's the exact thing that we have done the last two sessions and this session now is the need — thefts are down but we still have a need in the burglary of a motor vehicle area and we definitely have a need in these other arenas that I've just mentioned where we have seen dramatic increases, and we are starting to see spikes in auto thefts as well. So those are the things that we are sharing with those legislators and have been in all of the documents that we provide them, what Charles gives them and documents that we have created as to these problems in the State of Texas.

1	MR. BARNWELL: One other question, and I'll be
2	quiet. Is the organization a 501(c)(3) or (c)(6), (c)(5)
3	organization?
4	MR. HANSEN: (c)(3).
5	MR. BARNWELL: (c)(3)? Okay.
6	MR. VANDERGRIFF: Any further questions?
7	MR. BARNWELL: I appreciate the update.
8	MR. VANDERGRIFF: Thank you very much. I hope
9	you can tell that the board is keenly interested in this.
10	We understand our role in this process but keenly
11	interested in trying to ask questions to be helpful, not
12	to be questioning.
13	MR. HANSEN: We understand, and we've been
14	remiss in providing you with not coming to these
15	meetings more often, but we've been focusing on trying to
16	keep from getting cut, so that's where our efforts have
17	had to have been, because like I said, we're a small group
18	and that's what we have to do.
19	MR. VANDERGRIFF: Thank you very much.
20	We'll plow through, we have two more items on
21	our agenda. One is the legislative report from Jeremiah
22	Kuntz, and I will participate in this one as well.
23	MR. KUNTZ: Good morning.
24	MR. VANDERGRIFF: And since we do have

appropriations in this, I see we've had Linda stay at the

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table. She tried to get away but can't.

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MR. KUNTZ: Hopefully, I won't have to rely on her too much.

For the record, Jeremiah Kuntz, the director of Government and Strategic Communications. I'm here today to give you an update on where we are with the legislature.

March 8 was the last day for bills to be filed in the House and Senate. While that is a deadline, bills still continue to be filed. They suspended rules and there are certain bills that can be filed going forward. To date, 5,906 bills were filed for this session, as compared to the total at the end of last session which was 6,003 bills, so we're pretty much on pace with about the same number of bills that were filed last session.

We're currently tracking about 640 bills. Of those, about 247 of those could have a moderate to high impact on our business operations. That's just the measure that we use in order to keep track of them and group the bills. That doesn't necessarily mean a negative impact, that just means there would be some impact of a moderate to high nature on the agency's operations.

Basically to give you an indication, obviously, the budget would have a direct impact on us and therefore, it's a high impact tracked bill. So we're tracking quite

a few bills. There are a lot that we're just monitoring just to see if anything gets added to them, but we've got quite a large swath of bills that we have on our radar at this point in time.

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To give you an update, we had the chairman's recommendations to the legislature of statutory changes that he recommended. Those were turned into what we have as five bills. Two main bills have companions on the House and Senate, so really, there's only three bills out there but there are actually five bill numbers that are out there. Pickett and McClendon joint authored House Bill 2202 which would create a dedicated account for the agency, as well as transfer funds over from Fund 6 into that dedicated account for our operations. The companion to that is SB 1288 by Williams, who is the chair of Senate Finance.

Both of those bills were referred: the House bill was referred to the Appropriations Committee in the House; the Senate bill was referred to the Senate Finance Committee in the Senate, and it was further referred to the Special Committee on Fiscal Matters, so that's a subcommittee within the Finance Committee that it was referred to. That was referred to that committee on the 18th. So they're just getting referred to the committees at this point in time. We'll be working with the authors

on getting hearing dates set for those so that we can look at moving those bills forward.

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The next bills that I want to talk about are what we refer to as our cleanup bills, or our kind of omnibus operational bills. That is House Bill 2741 by Phillips; it has been referred to the Transportation Committee. The companion to that is Senate Bill 1669 by Nichols; it has not been referred to a committee at this point in time. We anticipate that it would be referred to his committee which is Senate Transportation, but we're still waiting on referrals of that bill in the Senate.

MR. VANDERGRIFF: You might explain that the referral process usually goes in numerical order, so it's not like they're holding this bill.

MR. KUNTZ: Correct. It goes in the order in which the bills were filed which is the numerical order of the bills, and so it's Senate Bill 1288 which is a higher number in the Senate, they just haven't gotten to that bill number yet, so we're still anticipating that. Bills can't be set for a hearing until they're referred, so until that bill gets referred, we wouldn't be able to even have a hearing on it.

MR. VANDERGRIFF: Did you mean 1288 or 16 -- I forgot the last two numbers?

MR. KUNTZ: I'm sorry. 1669.

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MR. VANDERGRIFF: Yes, that's the one.

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MR. KUNTZ: The last bill that we worked with the legislature on is House Bill 2281, Phillips is the author on that one. That is relating to cleaning up the statutes regarding the salvage industry, so our regulation of the salvage industry. That is a bill that was spawned off of the work group that we have dealing with the salvage issues. We brought in all the stakeholders, law enforcement, the salvage industry, insurance industry, as well as other state agencies that operate in that realm, and that was the recommendations that came out of that committee. That was referred to the Licensing and Administrative Procedures Committee in the House.

They've requested some additional information from us to get that bill hearing date set, so we're working with them to get them that information. I believe that we may have actually sent it to them yesterday. So that one looks like it's moving forward a little bit.

I've also gotten a request for some additional information from Representative Pickett on House Bill 2202, so it looks like he's anticipating trying to get a bill hearing set for that as well.

Just kind of a very quick where we are in session. We're at day 68 of 140 days. The last day of session will be May 27. May 6 is the last day for House

committees to report out House bills, so kind of working backwards from that, there are approximately six weeks of hearings where you could have a bill heard in a House committee and have it reported back. So the window starts narrowing as we get closer to that May 27 end of session date, and so things will start getting tighter and tighter. We've obviously got six weeks left for committee hearings, but we should be able to get hearings done well within that time.

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To give you a quick update, Senate Bill 1 was passed out of committee, out of the Senate Finance Committee, and it was actually placed on the intent calendar on the 18th. In the Senate they have to place a bill on the intent calendar two days, so it is eligible to come up today. It was back on the intent calendar today. We are anticipating that it will be on the floor for debate today and most likely passage out of the Senate by the end of the day. So barring any kind of major catastrophe, which we're not anticipating, the Senate bill will be over in the House mostly likely by tomorrow and be referred into the House Appropriations Committee. So it's moving forward.

Our status right now as far as the two versions of the bills are concerned, we're in pretty good standing.

Our base appropriation was not impacted so what we

requested in our base was approved. The only thing after that would then be exceptional items that would be add-ons to the base, and so there was a rider for carryforward of anything that we did not expend relating to the automation project. That was approved in both the House and Senate versions. We anticipate that that would not come out on the House or Senate floor, and so most likely that would be a done deal at that point. Anything that is in agreement on both sides is basically off the table for conference. They only talk about items of disagreement when they get to conference, so anything that's been agreed to, you're pretty much locked in on.

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There was also a restoration of capital appropriation authority of \$23.4 million for the automation project. That's something that we had included and was not included in the base budget that came out. That would put back \$23.4 million of new money for the automation project. So anything we don't expend from our appropriation from this biennium will carry forward, and then they will add \$23.4 million on top of that.

The next item related to automation was our moves projects. Those projects were not funded in the Senate version, they were funded in the House version, so that would be an issue for conference whether or not we get the additional, I believe, \$20.3 million for the moves

projects will be up to the conference committee as far as what they decide there.

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Our next exceptional item was \$813,000 for regional office security. The Senate approved it and so it's included in that. In the House they put that in what they refer to as Article 11 which is kind of the wish list, so it's slated as a priority but it's something that they did not include funding for, so they basically have pended that item for discussions at a later date. It's not off the table but it's kind of sitting out there as something that's on a wish list.

The fifth item is signage of \$50,000 for our regional offices. That's to upgrade all the signs with permanent signs. That was included in the Senate bill as a rider that forces us to use existing appropriation in one of our line items to fund that, so it specifically says out of our Vehicle and Title Registration line item we shall expend \$50,000 to do those signs. It basically makes that a priority out of the funding included. In the House they included an additional \$50,000 to fund the signage. So there is a difference between how it was treated in the House and Senate; it will be up for discussion in conference.

The sixth item, there was approval on both the House and Senate side and that was for \$5.1 million for

Ms. Flores' what we refer to as her integrated accounting system. It's the Centralized Accounting Payroll and Personnel System, referred to as CAPPS. That is the system that is tied in with the Comptroller and that is a major initiative of the state to move all agencies over to that. We did get funding to fund the moving forward with that computer system, so I'm sure Linda will be happy in trying to draft your financial statements and income statements off of that.

MR. PALACIOS: Is that a computer system or a software system?

MR. KUNTZ: It's a software system.

MR. PALACIOS: A \$5.1 million software.

MR. KUNTZ: Correct.

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MR. VANDERGRIFF: If I recall you had questioned that.

MR. PALACIOS: I can't believe that.

MR. KUNTZ: The seventh item was for ABTPA which you all just discussed a little bit. In the Senate they approved an additional \$2.9 million on top of the base appropriation. That would bring the appropriation level for ABTPA up to \$16,394,000 for ABTPA in both '14 and '15, so that would get them up to, I believe, the level that we were at in '10 and '11. So that was included on the Senate, it was not approved on the House

side, so it will be up for discussion in conference as well. So there was a rider for unexpended balance authority as well that was included on both the House and Senate version for carryforward of any federal funds or grants that we had received. That's really specifically slated towards our C-Vision grants.

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The last item is a new rider for \$10.2 million relating to TexasSure which is the insurance verification program that is administered through the Department of Insurance. It was included on the House side, it's \$10.2 million that would be added to our budget. We would then enter into an interagency agreement with the Department of Insurance to administer that program. That is part of the state's initiative to end diversions. Those were funds that were being directly appropriated to the Department of Insurance, and in order to show the Department of Insurance was not receiving an appropriation out of Fund 6, they've moved the funding into our budget and it will show up as an interagency agreement with the Department of Insurance for any information that we receive from them for the insurance verification program when we are doing registrations.

MS. FLORES: And if I could add, when we were actually created, we had a rider that directed us to do exactly the same thing, and we removed the rider this last

1	legislative session, the 82nd, so for the 83rd it's back.
2	MR. VANDERGRIFF: That's what I was going to
3	ask.
4	MR. KUNTZ: This is historical.
5	MR. VANDERGRIFF: And I think it's not lost on
6	the board members that since we're funded out of Fund 6,
7	it's a little bit of I won't finish my sentence.
8	MR. KUNTZ: Thank you.
9	The total appropriations for the agency in
10	Senate Bill 1 in FY 2014 is \$164 million, in 2015 it's
11	\$137 million. That's all included, all funds, capital, as
12	well as the ABTPA, federal funds and State Highway funds.
13	So that's our total appropriation that we're looking at
14	in Senate Bill 1. That could change in conference based
15	on the decisions that are made with the exceptional items.
16	With that, that is
17	MR. INGRAM: The request for vehicles?
18	MR. KUNTZ: That was not included in either
19	side.
20	MS. FLORES: We got one vehicle for \$27,000,
21	and because it's under the capital threshold of \$100-,
22	it's been included but we only have one.
23	MR. KUNTZ: And that was for a replacement, not
24	a new vehicle.
25	MS. FLORES: Yes. It's a replacement for an

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1	old car.
2	MR. INGRAM: Wow.
3	MS. BREWSTER: Mr. Chairman, the criteria that
4	was used to determine whether agencies got a vehicle or
5	not was if their existing fleet had vehicles over 100,000
6	miles.
7	MS. FLORES: Hundred and fifty.
8	MS. BREWSTER: I'm sorry, 150.
9	MR. KUNTZ: And we had one that met that
10	criteria.
11	MS. BREWSTER: We had one that met that
12	criteria.
13	MR. INGRAM: They don't use age on the vehicle?
14	MS. FLORES: I think they do, I think it's ten
15	years.
16	MR. INGRAM: Ten plus miles?
17	MR. WALKER: But we still have the ability to
18	go out and move around by renting cars and those kind of
19	things.
20	MS. FLORES: Absolutely.
21	MR. KUNTZ: Correct, yes, sir. We still have
22	travel budget.
23	MR. WALKER: It's just kind of where they allow
24	you to put the money.
25	MR. VANDERGRIFF: Well, okay. Renting cars?

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MS. FLORES: We do rent cars. We also pay mileage, reimbursement to staff, and we do periodically review -- for those state vehicles that we do have, who is using them.

MR. VANDERGRIFF: But you rent cars on a limited basis. Correct?

MS. FLORES: That's correct.

MR. VANDERGRIFF: It's not somebody driving around in a rent car.

MS. FLORES: No, sir.

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MR. VANDERGRIFF: I just wanted to be sure we didn't leave a misperception there.

A couple of things in want to note, I think the board should know the moves projects in the Senate that was not funded, there was an expressed concern publicly that the agency needed to make sure and prove itself with its projects, and that just to continue to ask us to roll over the money that had been approved in '09 and in '11 and again in '13, that that was a bit of a concern for some of those key members of that committee. And they were supportive of the agency, supportive of our need for the automation funds and the programs, just concerned that we needed to go slow and bite this pie -- or apple, rather, appropriately. So that shouldn't be lost on us as a board either.

The second is just a note from me, it's a very minor amount, \$50,000, but it's beware when you ask for riders -- or you ask for exceptional items, you might get them except they take them out of your existing money.

And that has always been some concern to be watching when we are supportive of them, because then you're fighting a reverse action, you just lost the money, really, in effect from your base budget.

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And then the last, it's not on the list but I wanted to note because we did discuss this before, is that we discussed with the industry, the franchise and independent automobile dealers and the manufacturers, the case administration process that we have and basically the transfer of the case administration authority back to this agency -- I shouldn't say back to this agency -- that originally were at the Motor Vehicle Commission and the Motor Vehicle Department when it was part of TxDOT, and they had been transferred, in essence, by agreement a number of years ago because there was concern about how they were being handled.

And so we convened discussion over that, and suffice it to say that the environment, I concluded -- Board Members Ryan and Palacios also participated in that discussion -- the environment is so -- and it's my term -- toxic between those two parties that it's difficult to get

past that in having an objective rational viewpoint and discussion and there's just too many issues that those two sides of the industry face. So we're pulling that effort back this session, we didn't force our sponsors to push that.

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And SOAH will be reviewed in the next session -- excuse me -- the Sunset Advisory process will review them, it's their natural cycle, but there is concern on a number of other agencies, apparently, that have some of the similar issues that we've had, and then there's always the 2015 session. So I just wanted to make that noted to you.

But I appreciate the fact that the department, most notably our executive director and Bill Harbeson,

Donna, they made a tremendous effort in putting forward a very quality proposal, so thank you for that.

MR. KUNTZ: Complete.

MR. VANDERGRIFF: Okay. We are on our last item of our agenda, or last section, and that's executive director reports.

MS. BREWSTER: Thank you, Mr. Chairman.

For the record, my name is Whitney Brewster, executive director of the Texas Department of Motor Vehicles.

As the board is well aware, the Azimuth report

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suggested that an Office of Strategic Planning be established. If you will recall, I mentioned this in the board workshop that occurred in January, that this is one of my goals to implement this function within the agency to continue the momentum we have gained when it comes to not only keeping the strategic documents up to date but to also make sure we have measurable performance goals and objectives linked to the plan and to coordinate the strategic results to the board, the agency, our stakeholders, our employees.

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I proposed at the workshop that the board obviously be kept in the strategic planning process to the extent that it maintains the statutory requirements and current level of involvement in identifying the vision, the mission, goals and performance metrics. What I am proposing is that the strategic planning process and the management of that process be done at the agency level and the Innovation and Strategic Planning Office would drive the process and results, as well as research and implement best practice information from other states to meet and exceed the expectations of the board, our employees, stakeholders and the public.

In terms of a reporting structure, what I proposed is that the strategic planning function be a direct line to the executive director with a dotted line

to the board so that the board continues to have support in terms of keeping the board set documents up to date and fresh.

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And with that, Mr. Chairman, I know you have some ideas, as well as Vice Chair Ryan.

MR. VANDERGRIFF: We have both, the chair and vice chair, been in consultation with the executive director on this issue.

I do want to note -- I probably should have done this earlier when we had more of an audience, thank you for the hard souls who stayed all the way through this -- but Julie Beisert had been with the board for the last two and a half years as one of our assistants, and she had concentrated in this area particularly, and done just an outstanding job in putting together strategic plans and board governance documents that we voted on and approved, as well as the stalwart in pushing forward the performance metrics that you'll see here again in a minute. Just did a tremendous job.

Well, she, by virtue of her work, has been hired away by the Texas Education Agency for a lot more money and higher management position to do some of the similar things for them. So we're very appreciative of that for her and wish her well. Having said that, we now have that void, and that really precipitated discussions

the last few weeks about how best do we move forward,
maintain that momentum but continue to move it forward,
and we do think this is probably a good way to go. The
board would still have its primary authority but at least
we'd have this person report directly to the executive
director with a dotted line to us.

And I will ask if the vice chair has any additional comments on that at this point.

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MS. RYAN: No -- well, I do. In discussion with both Whitney and Victor, when we implemented the strategic planning policy -- which I can't tell you when we voted on it but sometime last fall, I think -- the board is responsible for the vision and working with the agency, but that policy relates to the board and the agency. But I think it goes directly to the back part of that which is 3.1.7 where the board delegates to the executive director the responsibility for implementing the agency's strategic direction through the development of agency-wide and divisional operational plans.

And I believe that it came up in the board workshop the difference or the definition of strategic and tactical, and I think the vision and the policy aspect of the strategic plan will always remain with us, and then we pass that over to the agency and this department will actually take that vision and turn it into action which is

what that office will do. And I think it falls right into what we had set up last fall in putting all these policies in place. That's my thoughts.

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MS. BREWSTER: And just to add, I fully intend to involve the board in any position description that is created to describe this position, as well as the recruitment process because of the reporting structure that will continue to the board.

Are there any questions? That was more of a briefing than anything else.

MS. RYAN: Perfect subject at the end, I guess. (General laughter.)

MS. BREWSTER: Okay. I'll move on.

Also in the board workshop I indicated that the agency would start reporting out on its key performance indicators, and over the course of the last several months, the agency has been very busy in reviewing and gathering information on the key performance indicators that the board passed in April of 2012. The general scorecard is not in your binder, it is before you, or should be right in front of you.

In a brainstorming session that I had with Vice Chair Ryan, she made the excellent suggestion of having an executive summary of the scorecard so that you could see a snapshot of where the agency is on each of the goals, as

well as the strategies to attain those goals, and so before you, you will see also that one-page snapshot of where we are.

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Obviously, there is a lot more detailed information within the scorecard. Also beyond the scorecard there's a lot more information, should the board ever want to see it in terms of what the methodology was for determining the amount that is in the scorecard.

So instead of going through all the key performance indicators at every single meeting, what I intend to do -- and I welcome your feedback, pleased -- is to go through the one-page snapshot so that you can see what the status is and what the trend is, are we trending up, are we staying the same, are we going down, so that you have that information. And if you need more information, I will also include the scorecard for you to refer to, but I won't be going through that point by point so that your eyes don't glaze over at the end of the meeting.

So just looking at the executive summary,
you'll see that there are items that are in red. These
are items where more than half of the key performance
indicators associated with that strategy are off target.
Although there aren't any yellow statuses listed, if there
were those represent if the majority of the key

performance indicators are on target, green represents all of the key performance indicators are on target for that strategy, and black represents that we have not begun reporting out on those yet. And so I'll just briefly go through the one-page synopsis here.

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MR. WALKER: Where is this one page?

MS. BREWSTER: It looks like this, Member
Walker.

We have half of our strategies in the red currently. Efficient and effective services, these measures are associated primarily with staffing levels as well as average turnaround time for transactions. I think it's important to point out that the turnaround times for vehicle licensing, permitting transactions are actually pretty good, but what you see reflected here is that we've put some pretty aggressive targets in here to shoot for, and so that's why it will be in the red for a while. We think we're doing a good job but we think we can do better, so that's why that's currently in red.

However, staffing issues, turnover rates, vacancy rates, use of contractors, gives me more concern, and on that we really need to more heavily focus our efforts, and so that's why that item is read. The good news is that almost all of these items, all of the key performance indicators in this area are trending upward.

The next item in red is implement appropriate best practices. I actually expect this one to turn green in the upcoming months. I think we're doing a good job in terms of stakeholder outreach, that key performance indicator, but where we are not necessarily hitting the mark is when it comes to implementation of best practices. I don't believe that we're actually measuring that. And so knowledge is power. Right? And so we know that this is an expectation of us, and knowing that moving forward, we can start tracking that.

The next item in red is executive ownership and accountability for results, that strategy. I don't want to give the impression that our executives don't take ownership for our results. In this strategy there is only one key performance indicator and that is the percentage of executive and employee performance plans that tie to the goals and strategies of the agency. As I said in the board workshop meeting, I have developed the performance plans for the executive team and delivered those plans to them, as well as starting April 1, every new performance plan that is due will be tied to the goals and strategies of the agency using a standardized template, so every time a new performance plan is due, it will be written to meet those standards. So I do expect improvement in that area, and again, that is trending upward.

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Organizational culture of continuous improvement is also currently in the red, but this strategy is primarily concerned with employee measurement of training programs and focus groups. We don't currently meet the target that I have set for the agency on this. Doesn't mean that efforts aren't ongoing, but we will continue with the momentum that has already begun on this in terms of there are groups -- and actually right now I'll get a presentation tomorrow -- that are looking at a comprehensive training plan for the entire agency. And so I know that as we roll things out, these training requirements for the agency, that will continue to improve.

The next item that is in the red, focus on internal customer strategy. That is completely dependent upon the survey of employee and engagement. If you'll recall, in 2010 it was higher than it was in 2012, in 2012 it was 60.94 percent. My target is 90 percent, and we won't have an updated survey again until 2014, but this is a very aggressive target and this will remain red until we hit that target, but it's one that is extremely important to me, and I believe that we should set that standard high.

We have three strategies that are currently in the green. We're in good shape on key performance

indicators associated with positive and solution-seeking decision-making, optimized services to stakeholders and customers, and continuous business improvement and realignment. These are primarily associated with measures that are reporting out requirements. For instance, reporting out on timeliness of expenditures and our automation projects, reporting out on our capital expenditures, et cetera. So we are currently meeting that requirement, we are reporting to the board regularly, and so in terms of the key performance indicators associated with those strategies, we're in good shape.

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Finally, we have two strategies that we are not reporting out on at all, and those are increased transparency with external customers and excellent service delivery. These strategies are primarily associated with bringing on an independent vendor to survey our stakeholders and the public. We currently do have surveys that we conduct internally but we do not have an independent vendor that will do this for us yet. We anticipate entering into a contract by June to be able to start that process, but that's why those two items are currently coded black because they just aren't being reported out on yet.

We knew that there was going to be quite a bit of red on this initial scorecard, but I think what is

really important to focus on is one, that we're reporting out and we're tracking, and then number two is that we are trending in the right direction. And some of the items that are in red are because we've set very aggressive targets, but there are those in red that are in red because we just plain need to do things differently.

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And with that, again, it's my intent to report out on the high level executive summary, but I'm happy to modify this document however this board would like. I will continue to work with the board oversight committee on how this is laid out, but I welcome your suggestions. I do want to point out that it is my intent to update the targets and make suggestions to the board to make key performance indicators on an annual basis so that we don't continue to just report green, that we will continue to perform at that level, but we won't track that for performance any longer to keep us continuously challenged and moving forward.

So with that, I'm happy to answer any questions that you have, and again, I am open to changes to this document.

MR. VANDERGRIFF: I think the board has seen this a couple of times and it's been refined a bit.

MS. BREWSTER: It's been an evolving process, but the board has not seen this, the one-page snapshot.

1	MR. VANDERGRIFF: I did reference to the vice
2	chair it looks eerily similar to a Gulf States Toyota
3	report that I used to see.
4	MS. RYAN: I told her it would be easier for me
5	to understand.
6	MS. BREWSTER: In all fairness, she provided me
7	the idea. The template, she didn't provide it, she just
8	gave me the vision.
9	MR. VANDERGRIFF: I do understand.
10	MS. BREWSTER: I executed.
11	MS. RYAN: All I asked for was I knew there was
12	no way we were going to digest this on a regular basis.
13	MR. PALACIOS: Ms. Brewster, when was this
14	taken, what's the date of the snapshot? It says March
15	here, but when did you actually compile all this
16	information for this report?
17	MS. BREWSTER: The information was compiled in
18	early March.
19	MR. VANDERGRIFF: I guess it would be February
20	numbers?
21	MS. BREWSTER: Yes, sir. Because of timing,
22	yes.
23	MR. PALACIOS: So you're going to do this once
24	a year so you'll have one next year?
25	MS. BREWSTER: I will do the snapshot, I'll

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provide updates to this snapshot at every board meeting. 1 2 MR. VANDERGRIFF: And these targets will shift 3 on a monthly basis too, or the report will, some of them are monthly. 4 MS. BREWSTER: The targets will remain the 5 6 same. 7 MR. VANDERGRIFF: I'm sorry. Not the target, the actual numbers. 8 MS. BREWSTER: The actuals will change ongoing, 9 and hopefully the colors as well, the status colors. 10 MR. WALKER: So who maintains this if Julie is 11 not here as a board assistant? 12 13 MR. VANDERGRIFF: That's why we've got to get this person. 14 15 MS. BREWSTER: Right now that is falling upon 16 me with assistance from my staff. MR. WALKER: But that's the fox watching the 17 henhouse. The board assistant should really be monitoring 18 19 those numbers and reporting to the board, shouldn't they? MS. BREWSTER: The ultimate goal would be that 20 the strategic planning function with the dotted line to 21 the board would do this. I think it's also important to 22 note that I have asked Bill Lawler, the internal auditor, 23 24 to review our methodology for compiling this data so that

we are looking at things accurately and so that you also

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have a level of confidence that we're doing this in a way that is truly transparent.

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MR. VANDERGRIFF: One thing I would ask, in maybe an offline, because these columns will get too busy, but I think you can go back historically in some of these and show where we were. Like for example, in the issuing of motor vehicle licenses, it was really, really poor and that has been dramatically improved. So obviously there's still a target and room for improvement but it's come a long way. And I think that would be helpful to see that and others in terms of where we've historically been with, for example, consultants and staff augmentation. We have a target, we have a current actual, but there is a number it's dropped from as well.

MS. BREWSTER: The baseline.

MR. VANDERGRIFF: Right, the baseline.

MS. RYAN: There was also some discussion, and I don't know what your decision was, where some of the targets were set high yet they could be a three- to five-year vision on some of the culture change shifts. But to put a one-year target versus a three, so that the constant goal, the bigger goal was out there, but a more relevant metric could be watched. Did you change it?

MS. BREWSTER: I would be happy to incorporate that into the next document. A perfect example of that is

1	how we provide vehicle title and registration services,
2	whether it's through the mail, in person or online. We
3	have, obviously, an ultimate target of just pushing out as
4	much of those transactions out online as possible, but
5	right now that is the most expensive transaction for the
6	agency in terms of vehicle registration. So in its
7	current structure it doesn't make sense to put 80 percent
8	of our transactions being conducted online because that's
9	not attainable, frankly, under our current structure. And
10	I did make note of that in the actual scorecard in the
11	notes portion, but I can certainly put what the ultimate
12	target would be.
13	MR. WALKER: You're confusing me a little bit.
14	You said that's the most expensive online. It's the most
15	expensive for the consumer but it's not the most expensive

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for us. Is that correct?

MR. ELLISTON: It's the most expensive for us.

MR. VANDERGRIFF: Randy, you probably have to identify yourself.

MS. BREWSTER: It's actually in the scorecard. It's \$3.36 versus the actual walk-in is the cheapest transaction for the agency.

MR. VANDERGRIFF: Because of the add-on fees that are associated with it currently.

MS. RYAN: I thought that got passed on, I

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thought that got paid online.

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MS. BREWSTER: Can Randy address it?

MR. VANDERGRIFF: Sure.

MR. ELLISTON: For the record, my name is Randy Elliston, director of Vehicle Titles and Registration.

The reason that it's the most expensive is we have a texas.gov fee that we have to pay, also, a web hosting services fee that has to be paid. So those two fees are what drive it up. The cost to us is the same whether it's mail-in, walk-in or internet except for those two fees that attach to it. So it's \$1.10 difference per transaction; based on the percentage of what they're doing today on the internet, it costs us that much more money.

MR. WALKER: And that's because DIR is charging us more for those things?

MR. ELLISTON: Well, because texas.gov, it's a credit card fee processing issue, and then our web hosting is the piece to host our web services, and that's spread out over the bulk of the numbers. So if we did more of them, that per transaction would go down, whereas, the texas.gov fee would stay the same, that dollar would stay the same.

MR. WALKER: What is that number to get to that breakeven point? That maybe ought to be a key indicator that we should strive to get to where we can more people

to do online to get that web hosting cost down.

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MR. ELLISTON: Well, if I understood your question correctly, we'd never get a breakeven point because we pay, let's say, \$30,000 for that web hosting, then it's just however many transactions we run through there reduces the cost, but there will always be a cost associated with it.

MR. VANDERGRIFF: The effort would be as we start to get the technology to support this is to negotiate some of these costs on a downward trend as a result of the change in business.

MR. WALKER: Do we still have to pay the tax assessor-collectors a fee if we host it through the system, or do we keep that two dollars.

MR. ELLISTON: That's not a cost to us so you won't se that included in here, but that's their fee is the same for all transactions, whether it's mail-in, walk-in, whatever, they get their \$1.90 transaction fee.

MR. WALKER: So even if it's done online.

MR. ELLISTON: Well, the online is somewhat sounds like they don't have any involvement, but what occurs is it's processed online and then it hits their office and they actually process it at that point, so they still have involvement in that transaction

MR. VANDERGRIFF: Remember, we do not have

centralized processing here in Texas. 1 MR. ELLISTON: And also, you need to know that 2 3 not all counties do online transactions, but if they do, then those transactions run back through their office. 4 MS. RYAN: So right now it's strictly a 5 6 convenience factor for the consumer that you don't have to go stand in line, versus a centralized or efficiency. 7 8 MR. ELLISTON: Exactly. And of course, some 9 people will drive across town to save a dollar and spend 10 ten dollars in gasoline. You know, it doesn't make sense 11 to me, but some people will do that. MR. WALKER: That would be my wife. 12 13 MR. ELLISTON: I didn't hear that, by the way. I won't tell her you said that. 14 MR. VANDERGRIFF: But she did, it's on the 15 16 record. 17 (General laughter.) MS. BREWSTER: I think it's important to note, 18 19 though, that we have increased the percentage of transactions that have been done online from 12 percent to 20 14 percent, with the target that I have set for 20 percent 21 which is very aggressive, but there may be things that we 22 can do programmatically that can beef that number up, even 2.3 24 though it is the most expensive transaction.

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MR. ELLISTON: And we're going to work very

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diligently to push more of that that direction, so I think 1 you'll see that number continue to increase because we'd 2 3 like to see that happen, primarily because of getting people out of the offices is the main reason. 4 MR. WALKER: I just can't help but believe -- I 5 6 mean, we're pushing everything in our company today to be online, even our billings now we don't use the mail 7 8 service, we're forcing that out through this. MR. VANDERGRIFF: We're going to have to adjust 9 to that, but you can see even in the reports on 4 and 5 10 that there is a cost associated, we're actually going to 11 12 cost ourselves more money if we try to head that way 13 unless we change the cost structure, which the department is well aware of. 14 15 MR. RUSH: Do I need to keep this, or will you 16 put a deal what it was before? 17 MS. BREWSTER: For the next meeting I will put a baseline in there so that you can have that on an 18 19 ongoing basis. MR. RUSH: Okay, good. 20 MR. VANDERGRIFF: This is a terrific effort. 21 Thank you very much for moving it forward. 22 MS. BREWSTER: Thank you. I know that it's 2.3

something that's been very important to the board and I

believe that the agency is now well underway into

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providing the information on an ongoing basis. We'll probably refine it as we go, but I think it's a good effort.

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The last thing that I'll just mention is the facilities consolidation. The project goal was to consolidate the TxDMV operations into the Camp Hubbard facility as well as the Bull Creek facility, as well as align business functions spread out amongst various floors within this building. The project planning for this began in September 2012. I am happy to report that all physical moves were completed in February, approximately 370 employees and contractors were moved. It was an enormous effort. I want to publicly thank Linda Flores, as well as Ann Pierce and many others for their efforts in this move.

You do have further information in your board books on this. The budget for this was \$713,570, we have purchase orders processed at \$686,505, so as we currently stand we are under budget by approximately \$27,000. Now, we have not received invoices, so it actually may be less than that, but it will be no more than \$685,500. So I'm happy to report that we were under budget.

So with that, I'm happy to entertain questions, but that's the conclusion of my report.

MR. VANDERGRIFF: I just want to note that you should go up and see some of the consolidated,

particularly for the Motor Vehicle operations that are consolidated on the floor above us and I think you'll be impressed with that grouping of them. As they've noted, they're all together in one place and not across the hall and disjointed, so it looks nice.

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And the second thing is, and congratulations again to our new board members who have been reappointed, they will be around long enough to address the long-term facility need of the department. That is something that will certainly be coming up.

(General talking and laughter.)

MR. VANDERGRIFF: That issue will not go away.

As you know, the Riverside Campus, it looks like that
will go to the private sector when that lease is up, and
that means TxDOT will be moving here with those employees,
which means we've got to find a place to go long term, but
I'm confident that that will be addressed.

MR. RUSH: I bet you can't transfer all that wiring you have there.

(General laughter.)

MR. VANDERGRIFF: But anyway, do any of the other board members have anything else they'd like to bring up or any questions?

MR. WALKER: When did you say that lease is up on Riverside?

1	MR. VANDERGRIFF: I didn't, but it's up in
2	about ten years, so you'd have to start planning on it
3	soon.
4	MR. WALKER: Long after I'm gone.
5	MR. VANDERGRIFF: Yes, but it will be planned
6	long before that.
7	Well, with that, I'd be pleased to entertain a
8	motion to adjourn.
9	MR. WALKER: So moved.
10	MR. VANDERGRIFF: We have a motion. Do we have
11	a second?
12	MS. RYAN: Second.
13	MR. VANDERGRIFF: We have a motion, and a
14	second from the vice chair. All those in favor please
15	raise your right hand.
16	(A show of hands.)
17	MR. VANDERGRIFF: We are adjourned. Thank you
18	very much.
19	(Whereupon, at 12:42 p.m., the meeting was
20	concluded.)

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MEETING OF:

TxDMV Board

4 LOCATION: Austin, Texas

5 DATE: March 20, 2013

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I do hereby certify that the foregoing pages, numbers 1 through 170, 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.

03/26/2013

(Transcriber)

(Date)

On the Record Reporting 3636 Executive Ctr Dr., G-22 Austin, Texas 78731