

TEXAS DEPARTMENT OF TRANSPORTATION

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

10:00 a.m.
Wednesday,
November 4, 2009

125 East 11th Street
Austin, Texas

BOARD MEMBERS PRESENT:

VICTOR VANDERGRIFF, Chair
MARVIN RUSH
CLIFFORD BUTLER
JIM CAMPBELL
RAMSAY GILLMAN
CHERYL JOHNSON
JANET MARZETT
VICTOR RODRIGUEZ
JOHN WALKER III

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6. ADJOURNMENT

P R O C E E D I N G S

1
2 MR. VANDERGRIFF: Good morning. My name is
3 Victor Vandergriff, and I am excited to welcome you here
4 today to the first meeting of the board of the Department
5 of Motor Vehicles. I am now calling the meeting for
6 November 4, 2009, of the Texas Department of Motor
7 Vehicles to order, and I want to note for the record that
8 the public notice of this meeting containing all items on
9 the agenda was filed with the Office of Secretary of State
10 on October 27, 2009.

11 Before we begin today's meeting, please place
12 all cell phones and other communication devices in a
13 silent mode. And if you wish to address the board during
14 today's meeting, please complete a speaker's card at the
15 registration table in the lobby. To comment on an agenda
16 item, please complete a yellow card and identify the
17 agenda item. If it is not an agenda item, we will take
18 your comments at the end of the meeting.

19 I do note on here that we do have public
20 comments, which are third item of business today. Because
21 of the volume of activity, we're going to move those to
22 the end of the agenda, so just be aware of that, if anyone
23 has any. Public comments are items that are not of items
24 on the agenda. Normally, I'd like to have the public be
25 able to speak first, but we'll move it to the end this

1 time. And for any of those comments, please complete a
2 blue card. Regardless of the color of the card, we will
3 limit each speaker to three minutes.

4 And with that I'm -- in addition to calling --
5 I'd like to have a roll call, please, of the board of
6 directors -- excuse me, of the Board of the Department of
7 Motor Vehicles. So I'll start here at my far right.
8 Commissioner -- Board Member Rodriguez. Here?

9 MR. RODRIGUEZ: Present.

10 MR. VANDERGRIFF: Board Member Rush?

11 MR. RUSH: Present.

12 MR. VANDERGRIFF: Board Member Marzett?

13 MS. MARZETT: Present.

14 MR. VANDERGRIFF: Board Member Gillman?

15 MR. GILLMAN: Here.

16 MR. VANDERGRIFF: I'm here. Board Member
17 Campbell?

18 MR. CAMPBELL: Here.

19 MR. VANDERGRIFF: Board Member Butler?

20 MR. BUTLER: Here.

21 MR. VANDERGRIFF: Board Member Johnson?

22 MS. JOHNSON: Here.

23 MR. VANDERGRIFF: And Board Member Walker?

24 MR. WALKER: Present.

25 MR. VANDERGRIFF: All right. That's great. I
26 sort of introduced each of the board members, by last name

1 anyway, and I think it's an appropriate time at this
2 point to allow them -- this is, indeed, an historic moment
3 for the State of Texas and for the vehicle industry to
4 have this board. It is not a reconstitution of a board in
5 the past. It is a new agency, complete with four
6 divisions, formerly of TxDOT, and almost 700 employees.
7 So it's a pretty outstanding agency, and I want to tell
8 you, too, give you a couple of facts that I think are
9 important.

10 The first one is that this business, even in a
11 tough year, generated in the last fiscal year over \$4
12 billion in revenue for the State of Texas in the General
13 Revenue Fund and in Fund 6 for the Department of
14 Transportation. On an investment of probably about \$180
15 million, it's a heck of a return on investment to the
16 State of Texas and to the citizens of this state.

17 And I think the standing up of this new agency,
18 which is certainly not an everyday, normal occurrence in
19 the State of Texas, is an indication of how important this
20 industry collectively is to the State of Texas. I want to
21 acknowledge and recognize Governor Perry, Chairman Deirdre
22 Delisi, and the executive staff of TxDOT, and also several
23 senior members and our authors and sponsors in the House
24 and Senate for making this happen, most specifically the
25 author of House Bill 3997, Representative Ruth Jones
26 McClendon, and certainly Chairman John Carona in the

1 Senate, who was the author of the companion bill, and
2 many, many other supporters that were there to make this
3 happen.

4 I want to also acknowledge the work of not only
5 the TxDOT executive staff, but also our executive staff
6 comprised from the divisions and from the people in those
7 divisions who have worked very hard to make this happen.
8 Because of your great work, we exist, and because of your
9 great work, we'll continue to go forward and prosper.

10 And the last comment, before I turn it over and
11 ask for any comments or opening remarks from any of the
12 board members, is to tell you that I'm using a line that
13 actually was said of my city, Arlington, Texas, years ago
14 by my then-partner and current, at that time, mayor of
15 Arlington, Texas, and he classified Arlington in relation
16 to Dallas and Fort Worth as "nobody's damn suburb." And I
17 say that with all due respect and love and attention. But
18 in kind of using that example, the vehicle divisions now
19 that are inside of the Department of Motor Vehicles, we
20 are nobody's suburb; we are everybody's partner. And
21 we're going to look forward to helping to move this
22 industry forward.

23 So with that, I will move immediately to my far
24 right and ask if Commissioner -- or excuse me. I keep
25 saying Commissioner, because I serve with another board
26 where there are commissioners. If it is -- if our Board

1 Member Victor Rodriguez would like to say anything.

2 And, oh, also remember, when you are speaking
3 today, board members, to turn on the microphone so the
4 court reporter can pick you up adequately.

5 MR. RODRIGUEZ: Mr. Chairman, thank you for the
6 opportunity to speak this morning. To Governor Perry and
7 to the board members here, I want to let you know that I'm
8 here to do my very best on this board. I have had
9 occasion to review lots of the material that's been
10 presented to us today. I am somewhat familiar -- not near
11 as much as you are -- with this project. But I also at
12 this point in time want to recognize the staff that's
13 worked very hard, I think, in getting the materials to the
14 point that they're at today.

15 It's obvious to me that a lot of work on your
16 part has gone in to get us here this morning. So thank
17 you very much, all the staff. We will do our best, and I
18 will do my best from my side, to help this job get done.
19 Thank you.

20 MR. RUSH: I would like to thank, first,
21 Governor Perry, for his appointment, and all the staff for
22 all the hard work they've put this thing together, Victor,
23 the chairman. I've been in this business over 50-some-odd
24 years, and I think I've got a little experience, I hope I
25 do, to help this whole new agency operator autonomously as
26 they can and be as successful as we want to make them.

1 And I'm here to help all of y'all in any way I can and
2 look forward to working with you. Thank you.

3 MS. MARZETT: Okay. Thank you. Again, along
4 with just seeing the energy, even from Mr. Vandergriff
5 here and the board members, the different expertise here,
6 and already -- not to minimize what has already been, I
7 would say, successful with the agencies and the staff in
8 operating in the past, it's really a great opportunity, I
9 think, to focus on the respective areas that we have to
10 focus on. So I'm really looking forward to just
11 contributing, and I'm very excited to be part of this
12 agency, this board. Thank you.

13 MR. GILLMAN: I'm just fired up with the
14 excitement of creating this agency. I mean, it's an
15 exciting thing. It's a little past-due. And I'm sure
16 that we're going to serve the people of Texas and our
17 industry very well. And I look forward to it. And if
18 there's anything that I, Ramsay Gillman, can do to be of
19 assistance or maybe even just to head you in the right
20 direction if I can, please feel free. And thank you very
21 much.

22 MR. CAMPBELL: I appreciate the opportunity to
23 serve. And the governor, of course, give him thanks for
24 choosing me and these gentlemen and ladies. Look forward
25 to working with each of you, and just tell you how much I
26 appreciate being here. And I think this is a good

1 transition. Along with the transition from the
2 employees from TxDOT to DMV, we assure you we're going to
3 get the checks there.

4 MR. BUTLER: I'm Cliff Butler from Mt.
5 Pleasant, Texas, and I really look forward to working with
6 Victor and all the rest of the board members here this
7 morning. And as we stand up this new agency, it's my
8 first foray, or however you pronounce that, into
9 government board appointments, and I'm looking forward to
10 learning and contributing to the State of Texas. And I
11 appreciate the efforts of the staff who's helped me learn
12 something about what's going on. And they'll help me in
13 the future. Thank you very much.

14 MS. JOHNSON: I, too, would like to thank the
15 chairman. It's been a Herculean effort that he has
16 achieved. And I do want to commend the transition team
17 and everybody on staff who's brought as far as we've come
18 today. Thank you. It's a job well done.

19 I, too, am honored to serve the citizens of
20 Texas and appreciate the governor's appointment to this
21 board. I'm looking forward to communicating a vision of
22 providing exemplary service and providing the tools
23 necessary to this organization to achieve that provision
24 of exemplary service. Thank you.

25 MR. WALKER: Hi. I'm Johnny Walker. I'm from
26 Houston, Texas. I own a trucking company down there, so I

1 am the motor-carrier representative on this board. And
2 I'm here first off to represent the State of Texas and the
3 citizens of Texas, and I'm excited about serving with a
4 very diverse board of people that we have here. They're
5 full of a lot of energy. And I want to thank the governor
6 for this appointment. And I'm here to do the best job
7 that I can, and I hope to please every one of you. Thank
8 you very much.

9 MR. VANDERGRIFF: Thank you, board members. I
10 want to comment for the record and for the audience out
11 here today that, having had a chance to meet every member
12 of this board and also to review their pasts and current
13 and, I'm sure, future accomplishments, the directions
14 they're headed, this is an outstanding group of people
15 that have been chosen by Governor Perry to lead the
16 inaugural efforts on the Texas Department of Motor
17 Vehicles, and I'm looking very much forward to working
18 with them.

19 But I also believe you will very much enjoy
20 working with them. They bring individual expertise, but a
21 commitment to the State of Texas and to these industries
22 as well, not just their area that they come from, but the
23 entire vehicle division industry. So I look forward to
24 that, and I think you will, again, as I said earlier, be
25 very pleased and very supportive of their efforts as they
26 help you move forward.

1 And with that, I want to make just a couple
2 of comments so the people in the audience know what the
3 board already does about what I think is the way we'll try
4 to conduct business in general. And my thought process is
5 that I view certainly my role as the chairman as a
6 facilitator for the board members and a facilitator,
7 certainly, for all of you and your interests and for the
8 consumers and the affected industries in the state of
9 Texas.

10 We will operate in a "we" versus an "I" style.

11 So not only will we be an inclusive nine-member group
12 operating as a unit and being helpful and supportive of
13 each other, but we will be the same with the industries
14 and the consumers and the agencies in the State of Texas.

15 We truly want to build partnerships. We'll also try to
16 communicate very openly, transparently, aggressively,
17 because I do believe that communication builds trust and
18 teamwork.

19 We'll do a lot of training here. You're going
20 to see some of that a little bit today. We're constantly
21 wanting to learn about what's going on, not in the
22 divisions, but outside in the world that we are
23 overseeing. And we'll get out there. We'll be involved.

24 And you'll see some of that evidence today as we talk
25 further in the meeting. We're being supportive of these

1 industries and supportive of the consumers and
2 supportive of the state industry needs.

3 We will look to streamline processes. And I
4 know sometimes people talk about removing waste and fraud
5 from government, and I really don't believe that, per se.

6 I think that there's always room for improvement, but
7 that's not what -- when I say, streamlining process, it's
8 to make things better for you and for the people of Texas.

9 We will also be mindful of your time, try to
10 move things along. And I'm certainly mindful that these
11 board members of serving in a volunteer capacity, so we'll
12 try to keep things moving. We'll talk a little bit about
13 the committee structure in a few minutes and moving
14 forward on that. But I want to also say to you that there
15 is going to be nothing honorary about serving on this
16 committee, this board. We will work hard, and we will
17 expect input and activity from all of you.

18 And we will have a strong focus, I think, on
19 three principles that are important. We are a policy
20 board. We are not a day-to-day board. The operations are
21 run by the people running them. We do believe in creating
22 a culture and a core mission of this agency and what we
23 stand for. We will do that. We will certainly be looking
24 to stand up very quickly as central administration staff.

25 And we are mindful of the very unique opportunity that we
26 have here to create something great and special to support

1 the affected industries, the consumers in the state.

2 So with that, I'll move forward into our next
3 item of the agenda. As I said, we are skipping for now
4 Item 1(C), the public comment, and we'll move into our
5 briefing section, which this is intended -- for future we
6 will have -- this is where we will not be taking votes.
7 We'll just be getting information, training, and having
8 that opportunity there.

9 So for those of you that are unfamiliar with
10 that, the first that I would bring to you is the board
11 structure. And this is an overview really of the board's
12 roles and responsibilities. And I will be doing a little
13 bit more talking here for a second, but I will also open
14 it up for comments from the board members here as I
15 finish.

16 As I said, we are a day-to-day -- excuse me, we
17 are a policy board, not day-to-day. But we do have a very
18 unique job to do here. There is a separation of the two
19 roles that really for the next few months particularly
20 will be a challenge.

21 We do not have a central administration staff.

22 Our central administration staff are interim staff from
23 TxDOT. For example, our human resources director is
24 TxDOT's human resources director. And I am very mindful
25 and proud of the roles that they play for the
26 transportation department and the jobs they have there.

1 They're doing an excellent job for us, but it is taxing.

2 So we're going to move post-haste to stand up first and
3 executive director and then the positions behind them.

4 So you will see this board obviously rightfully
5 involved in the executive director appointment, which we
6 hope to do shortly. But you will also see us involved in
7 standing up the central administration staff.

8 Everything is new at the Department of Motor
9 Vehicles, and we do not have dedicated personnel yet.
10 Again, they are part of other staffs. So be mindful that
11 when you're looking for us, at least for the next month or
12 six weeks or so, it might take you a little bit to get to
13 us, but we will return those calls.

14 And we also have some tasks ahead of us which
15 we will do, which is to start work on a strategic plan,
16 which again develops the core mission of this agency and
17 moves right into the budgeting process. So you will see
18 more of that as we go forward in the meeting. We have
19 some briefings on that.

20 The committee structure that you see next,
21 which is Item Number 2, that we will be talking about this
22 some in our executive session. We'll certainly open up
23 that for comment here, and it'll move forward. But I am
24 proposing that we do call for a significant portion of our
25 work to be done in committee. There is -- and those will
26 be open meetings. They will be -- the public will be

1 invited to those.

2 At this point, we have five committees that I'm
3 looking at at the moment. And those are, as you see in
4 your agenda, an Administration Committee -- and that first
5 item there is -- and I'm not sure. Jennifer, do you have
6 copies of those, the detail on that? Jennifer Soldano? I
7 saw --

8 MS. SOLDANO: I can make copies.

9 MR. VANDERGRIFF: Pardon me?

10 MS. SOLDANO: I can make copies.

11 MR. VANDERGRIFF: Would you please do that? I
12 want the board members to have a copy of that.

13 What I'm referring to is just a brief little
14 paragraph on each of these committees, so that you have an
15 understanding, and the public has an understanding, of
16 what those would do.

17 But the Administrative Committee would really
18 be basically responsible for the personnel and the
19 staffing and the oversight of things, such as our HR
20 efforts and civil rights, diversity. So those would be
21 the issues that they would cover.

22 The Finance and Audit Committee is pretty much
23 exactly what it says. It would be responsible, being the
24 point people with respect to the budget, the strategic
25 plan, and the review of same, as well as an audit over
26 this agency.

1 The Projects and Operations Committee, those
2 would have specific projects. Rule-making, a lot of the
3 initial meetings would come underneath them there, as well
4 as specific project like, for example, most of you have
5 heard of Vision 21, which is a VTR computer project that I
6 think is an exciting development for the state and for
7 this agency.

8 Legislative and Public Affairs, again, is
9 pretty much as it outlines.

10 If you would go ahead and just pass one of
11 those out to each board member.

12 And Legislative and Public Affairs, clearly, as
13 we look forward to addressing legislative issues and
14 needs, and also the public relations activity of the
15 agency.

16 And then last but not least is really a Special
17 Projects. Our Special Committee, if you will, it's almost
18 like a select committee. I gave some examples that the
19 initial startup on the strategic planning process or an
20 annual boardwalk shop, or as you'll hear later in our
21 agenda, the handling of contested cases, which is on our
22 agenda.

23 So there's some major issues that would be
24 individual, not necessarily standing, needs, but they
25 would need to be dealt with. And quite frankly, the

1 entire board will, of course, participate, in any votes
2 that are necessary, obviously, on any of these issues.
3 But this hopefully will enable us to move through the
4 process so that when we have meetings like we have here
5 today, we can get through them in a relatively judicious
6 time and manner, and yet also provide detailed time for
7 the questioning and study of particular issues.

8 So I think that, with that, I will open it up
9 and ask if any of the members have any questions at this
10 time. This is just being -- as I said, it's a briefing
11 item. It's not an item that would be called for a vote at
12 any point in time. Under the statute, it is our ability
13 to create these standing committees, but certainly the
14 work product of those committees we can discuss and want
15 to give that opportunity in open session now. And again,
16 this will come back up in December.

17 I don't see -- any board members like to
18 comment?

19 (No response)

20 MR. VANDERGRIFF: Don't see any, so I will move
21 forward. The next is our advisory committees, which there
22 are three, by statute, that are required to be stood up.
23 The titles of those, by statute, are Vehicle Dealers, the
24 Registration and Titling, and Motor Carriers. These are
25 actually to be -- the membership is to be appointed by the
26 executive director, and which at least half of the members

1 are to be members of the public.

2 And what we will be working on is having at
3 least one of our board members be a direct liaison and
4 responsible for the oversight of those committees so that
5 that information is readily picked up and disseminated and
6 delivered back to the board, and that the industries --
7 this is a really great opportunity, I think, for the
8 industries to be able to participate in understanding
9 what's going on in the day-to-day operations of the
10 agency.

11 I want to again remind that these are advisory
12 committees, in the sense that there's no voting that will
13 take place. But certainly it's an opportunity for the
14 divisional directors and their staff to interact with the
15 public on a regular basis and provide good feedback both
16 directions. So it's an educational learning process both,
17 but the board would be engaged and involved in that.

18 So with that, I'd ask if the board -- if anyone
19 has any questions or wants to bring that up?

20 (No response)

21 MR. VANDERGRIFF: I see none, so we'll move
22 forward. Automotive Burglary and Theft Prevention --
23 excuse me. I apologize.

24 MR. WALKER: How big are the committees
25 supposed to be?

26 MR. VANDERGRIFF: In terms of the --

1 MR. WALKER: Number of people.

2 MR. VANDERGRIFF: -- advisory committees?

3 MR. WALKER: Yes.

4 MR. VANDERGRIFF: Those committees are really
5 at the call of the executive director in terms of size. I
6 would suspect that they will be large enough so that all
7 the affected industries by that particular topic or
8 particular -- like, for example, vehicle dealers. There's
9 a lot of different entities regulated there that I'm sure
10 they would be covered. And then you'd have to basically
11 double it to get the public members involved.

12 MR. WALKER: But there is no statute or rule --

13 MR. VANDERGRIFF: No.

14 MR. WALKER: -- that says the size. Okay.

15 MR. VANDERGRIFF: That's correct.

16 All right. Any other questions, comments?

17 (No response)

18 MR. VANDERGRIFF: I will ask the board members,
19 by the way, just flag at me. I'm used to a button system
20 where I can see a call light, and we don't have that. So
21 just flag at me if you need to. These are not shy people,
22 so I do not think they will have any problem doing that.

23 The Automotive Burglary and Theft Prevention
24 Authority, I wanted to bring that up. We certainly have
25 before us a briefing paper on the agency, and I will ask

1 here in just a second for Charles Caldwell to come and
2 if he'd like to address from his perspective, as the
3 divisional director of the Automotive Burglary and Theft
4 Prevention. This is a unique agency. It does great work
5 for the State of Texas. About \$15 million a year in
6 grants from the federal government are distributed to
7 local communities.

8 And I won't steal his thunder anymore in doing
9 that. But this will be a standing item, so that we will
10 hear from them. They have a separate board that governs
11 their activities, so this -- we're here to help and be
12 supportive of the Automotive Burglary and Theft Prevention
13 Authority. But they will be taking the action that
14 directs their activities.

15 So with that, Charles?

16 MR. CALDWELL: Can you hear me? Okay. Good.

17 My name is Charles Caldwell, and I'm the
18 director of the Automotive Burglary and Theft Prevention
19 Authority. And I do understand Chief Rodriguez was a
20 former board member of the Authority, but that was before
21 we got the "burglary" attached to our name.

22 There is a short presentation that you can see
23 on -- I think on the screen, as well. And I just wanted
24 to give you just some pertinent information about our
25 program for a couple of minutes. I don't know if you know
26 about it or if you didn't know about it. It may help you

1 understand what -- kind of what we do.

2 I'm usually good at negotiating these things,
3 but give me a second. I'll get it.

4 Just some quick information on auto theft, if
5 you're not aware. This is one of the costliest crimes in
6 the U.S. It costs our citizens about \$6.4 billion
7 annually. We consider auto theft as a gateway crime, and
8 by being a gateway crime, we're talking about it leads to
9 other crimes such as murders, robberies, kidnaping, drug
10 smuggling, and also bringing illegals across the border.
11 And so we consider this a gateway crime.

12 Since 1991, we've been able to reduce auto
13 theft in Texas by over 50 percent. In 1991, there was
14 161,000 vehicles stolen. As of 2008, which is the latest
15 statistic that is available, according to UCR reports, we
16 reduced that to 85,000 vehicles being stolen. And I had a
17 question yesterday about how can we attribute our success
18 with the number of stolen vehicles being reduced. There's
19 no direct link, but we like to think that the officers out
20 there that we give grant money to and the public-awareness
21 information that we put out there made a big impact on
22 that. There's no direct link directly one to one, but we
23 like to take credit, if nobody else is going to take it.

24 So as it's being reduced, we like to give them
25 credit for the job they're doing anyway, so we'll say that
26 they reduced it by at least over 50-something percent.

1 And this statistic is part of what I was talking about.

2 In 2008, the economic value of the stolen vehicles is
3 over \$825 million.

4 California is the number one state with stolen
5 vehicles. Texas is number three right now. We've dropped
6 from number two to number three, and it's remarkable
7 considering the number of registered vehicles in our
8 state. And we have the largest number of registered
9 vehicles in the nation.

10 Tell you a little bit about our program. We
11 have a seven-member board. We have two law-enforcement
12 representatives, two insurance representatives, and two
13 public members on our board. And there used to be the
14 colonel of DPS, but now the director of Department of
15 Public Safety is an ex-officio member, and he will appoint
16 someone to sit in for him when he can't make it.

17 We also have three standing committees that are
18 by rule. Our Board of Solutions Committee, our Insurance
19 for All Committee, and our Grantee Advisory Committee.
20 These committees allow us to work with our industry
21 partners in what we're doing. And the Board of Solution
22 Committee actually is more of an international committee
23 now, because we meet with the four bordering states and
24 Mexico, their attorney general's office there, and now the
25 U.S. Attorney General's Office has joined that committee
26 as well.

1 We have a five-member staff, and we say that
2 our responsibility is to serve as the authority of the
3 program. We administer our program to our end-users,
4 which is the law-enforcement industry, our insurance
5 industry, and also the citizens of Texas. We coordinate
6 those relationships between all three, which I get
7 everybody together, we have an annual conference in order
8 to help us facilitate those things, and also the committee
9 meetings and the public meetings that we have as well.

10 Our task forces are the law-enforcement
11 industry, and we do have a public-awareness task force
12 that just get the information out. And their
13 responsibility is to be the arm of what we try to do, is
14 go out there and help and facilitate and try to get back
15 those stolen vehicles and then also prevent stolen
16 vehicles and use the public information to get the word
17 out on how to protect your vehicle to prevent this.

18 I just want to touch on a couple of issues with
19 our program. And I'm jumping around through the program
20 because some of the information you can read in what we --
21 the packet that we kind of distributed. Auto theft in
22 Texas is an international issue. It's no longer just a
23 statewide issue. It's international, because these
24 vehicles are being exported from Texas, from our different
25 port areas here, and that has become very lucrative. It's

1 also being -- the cars are being taken across the
2 Mexican border and the Canadian border as well.

3 So we have partnering with Homeland Security
4 along the border that Governor Perry has instituted, the
5 Border Star Program. We help with Homeland Security in
6 those port areas, and we have partnering with them, and
7 our task forces are actually doing -- assisting DPS with
8 trying to prevent those things going across the border and
9 leaving our port from the state of Texas. We have also
10 partnering with the U.S. Border Patrol and a couple of
11 other U.S. law-enforcement entities to help us accomplish
12 some of these things.

13 We also have started working with trying to
14 break up organized crime in the state of Texas. And
15 again, I'd like to say our guys have been very successful
16 in doing those things.

17 Our commitment is to continue being the
18 authority on auto theft. We're going to continue
19 developing and initiating innovative techniques and
20 strategies for the state of Texas. We will continue
21 disseminating our information to our citizens on helping
22 protect their vehicles and what they can do to also
23 prevent auto burglaries.

24 This responsibility was given to us from the
25 previous legislative session, and that responsibility now
26 has fallen on our program and thus adding the "burglary"

1 to our name. And that is a huge responsibility, with
2 the number of burglary thefts that occur in Texas. There
3 are currently over 200,000 burglaries in the state of
4 Texas. And these are just the high-hit areas, the numbers
5 that we are counting. And so in order to kind of get
6 those down and make a dent in there, our guys are working
7 diligently, and we're going to continue using the
8 information, and hopefully more information, that we can
9 help our citizens kind of protect their belongings.

10 And that's pretty much. That's all we have
11 about our program. Do you have any questions?

12 MR. VANDERGRIFF: Any members of the board have
13 any questions?

14 MR. CAMPBELL: I have one question. What is
15 the penalty for a theft of a vehicle?

16 MR. CALDWELL: Currently, the penalty is -- and
17 it depends on severity.

18 MR. CAMPBELL: First offense.

19 MR. CALDWELL: First offense? I believe it's
20 six months to one year.

21 MR. CAMPBELL: Six months to one year?

22 MR. CALDWELL: Yes.

23 MR. CAMPBELL: Is it a misdemeanor or --

24 MR. CALDWELL: It is a misdemeanor.

25 MR. CAMPBELL: And second offense?

26 MR. CALDWELL: Second offense is up to two

1 years.

2 MR. CAMPBELL: Still a misdemeanor?

3 MR. CALDWELL: No. That actually goes to a
4 higher level.

5 MR. CAMPBELL: Do you think it would be
6 appropriate to change the legislation to make it more --

7 MR. CALDWELL: Our law-enforcement partners,
8 the Texas Automobile and Vehicle Theft Investigators and
9 also the International Auto Theft Investigators, two
10 associations, have tried over the years to increase the
11 penalty for auto theft. And I think the problem is the
12 idea of your car being stolen, more of a property crime,
13 and property crimes are not as highly regarded,
14 unfortunately, in order to do that. I think when doing
15 the auto theft, they look for the more high-profile crime
16 in order to charge those criminals with those things.

17 MR. GILLMAN: You're talking about how major it
18 is that burglary's been added. Are you talking about
19 burglary of motor vehicles?

20 MR. CALDWELL: Yes. Burglary of a motor
21 vehicle. I'm sorry.

22 MR. GILLMAN: Thank you.

23 MR. VANDERGRIFF: Any other questions? Cheryl.

24 MS. JOHNSON: Does this tend to be a seasonal
25 crime? Or have you seen that it peaks certain times of
26 year?

1 MR. CALDWELL: Yes. We've found during the
2 year in the month of July. It peaks also during the
3 holiday season. Now to the time after New Year's is a
4 peak season. And some of the reason for that is sometime
5 the kids are out of school during the month of July, get
6 bored with doing some things. And then also with the
7 holiday season, of course, as the economy is doing bad,
8 then, you know, vehicle theft can be real profitable.

9 MS. JOHNSON: Well, as a victim of two car
10 thefts, I greatly appreciate what you're doing.

11 MR. CALDWELL: Thank you.

12 MS. JOHNSON: Thank you.

13 MR. RUSH: What is the penalty on burglary of a
14 vehicle?

15 MR. CALDWELL: I'd have to check on that. I'm
16 not sure. I think with burglary of a vehicle it depends
17 on the dollar value of what's being stolen. Those crimes
18 are very difficult to investigate and recover property and
19 also prosecute, because sometimes the property, more time
20 than not, has to be recovered, and then you have to have
21 the evidence of the actual burglary.

22 MR. RUSH: Thank you.

23 MR. VANDERGRIFF: Any further questions?

24 (No response)

25 MR. VANDERGRIFF: Okay. I don't believe so.

1 Thank you, Charles. Thank you very much.

2 I want to also acknowledge Chief Garcia, Carlos
3 Garcia, who not only serves as the Automotive Burglary and
4 Theft Prevention chair, but he worked on a work group that
5 was commissioned by the governor and TxDOT to study this
6 motor vehicle option back in 2008. He spent about six
7 months of his life working very diligently on that, and
8 appreciate his service as well on that.

9 We're moving into Item 2(B), which is the --
10 again, more briefing information. We'll have a couple of
11 people coming up to visit with us on these, but I will
12 note a few things here at the outset. These were the
13 Department of Motor Vehicles launch events that went
14 forward, the first of which was an Employee Town Hall
15 Meeting that occurred here in early October, of which I
16 was a participant.

17 And so I will turn it over to you, Doretta.
18 Thank you. Please introduce yourself to the board.

19 MS. CONRAD: Good morning, Chairman
20 Vandergriff, board members. My name is Doretta Conrad. I
21 am Special Projects Coordinator in the Support Services
22 Section in the Vehicle Titles and Registration Division.
23 I'm serving as the event committee chairman for the DMV
24 transition team's communications committee. The Events
25 Committee is comprised of 13 members representing each of
26 the affected divisions who are now comprising the DMV.

1 Our main goal has been to inform, involve,
2 and engage DMV employees throughout the transitional
3 process. The committee organized and hosted three brown-
4 bag mini-seminars this summer. These brown-bag seminars
5 allowed DMV employees to hear and interact with the
6 transition team chairman Ed Serna, the transition team
7 directors, as well as Chairman Vandergriff, when
8 appointed.

9 To include as many employees as possible, each
10 seminar was offered twice on the days scheduled. They
11 were recorded and made available for viewing on our DMV
12 intranet set. These seminars were offered on an
13 informational setting and allowed a free flow of
14 information. Employees were encouraged to ask questions,
15 either during the seminars or anonymously through the DMV
16 transition intranet site.

17 The other item that I am addressing is the DMV
18 launch event which will be held next week. The Events
19 Committee is hosting the official TxDMV launch event on
20 Thursday, November 12, in Austin, at the J.J. Pickle
21 Commons Center, Big Tex Room. To accommodate both the
22 number of employees comprising the new agency and to
23 accommodate our regular customer services needs, the
24 official launch event will be held in two identical
25 sessions beginning at 10:30 and one o'clock.

1 The event marks the formal transition from
2 TxDOT to TxDMV. This is a momentous occasion, and it will
3 be treated with the highest regard. The theme of the
4 event is Honor the Past, Welcome the Future. During the
5 event, we will hear from Amadeo Saenz, Executive Director
6 of TxDOT; Victor Vandergriff, Chairman of TxDMV; and DMV
7 employee representatives. The event will culminate in a
8 special slide-show presentation that is centered around
9 the launch theme.

10 There are approximately 200 DMV employees in
11 our regional and field offices who will not be able to
12 attend the event. The event will be live-streamed to them
13 so that they can participate as well.

14 We hope that you'll be able to join us. Thank
15 you.

16 MR. VANDERGRIFF: Thank you, Doretta.
17 Appreciate that very much.

18 We also have a Stakeholder Listening Tour, and
19 I believe we have, from our PR staff, TxDOT's PR staff,
20 Chris Lippincott is here, I think, as well.

21 MR. LIPPINCOTT: Good morning, Mr. Chairman.
22 Good morning, members. For the record, my name is Chris
23 Lippincott. I am the director of Media Relations for the
24 Government and Public Affairs Division of the Texas
25 Department of Transportation.

1 I want to provide you a short update on the
2 public outreach efforts on behalf of the Texas Department
3 of Motor Vehicles and specifically the Stakeholder
4 Listening Tour that we've proposed. You have a full
5 agenda in front of you, so I'll keep my remarks brief, but
6 I do want to congratulate you and wish you the very best
7 of luck on behalf of my division.

8 For the last several months, the Government and
9 Public Affairs Division of TxDOT, or GPA, has assisted in
10 the development of internal and external communications
11 policies and materials for DMV. A member of my staff,
12 Penny Mason, is serving as your interim public information
13 officer. If you haven't met Penny yet, you will shortly,
14 and I assure you that she intends to put you to work.

15 Last week's DMV launch event here in Austin was
16 covered by state and local news outlets serving audiences
17 speaking English, Spanish, and Vietnamese. If you haven't
18 had a chance to take a look at the video and photo footage
19 from last Friday, please do. I think you'll be happy with
20 the level of interest in the new department.

21 I should note that GPA is serving in a
22 supporting role. Your employees at the DMV transition
23 team continue to do most of the heavy lifting. I'll spare
24 you a roll call of those participants, but TxDOT's losing
25 some talented communicators, and our loss is the DMV's

1 gain.

2 In addition to helping you set up your Facebook
3 page and start mapping out messages for the department,
4 we've proposed that the board and staff host a series of
5 listening events across the state to give your
6 stakeholders an opportunity to see you, to hear from you,
7 and most importantly to talk to you.

8 In 2009, we have more ways than ever to talk to
9 folks and to talk to them, but good old-fashioned town
10 hall meetings are still a cornerstone of any effort to
11 reach out to the public.

12 I would suggest that the legislation creating
13 the Department of Motor Vehicles has given you a running
14 start in the right direction with some out-of-bounds
15 markers and some specific charges. And what's left to you
16 is the "how." Given the built-in constituencies of this
17 department, I think you should expect good attendance and
18 an earful of good ideas about how the department should
19 carry out its mission.

20 In consultation with the chairman, the DMV is
21 preparing to host events in cities across the state,
22 perhaps somewhere in the neighborhood of a dozen
23 communities. Bringing the DMV to these cities will help
24 continue to generate awareness of this department, its
25 functions, and its role in helping Texas grow.

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1 Carrier, and Motor Vehicle Divisions all have open lines
2 of communication to their constituencies. We'll use their
3 email list-serves and other outlets to make sure that
4 stakeholders are aware of these town hall meetings.

5 In my experience with TxDOT, I can tell you
6 it's difficult as a state agency to make all of your
7 customers happy all of the time. But I think that the
8 criticism leveled at government most often can be
9 distilled to one single complaint, and that is a perceived
10 unwillingness, or inability perhaps, to listen to the
11 public.

12 So the board and the staff of the DMV will be
13 taking your show on the road. These evening meetings will
14 not have long opening remarks or scripted programs. Our
15 hope is that everyone from car dealers to tax assessors to
16 truckers will come with their questions and their ideas.
17 I think it's fair to assume you'll hear some war stories,
18 some of them good and some of them bad.

19 Hitting the road now and launching this
20 department with a posture of openness and a culture of
21 listening should earn the DMV the good will it needs to
22 get going. Let me be clear that I don't think of these
23 town hall events as a trick or a gimmick, and they
24 certainly shouldn't be a one-time opportunity for these
25 communities. People want their voices heard and their
26 ideas considered, and the DMV will never be in a better

1 position to listen to its customers than it will in the
2 first 12 months of its existence. I hope each of you will
3 have the opportunity to attend at least one of these
4 hearings as they come to your communities across the
5 state.

6 TxDOT's Government and Public Affairs Division
7 will continue to assist the DMV staff through this
8 transition year. Our web team, our press secretaries, our
9 constituent service professionals, and others are
10 committed to helping you and the DMV staff create a world-
11 class experience for your customers. I think my executive
12 director, Amadeo Saenz said it best last week when he said
13 that we're committed to helping the Department of Motor
14 Vehicles become "the second-best agency in state
15 government."

16 MR. VANDERGRIFF: And I think my response was
17 we'd be the best-in-size category. They take being the
18 large-group category. We'll take that.

19 MR. LIPPINCOTT: Thank you and good luck.

20 MR. VANDERGRIFF: Thank you very much, Chris.

21 A couple more things I want to note in the
22 listening tours that, again, as Chris pointed out, they're
23 designed to gather input from the motoring public and the
24 vehicle industry. And I guess we will look to ask three
25 real broad questions at these: What do you like about the
26 current operations? What can we improve upon? And in an

1 ideal world, what could we do to make it easier to
2 conduct your own business? And so it will be pretty open
3 and free-flowing.

4 The idea is to do these meetings in the evening
5 and then actually in a community during the day in which
6 we can visit with local officials, legislators, and the
7 like, so that we will continue to listen not only to the
8 stakeholders but to the people who will be looking to
9 oversee our business during the course of the life of this
10 agency.

11 We are looking at least 12 potential locations.

12 The board will see those, and we'll discuss those. That
13 will come under the purview, obviously, of our soon-to-be
14 standing legislative and public affairs committee. And
15 the first location that we're thinking about as kind of a
16 trial run would be in December, and that would be probably
17 here in Austin, so there'd be an ease of convenience, and
18 then to try over the next three months to do these in
19 other communities throughout the state. And again, this
20 information should be very helpful to us in putting
21 together our strategical plan and the structure of this
22 agency to support the needs outside.

23 So I will ask if any members have any questions
24 at this point. Again, we're throwing a lot of briefing
25 information out there, and they're going to be a key part
26 of shaping all this as it moves past this conception

1 stage.

2 I don't see any. I do want to note, though,
3 Chris mentioned the hard work being done, certainly by
4 him. Appreciate that. You met -- the board met and the
5 public saw Doretta here earlier and her great work she's
6 done. But I also see Kim Soo Lei [phonetic], and I'm not
7 sure if I've seen Penny Mason in the audience, but if she
8 is here, again, great work that they have been doing. And
9 they've been working very hard on all of these.
10 Appreciate it a lot.

11 We skipped one item, and it was my fault in
12 doing that, in 2(A). This is a point during the course of
13 every agenda where, if we've had contact in a couple of
14 key areas, there may end of being more, that we want to
15 make sure and let you all know that, as well as talk about
16 as a board. We certainly -- in the future, I would expect
17 board member comments and participation here, because
18 they'll be out there, listening to you, and working with
19 our stakeholders and the legislators and certainly with me
20 and the Governor's Office.

21 I listed three categories here, Stakeholder
22 Information. We've kind of already talked about some of
23 the things we're going to do going forward, but obviously
24 as we have some of these launch events and other events,
25 you'll start to hear presentations on that. And the
26 expectation will be it won't always be me talking. It

1 will be everybody here up on the dias with me.

2 Legislator Information, obviously any major
3 context that we've had, I will tell you, and to inform the
4 board that I've had a lot of contact from state senators
5 and from state representatives, most notably have had good
6 sit-down sessions with Chairman Joe Pickett of the House
7 Transportation and Chairman John Carona of the Senate
8 Transportation and Homeland Security Committee.

9 And I have been invited -- actually told I have
10 to be there -- on November 11 for a hearing in El Paso,
11 which is before Senate Transportation and Homeland
12 Security. They want to hear from us about how our startup
13 is going and a few other issues, I'm sure that will come
14 up on transportation items. And that, again, is coming up
15 next week. But you will -- at each meeting we have, we'll
16 try to give you a briefing of who we've met and who we've
17 talked to going forward.

18 The Governor's Office, I am required by
19 statute, and this board is required, to make reports on a
20 fairly regular basis to the Governor's Office, to the
21 Legislative Budget Board, and to the Legislature. And you
22 will certainly -- the board will be working with me on all
23 of those and will have advance notice of an opportunity to
24 comment on any report going forward.

25 So just wanted to make sure that everybody
26 understood this portion on the agenda and what that was

1 for.

2 Moving on, we're now into some more meat of our
3 agenda, and that is the Transition of the TxDOT Divisions
4 to the Texas Department of Motor Vehicles. And with that,
5 I'd like to introduce Ed Serna, who is the senior
6 executive responsible for support services in TxDOT. He
7 has overseen these divisions as they were a part of TxDOT.
8 He has overseen the transition.

9 I want to tell you, he has worked so hard and
10 diligently, and he -- never has somebody had -- his
11 loyalties and his professionalism are very clearly to
12 support the mission of TxDOT, but he has straddled the,
13 what I would call, earthquake fault line very expertly and
14 carefully to see that everybody gets what they need, which
15 is first-class service and a first-class agency.

16 So, thank you.

17 MR. SERNA: Good morning, Mr. Chairman, board
18 members. Mr. Chairman, thank you for those kind words.

19 For the record, my name is Ed Serna, and I'm
20 the assistant executive director for Support Operations at
21 TxDOT, and I've also been heading up the transition effort
22 of these divisions from TxDOT to the DMV. The one thing
23 that I want to point out is the actual -- a lot of the
24 credit really needs to go to Rebecca Davio, Bret Bray,
25 Charles Caldwell, and Carol Davis, who were the division
26 directors, three of those division directors that are

1 transferring from TxDOT to the DMV; the fourth, Carol
2 Davis, who is over Motor Carrier Division, has opted to
3 stay at TxDOT, our gain at TxDOT. But she dedicated a
4 whole lot of her time and attention, almost all of her
5 time and attention, to making sure that what was
6 transitioned over for Motor Carrier is going to be a good
7 operation. And I think she's done that effectively.

8 So while the chairman has pointed out the
9 things that I've been involved in, I really believe that a
10 lot of the -- a lot of the work has been done by those
11 individuals and their staff members. You already met some
12 of their staff members.

13 Each of you has gotten at least one copy, I
14 know, of the transition report. It's in the board books,
15 but you may have gotten another copy of it. You may have
16 gotten more than enough copies of this thing by now. It
17 was mandated by House Bill 3097, which created the
18 Department of Motor Vehicles, and it was intended to
19 outline the responsibilities that the Texas Department of
20 Transportation would undertake in supporting the creation
21 of the Texas Department of Motor Vehicles.

22 So as you flip through that document, the other
23 thing that I'd like you to remember is it's intended to be
24 a working document. It was delivered on October 1. Some
25 things have changed in how we are doing things. Not very
26 many major things, but some things have changed in how we

1 are doing things in that document. Other items in the
2 document were estimates, for example, cost, FTEs, et
3 cetera, that we will continue to refine.

4 The bottom line, when this project started and
5 actually TxDOT -- there was no DMV at the time -- TxDOT
6 and the division directors that I've referenced and the
7 Support Operations division directors at TxDOT actually
8 started this effort a couple of weeks before the session
9 ended and actually before the bill was passed. We
10 anticipated the passage of the bill. We didn't want to
11 waste any time, because we felt it would be a pretty
12 significant effort, so we've been working on this since
13 about mid-May, and we will continue to work on it.

14 The instructions that I got from my executive
15 director, Amadeo Saenz, were very clear, and it's what I
16 try to convey to all the staff that were working on it,
17 both the staff that are now DMV and the staff that are
18 still TxDOT that will be supporting the DMV, and that is
19 it had to be an absolutely seamless transition for our
20 employees and for our customers. And it was in that
21 order. And there was a specific reason for that order,
22 because we believe very strongly that if our employees
23 feel comfortable about what's going, if they have no
24 apprehension, or very little apprehension, then they will
25 continue to do a good job and they will continue to serve
26 the customers well.

1 We want to make sure that it's a seamless
2 transition for our customers because most of the people
3 that we deal with rely on the services provided by these
4 divisions to drive around legally with a registered
5 vehicle, to get certifications and licenses to move goods,
6 the motor carriers, to get grant information and to
7 receive grants, automobile, burglary and theft prevention,
8 to get licenses to operate, to get their complaints
9 addressed or to get Lemon Law issues addressed, Motor
10 Vehicle Division. So we felt very strongly that those
11 were our simple goals. And I think we've achieved that
12 very well.

13 Doretta pointed out just a little while ago the
14 efforts that we've undertaken to keep the staff informed.

15 I would also like to point out -- and I'll talk about
16 staff in just a little bit under another agenda item, but
17 I'd also like to point out that there were a lot of
18 apprehensive people that remained at TxDOT that were
19 concerned about, Okay, what's going to happen to our
20 operation? There's a piece of it going -- quite frankly
21 from TxDOT's perspective, there's a piece of the family
22 leaving. How's that going to impact what we're doing? So
23 we also needed to keep the TxDOT employees as informed as
24 possible. But our focus was on the DMV employees. So
25 part of the transition addressed that.

1 Bottom line for the transition is that it's
2 TxDOT's intent -- and this is outlined in much more detail
3 in the transition report and also in the memorandum of
4 understanding that we'll be talking about later today --
5 but the bottom line is TxDOT will provide services to the
6 DMV and will provide facilities to the DMV until the DMV
7 assumes responsibility for providing those services or
8 facilities.

9 So, for example, I think Mr. Vandergriff
10 mentioned earlier, George Ebert and TxDOT's HR department,
11 human resources department. We will be the DMV's human
12 resource department as the Department of Motor Vehicles
13 hires its executive management and they hire their HR
14 department. And when the DMV says to TxDOT, Okay, we've
15 got that function, then TxDOT will step down from that
16 function.

17 And y'all can interrupt me at any time if you
18 have any questions as we're moving forward.

19 Same thing is true with accounting. Same thing
20 is true with facilities, with support, with technology.
21 Any of the services that we can provide, we'll continue to
22 do so. We do not anticipate there being a fee for those
23 services. It didn't quite make sense -- all the funds
24 that are moving into the DMV come out of Fund 6, which is
25 set up by the Legislature to support transportation in the

1 state. We didn't feel that it would make sense to
2 transfer money to the DMV and then turn around and bill
3 the DMV for HR services. We'd have to calculate how much
4 an HR professional would cost an hour, transfer the money,
5 and then submit a bill. It seemed a little bureaucratic.

6 So for a lot of those items, you'll see that
7 TxDOT's going to provide the service at no cost to the
8 DMV. There's still a cost to Fund 6, which is another big
9 issue, but that's kind of behind the scenes. That cost
10 would have existed anyway. Whether those employees were
11 at TxDOT or the DMV, we would be supporting those
12 employees with HR, with accounting, paying bills, et
13 cetera. So that was some of our logic.

14 There are some items in the transition where
15 funds were transferred and the DMV would actually receive
16 a bill, but these are the very clear-cut things that those
17 divisions -- technically that the money would have been
18 charged from those division budgets, for example,
19 utilities at the various buildings that these divisions
20 are in or rent where there is rent for the particular
21 divisions. Where in the past we clearly delineated that,
22 we continue to delineate that, those costs.

23 The other thing to note in the transition
24 report is -- and this is sort of an instruction that we
25 got from the Legislature, and that is, Keep the costs
26 down, keep the impact down to Fund 6. As a result, the

1 DMV is set up in all of its existing facilities, so
2 Building 1 at Camp Hubbard -- and some of you all have
3 gotten a physical tour; some of you all have not; everyone
4 ultimately will. Camp Hubbard is here in Austin, North
5 Austin, around MoPac and 38th Street, right across from
6 Camp Mabry. It's a significant TxDOT facility.

7 The DMV will continue to operate in facilities
8 there. They will continue to operate in facilities at our
9 Riverside offices, which are down at Congress and
10 Riverside. We didn't -- and the reason for that is we
11 didn't want to enter into expenses of acquiring a new
12 facility; here's a whole new expense, getting people
13 moved, et cetera.

14 At some point in the future, the DMV board, as
15 it examines the budget and makes its decisions, it may be
16 your decision to relocate these operations to another
17 facility. TxDOT felt that that was a decision that was
18 best left to the DMV board. So the DMV operations stand
19 where they're at right now and can continue to do that for
20 as long as the DMV board wishes them to do that. These
21 were buildings dedicated to them -- not dedicated to them,
22 but solely occupied by them, for the most part, anyway.
23 So that was kind of our approach again, to kind of
24 minimize cost to the State.

25 The transition, I believe, will be and has been
26 relatively smooth. All of you all, I think, took pictures

1 this morning with our security guard for badges. With
2 our employees, that all happened over the -- sort of over
3 the course of a couple of days. They didn't have to
4 retake pictures, but we just basically took the pictures
5 that we had on file and we created new badges for them.
6 One day the employees showed up and they had a TxDOT
7 budget; the next day they had a DMV badge that was
8 functioning. And the badges are all functioning.

9 From the perspective of email, all the email
10 accounts are set up, and someone can email the employees
11 at either a DMV address or a TxDOT address, and it will
12 still get to the employee. And we'll do that for a while,
13 again, the seamless transition.

14 The website is set up. The staff worked very
15 hard -- and when I say staff, staff that are now DMV
16 employees and staff in DIR's -- not DIR's, I'm sorry --
17 TxDOT's -- I'll talk about DIR, another state agency, in a
18 little bit -- but in TxDOT's IT department worked very
19 hard to get the web pages set up in advance. All those
20 pages that are now active, and they were active on
21 November 1, were sort of sitting in the wings with the
22 engine idling, waiting, and they've been kind of sitting
23 there for about a week now, maybe a little bit longer.
24 They were tested, retested, and again, that seamless
25 aspect, on November 1, they just got lit up and they were
26 all there, all 200-plus pages that are linked behind that.

1 And we've acquired several addresses as well for the
2 DMV URL, so you can get to it by going to txdmv.gov or
3 txdmv.state.us. So all of that's been set up.

4 We'll continue to provide technology support
5 just the way the employees were getting technology support
6 before. It's interesting to note that some of the
7 apprehension was, Will we lose the support that we're
8 getting now when my PC goes down, when my email goes down,
9 when the web goes down? And that's absolutely not the
10 case. We'll continue to provide that support.

11 I mentioned the Department of Information
12 Resources earlier, another state agency that provides
13 computer services to state agencies. We've already
14 contacted them and made sure that it's a seamless
15 transition and that they will continue to provide services
16 to the DMV and assured them that we would be the
17 representatives for the DMV until the DMV stands up its IT
18 operation. So that adds a little bit more physical
19 weight, the weight of \$8.2 billion and 13,000 employees to
20 trying to get something done, so they don't consider the
21 DMV an organization that they kind of put off while they
22 focus on bigger organizations. We've reminded them that
23 the DMV is a bigger organization and is an important
24 organization to the state. So we've gotten that addressed
25 as well.

26 The last thing I want to mention about the

1 transition is there was some apprehension on the part of
2 staff that all of a sudden on -- November 1 was a Sunday,
3 so November 2, badges wouldn't work, they wouldn't get the
4 same service that they would get whether here at
5 headquarters or at the 16 regional offices.

6 Amadeo Saenz sent out a reminder email to all
7 TxDOT employees, reminding them that the DMV was spinning
8 up. This was on, I believe, Thursday or Friday, that the
9 DMV was starting up or spinning up on November 1. And his
10 expectation to each employee was that they would continue
11 to provide the service and continue to provide access to
12 the services and facilities to the DMV employees exactly
13 the same as they did when they were TxDOT employees. So
14 things like fuel cards, access keys, et cetera, all
15 continued to work. So from the very top at TxDOT, we
16 continued to reiterate to our staff and our management
17 that we don't want any changes occurring with regard to
18 the transition.

19 That's really all I have from the perspective
20 of remarks to make. If you have any questions, specific
21 questions or broad questions about the transition, I'll be
22 more than glad to answer them at this time.

23 MR. VANDERGRIFF: Any member of the board have
24 any questions?

25 MR. WALKER: I have a question.

26 MR. SERNA: Yes, sir.

1 MR. VANDERGRIFF: Go ahead.

2 MR. WALKER: Can you tell me what Fund 6 is?
3 I'm not real familiar with that.

4 MR. SERNA: Yes, sir. The Legislature creates
5 specific broad fund categories. Fund 6 is a dedicated
6 fund in the State's budget, and it's dedicated
7 specifically for transportation. So our fuel tax dollars,
8 the receipts from vehicle titles and registration, and
9 some of the receipts from Motor Vehicle Division go into
10 this specific fund.

11 So if you can imagine it at a state level, the
12 State has, you know, one bank that they deal with or one
13 large checking account, but they have sub-accounts. So
14 there's a general revenue. There are dedicated funds for
15 health and human services, dedicated funds for education,
16 and there's a dedicated fun for transportation, and it's
17 commonly referred to as Fund 6, because it's quite
18 literally Fund Number 6.

19 The Department of Public Safety is partially
20 funded out of Fund 6. The Department of Motor Vehicles is
21 funded out of Fund 6. The Department of Transportation is
22 funded out of Fund 6. And then the Legislature makes
23 other funding assignments out of Fund 6 as well that it
24 believes are related to transportation, so, for example,
25 school buses, funding for school buses, things like that.

1 MR. WALKER: So who makes the determination
2 of how the funds are spent out of Fund 6, and who gets
3 delegated -- is that a legislative --

4 MR. SERNA: Yes, sir. Long-term and under
5 normal circumstances -- and the creation of the Department
6 of Motor Vehicles is a unique situation. I probably
7 should have touched on this. Under normal circumstances,
8 a state agency -- and Dawn's going to talk about this in a
9 little while. Under normal circumstances, a state agency
10 creates a legislative appropriations request. It goes to
11 the Legislative Budget Board, and then Legislature, both
12 the Finance Committee and the Appropriations Committee,
13 those committees determine for all state agencies how much
14 money they get and where the money comes from, whether
15 it's general revenue, Fund 6, et cetera. So they
16 establish the agencies' budgets, and then the agencies
17 kind of move on.

18 In this situation, it is unique in that there
19 was no appropriation set up by the Legislature for the
20 Department of Motor Vehicles as a whole. There are
21 allocations to the specific program functions -- Vehicle
22 Title and Registration, Motor Vehicle Division, Automotive
23 Burglary and Theft Prevention, and Motor Carrier
24 registration functions -- those what I'm calling program
25 functions, there are specific strategies in TxDOT's

1 legislative appropriations request and in its bill
2 pattern that say, Here's how much money those divisions
3 get.

4 But in this case, there was nothing set aside
5 or pointed out by the Legislature, for example, for
6 TxDOT's -- I mean for the DMV's administration. So that's
7 been a discussion between the DMV staff -- or at the time,
8 future DMV staff -- and the TxDOT staff.

9 But under normal circumstances, the Legislature
10 decides who gets what allocation of Fund 6, and that will
11 probably be the case -- not probably, that will be the
12 case in fiscal years '12 and '13, and the DMV will submit
13 a legislative appropriations request for that. For fiscal
14 years '10 and '11, those monies directly allocated to the
15 DMV have been moved over. And then the kind of big
16 question mark was the central administration piece of it,
17 since there was nothing identified by the Legislature.
18 And that's basically TxDOT taking a chunk of its budget
19 that comes out of Fund 6 -- taking a chunk of its budget
20 and transferring it to the DMV for those purposes.

21 MR. WALKER: So if DMV wants to go and build a
22 building or -- and I'm kind of ignorant about how
23 government buildings work, but the State owns all these
24 buildings here, and if DMV wants to separate and go build
25 our own -- or acquire them or rent them or whatever you
26 do, what is the process to get to that point so that -- do

1 we have to go through a legislative process to --

2 MR. SERNA: Yes, sir.

3 MR. WALKER: -- build a building or to split a
4 building or how do we do that?

5 MR. SERNA: Sure. I'm not going to address
6 that at a very high level. First of all, an agency
7 would -- well, we'll focus on the DMV. The DMV would
8 submit a request, part of its legislative appropriations
9 request, to the Legislature for the authority to move into
10 space, whether it's build a building or acquire existing
11 space or get put into different space. Because you're
12 right, the State owns a whole bunch of buildings here in
13 Austin and a whole bunch of buildings statewide.

14 If the Legislature approved that authorization,
15 then the state agency would work with the Texas Facilities
16 Commission, and the Facilities Commission would basically
17 be the engineer and the architect for the state agency to
18 get them -- identify space. The agency would say, Well, I
19 need space that looks like this. For example, the DMV
20 would say, We need a big parking lot for customers; we
21 want a hearing room, because we've got cases we need to
22 hear; you know, we need a safe for the registration and
23 titling paperwork, et cetera.

24 So the client agency, the DMV, would outline
25 its requirements to the Facilities Commission. The
26 Facilities Commission would then work with the DMV to find

1 a building or space that met those requirements. They
2 would design the floor plans. The agency would sign off
3 on the floor plans. The Facilities Commission would build
4 out the building, and then the agency would move into the
5 building.

6 But before any of that's started, the agency
7 would have to have authority, money in its budget for
8 either the rent or, for lack of a better description, the
9 mortgage payment, if you were going to build a new
10 building, and that comes from the Legislature. So step
11 one is getting approval from the Legislature to do that.
12 And then step two, once that happens, is simply working
13 with the State's, basically, building manager, to make
14 that happen.

15 The unique situation with the TxDOT buildings
16 and the facilities where the DMV staff are now is TxDOT is
17 the only agency that I'm aware of -- maybe Department of
18 Criminal Justice is the other -- but TxDOT is an agency
19 that owns all its own buildings, because the source of
20 funds being a dedicated source of funds. For the
21 Department of Motor Vehicles -- TxDOT still has to
22 Legislative approval to renovate a building, to move in a
23 new space, to build a new building.

24 Even TxDOT owning its own buildings still has
25 to go through that Legislative approval process. And if
26 the Legislature says no, then an agency doesn't have

1 authority to do that. And that includes renovation of
2 an existing building. I'll use it as an example, this
3 building, which was built in, I believe, the 1930s, there
4 are issues concerning fire code that need to be addressed.

5 Legislature hasn't -- this isn't an indictment of
6 Legislature -- Legislature hasn't signed off on that, so
7 we haven't been able to make those changes. So our answer
8 to the fire marshal is, you know, Authority hasn't been
9 made to make those changes yet.

10 But that's kind of at a very high level, the
11 process that an agency goes through in government to
12 either renovate a facility, build a new building, or move
13 into existing buildings. So there may be a big, nice
14 empty building that's for lease or sale, and there are
15 available funds, but without Legislative authority, that
16 building sits there and the agency sits on those funds to
17 do that.

18 Does that address your question.

19 MR. WALKER: Yes. Thank you very much.

20 MR. SERNA: Yes, sir. That may have been more
21 than you wanted to know. Sorry.

22 MR. WALKER: You educated me very well.

23 MR. SERNA: Yes, sir. Sorry.

24 MR. WALKER: It's a long, hard process, it
25 sounds like.

26 MR. SERNA: Yes, ma'am.

1 MS. MARZETT: Thank you. I have a question.
2 Thank you for your presentation.

3 MR. SERNA: Yes, ma'am.

4 MS. MARZETT: And actually reading through the
5 transition report, it is quite comprehensive.

6 MR. SERNA: Yes, ma'am.

7 MS. MARZETT: And definitely the success of
8 either department is contingent on the agreement, the
9 service level agreements. And just from the perspective
10 of the service level, how do you ensure that there is no
11 diminished, no change in service levels, between the
12 departments? Because having gone through this operation
13 with Daimler and Chrysler --

14 MR. SERNA: Oh, yes.

15 MS. MARZETT: -- I do have some experience --

16 MR. SERNA: I understand.

17 MS. MARZETT: -- with when you separate
18 functions and some of the challenges with that. But it is
19 definitely comprehensive. I like that it's a working
20 document, but how do you ensure that really there are no
21 changes that will impact --

22 MR. SERNA: Sure.

23 MS. MARZETT: -- service?

24 MR. SERNA: First of all, the divisions that
25 are primarily responsible for providing all of these

1 services report directly to me. So while I've talked
2 about and complimented the -- and well deserved -- the DMV
3 divisions, there are a whole set of divisions, our Support
4 Operations Division, General Services Division, our Human
5 Resources Division, our IT Division, that report directly
6 to me or that I have indirect responsibility over, for
7 example, our maintenance area, our facilities area. Or we
8 work very closely with the CFO, our finance area.

9 So the first way that we ensure that that
10 happens is I've been involved in the transition. I'll
11 continue to manage the support operations divisions to
12 make sure that that service remains high. More
13 importantly -- and it should rely on one person -- the
14 second way that that would happen is there is a good
15 enough rapport between the DMV staff and management and
16 the TxDOT staff and management that are providing the
17 service, receiving the service, that they can kind of
18 point out, Hey, look, we're seeing a little degradation
19 here, or, We're not getting the priority in getting stuff
20 done that we need to get done.

21 There's a mechanism in the memorandum of
22 understanding for raising those issues, or through just
23 normal operations for raising those issues, and for
24 addressing that on the part of both agencies, because it
25 could happen the other way, though I doubt it, and that is
26 that the DMV demands increase greater than were expected.

1 For example, there is an estimate on what the
2 telecommunications' bandwidth will be. But if the DMV
3 changes something without notifying TxDOT and the
4 bandwidth consumes -- or the activity consumes all of the
5 bandwidth, then there's a degradation on the other side.
6 So there'll be that open communication between the two
7 organizations to make sure that we understand what's going
8 on.

9 And then I think, finally, with the commitment
10 that we have from TxDOT's executive management and TxDOT's
11 board and, I believe, the commitment that we have from
12 this board and the DMV's executive management to have
13 those kind of open lines of communications, there'll
14 probably be issues that I hope never get elevated to a
15 commission board level, but both organizations sort of
16 have that as a fallback to be able to come back to the
17 organization saying, I'm either seeing a degradation in
18 service, if it's the DMV, or, I'm seeing an unreasonable
19 demand in service, if it's TxDOT, going the other way.

20 So that's kind of how it's highlighted. There
21 are mechanisms, both formal and informal, to make sure
22 that those items are demonstrated and clearly addressed.
23 I hope that answered your question. Yes, ma'am.

24 Anything else that I can address for you all?

25 MR. VANDERGRIFF: I do want to note, with
26 respect to Janet's observation, I think it's a good point

1 to maybe put this level-of-surface item as a standing
2 agenda item for the next few meetings, just for us to
3 monitor it. So it's a good point.

4 I'd also note that we'll do some pre-board
5 workshops, I would think, in the future. And one of them
6 will be a budgeting 101 class so that we get up to speed
7 on that. And I would ask that the Sunset report that came
8 out last summer had a very good chart in there about Fund
9 6 and kind of all of the ways that funding came in and
10 funding went out. And that's something that perhaps our
11 staff can get together and get to the commissioners as a
12 separate chart for them.

13 And last but not least, in one of our
14 committees, the facilities is a standing item on the
15 Projects and Operations Committee that will be looked at.

16 Any other questions for Mr. Serna?

17 (No response)

18 MR. SERNA: I'm going to stay here, because I
19 think the next item is mine.

20 MR. VANDERGRIFF: Yes, along with, I guess,
21 Dawn is up here at well? Are you on the strategic plan as
22 well, or just Ed's going to cover this?

23 MR. SERNA: Well, not strategic plan.
24 Staffing.

25 MR. VANDERGRIFF: Oh, excuse me. I'm sorry.
26 I've jumped ahead one. You're right.

1 MR. SERNA: This will be a little bit shorter
2 than my last presentation, because it was kind of
3 encompassed in that. We talked earlier about staff
4 transitioning to the Department of Motor Vehicles, the
5 budget, and the other activities. One of the things to
6 note is there are both employees that moved to the DMV and
7 vacant positions that moved to the DMV. Collectively,
8 those positions are referred to in state government as
9 FTEs or full-time equivalents. That may be the same term
10 in the private sector. Sometimes I get wrapped up with 26
11 years in state government in using acronyms that are
12 unique to state government, so I'll end up explaining
13 them.

14 A total of 643 positions or FTEs are
15 transferring the Department of Motor Vehicles from TxDOT.
16 Of those positions, approximately 555 -- which is an
17 interesting number -- 555 are moving in the program areas.
18 And one of the things that you all -- you take notes, but
19 let me point out, in the MOU that you'll be receiving
20 later, there is an Attachment B that clearly outlines the
21 breakdown for you of the -- not only the number of
22 positions that are moving by division, but also where
23 there was a human being, an employee, in the position, we
24 actually have a list of names of those employees that are
25 transitioning over. So, I mean, you all can take notes if

1 you want, but you'll be getting this attachment shortly.

2 Of those positions, the 555 that I've talked
3 about are clearly identified as being associated with the
4 program areas, either Vehicle Titles and Registration,
5 Motor Vehicle Division, Motor Carrier Division, or
6 Automobile Burglary and Theft Prevention. In addition,
7 there were some employees and positions that were
8 dedicating 100 percent of their times, 100 percent of
9 their work time, to support the DMV or, at the time, those
10 divisions that were transferring to the DMV. Those
11 employees and those positions -- but more importantly,
12 those employees moved over automatically to the DMV
13 without having to reapply for their job. It did not make
14 sense that someone who is dedicating 100 percent of their
15 time to provide technology support or finance support
16 would have to reapply for the same job. So none of the
17 employees that moved, including the support personnel, had
18 to reapply for their job. They were just automatically
19 transitioned over.

20 All other positions are vacant positions, and
21 they're primarily in central administration, with a few of
22 them being in the program divisions -- primarily in
23 central administration -- are moving over as funded
24 positions. Those positions will be posted and, of course,
25 TxDOT will be your HR department until the DMV's HR
26 department stands up. Those positions will be posted and

1 they'll be competitively filled.

2 One provision that was in the statute was that
3 if there were a TxDOT employee performing that function
4 during the fiscal year, 100 -- well, not 100 percent, but
5 primarily -- and we're defining primarily as more than 50
6 percent, I believe -- performing that function, then they
7 would have a preference in filling that position.

8 So if you had someone in -- I'll use an example
9 that I know of firsthand. I don't know if this individual
10 is going to apply or not, but there's a budget analysis
11 that provided support to three of the four divisions. Not
12 100 percent, because that individual had other TxDOT
13 divisions that they supported. But if that division were
14 to apply for a budget analyst job, then that individual
15 would get a preference in filling that position.

16 And the logic is we want that expertise to be
17 able to move to the DMV and not lose it. It's not so much
18 to give favoritism to TxDOT or TxDOT employees, but we
19 want that expertise to move. We don't want the DMV to
20 have to struggle in rebuilding an expertise if here's
21 someone who's already been doing something for years and
22 is interested in moving over and applying for a position
23 to do that.

24 The other thing to note, and this will be
25 discussed later in the MOU, but with regard to FTEs, is
26 that since these positions are vacant, TxDOT has

1 identified what the midrange of a salary is for filling
2 that position for ten months. Practically, though, none
3 of those positions, those vacant FTEs -- and I'm not
4 talking about the program FTEs or the 100 -- what I call
5 the 100-percenters that moved over. But I'm talking about
6 those vacant FTEs, approximately 80 positions, more or
7 less. Salary has been identified as if though they were
8 all filed on day one of the DMV, ten months' worth of
9 salary, but those positions sit vacant. So what will
10 actually happen is, as the DMV fills those positions,
11 naturally the salary will be there for vacant positions,
12 for a particular month unused salary will lapse back to
13 TxDOT. And the logic is that we didn't want to restrict
14 the DMV to a particular salary range, but we didn't want
15 to unintentionally overburden TxDOT's budget with unused
16 dollars that would simply not be available for other
17 funds.

18 But all the positions are funded. The DMV has
19 the capability, even though -- and again you'll see this
20 as well -- even though those positions are listed for
21 informational purposes at the midrange, that's just for
22 informational purposes. The DMV will have the ability to
23 say, Well, I want that Purchaser II to be posted at a
24 Purchaser III position, as long as there is -- you know,
25 the DMV would have to decide and present within itself why
26 it would need to change those categories.

1 But those 643 total positions that are
2 available are available to the DMV to be filled as quickly
3 as possible or, like I said, the majority of them area
4 already filled. Any vacancies that pop up between now and
5 then, TxDOT will post those and act as the DMV's HR
6 department until the DMV stands up its own HR department.

7 So that's kind of a high-level brief. The
8 number of people, the actual names of the individuals and
9 the number of positions in the funding is another item
10 that is included in the memorandum of understanding
11 between the two departments. So kind of addresses, you
12 know, the issue of how do we know we're making sure we're
13 going to get these positions, we've got them clearly
14 delineated in the memorandum of understanding.

15 MR. VANDERGRIFF: Cheryl.

16 MS. JOHNSON: I wanted to make sure I
17 understood something. We have salary lapse in our county
18 as well.

19 MR. SERNA: Yes, ma'am.

20 MR. CAMPBELL: Did I understand you correctly
21 that the 643 FTEs, any vacant position, those salary lapse
22 will go back to TxDOT rather than DMV?

23 MR. SERNA: No, ma'am. Only the salary lapse
24 for the positions that are in central administration that
25 are moving from a TxDOT division but are not dedicated to

1 a program area --

2 MR. CAMPBELL: At this point in time.

3 MR. SERNA: -- at this point. So for example,
4 the 555 positions that I mentioned, the people in VTR and
5 MVD --

6 MS. JOHNSON: Right.

7 MR. SERNA: -- those salaries lapse, that money
8 belongs to the DMV. The central administration dollars
9 that's basically coming out of the TxDOT budget -- and
10 it's not an additional cost, because these are functions
11 that were provided by TxDOT before -- but that are coming
12 out of the TxDOT budget, it's those positions. And that
13 was part of the negotiation in the MOU. It's those
14 positions that as they are vacant, that would lapse back
15 into TxDOT.

16 MS. JOHNSON: Okay. Thank you.

17 MR. SERNA: So it's not all salary, just the
18 money for those, I think it's 75 to 80 positions.

19 MS. JOHNSON: Thank you.

20 MR. VANDERGRIFF: Any further questions from
21 the board?

22 (No response)

23 MR. SERNA: Thank you all.

24 MR. VANDERGRIFF: Thank you, Mr. Serna.

25 MR. SERNA: Appreciate it.

26 MR. VANDERGRIFF: Appreciate it very much.

1 We'll see you in a bit --

2 MR. SERNA: Yes, sir.

3 MR. VANDERGRIFF: -- back up here.

4 The next item on the agenda is item on the
5 strategic planning.

6 MS. HEIKKILA: Is that on?

7 MR. VANDERGRIFF: It's on.

8 MS. HEIKKILA: Good morning, Mr. Chairman,
9 members of the board. My name is Dawn Heikkila. I'm the
10 Division Administrative Manager for the Motor Vehicle
11 Division, and my piece of the presentation this morning is
12 to give you an overview of the strategic planning process
13 for state agencies.

14 We'll have an opportunity to talk about this in
15 a little bit more detail in later meetings and as the
16 committee work groups are formed. But basically, the
17 strategic plan provides a multi-year view of the agency's
18 objectives and strategies for accomplishing agency goals.

19 This is something that the Legislative Budget Board, the
20 LBB, requires state agencies to prepare, and it typically
21 covers a five-year period.

22 The planning process incorporates and sets
23 directions for the agency with regard to policy. And it
24 is, in essence, the business plan for the agency. It's a
25 formal document that communicates the goals, directions,
26 and outcomes to the various audiences, the governor, the

1 state leadership, the LBB, our constituents and, you
2 know, our internal and external customers.

3 The strategic planning process provides some
4 benefits to the agency. It enhances decision making. It
5 focuses communications. It identifies the long-term
6 planning goals and kind of sets a direction and identifies
7 factors that affect the agency's ability to reach those
8 goals.

9 The strategic plan defines what the agency is
10 all about, what is our mission, what are our goals, what
11 are we here to do. And it communicates that, the
12 objectives and the strategies that we need to really focus
13 the resources we have available to the agency, to make
14 sure that we are operating as efficiently and as effective
15 as we can, because as our chairman stated earlier, the
16 strategic planning is tied to the budget process. And as
17 a state agency, we do have a responsibility to be a good
18 steward of state funds, and we want to be responsible in
19 how we use those resources.

20 The purpose of strategic planning is to set the
21 statewide direction for the agency. The Governor's Office
22 sets up the overarching framework that we will use to
23 create our strategic plan. There is a template that state
24 agencies use. The Governor's Office creates the statewide
25 mission, vision, and philosophy, and the agency will
26 create its own mission, vision, and philosophy as well as

1 picking up other pieces that are required.

2 The Legislative Budget Board does provide
3 instructions to state agencies on how to prepare the
4 strategic planning, what different elements need to be
5 incorporated into the strategic plan. It's kind of like a
6 cookbook approach, and it's done cooperatively with the
7 board and the agency's executive staff.

8 There are some time lines involved that I would
9 like you to be aware of, because this process begins in
10 March with a review of the agency's performance measures.

11 And then during the middle of April, on or about -- and
12 the LBB, when the publish the instructions has a time line
13 for each of these benchmarks, but there -- the agency will
14 have opportunities to review the existing performance
15 measures that transferred from TxDOT to the DMV for the
16 program areas and then identify areas where they want to
17 add or modify performance measures.

18 And performance measures are an instrument that
19 the Legislative Budget Board uses to determine whether or
20 not the agency is meeting its goals, performing as
21 expected or anticipated, or spending its money correctly.

22 In May, on or about May, the LBB will issue instructions
23 to the agencies instructing them specifically, you know,
24 what the goals, the state benchmarks are going to be, what
25 the governor's vision for the next round of strategic
26 planning is, what the mission and philosophy for the state

1 will be, and then identifying what the time line is for
2 the agency's submission and the elements and reports that
3 need to be incorporated into the agency's strategic plan.

4 Usually by late summer, June, mid-July, the
5 agency will have the responsibility of having prepared
6 this strategic plan. The board will have an opportunity
7 to have input and approve it. And once it's approved, it
8 will be submitted to the Legislative Budget Board, and
9 that, in essence, will begin the budget process.

10 The strategic planning and the budget process,
11 which I'm going to talk about a little bit later this
12 morning or this afternoon, will go into the Automated
13 Budget and Evaluation System of Texas, which is what we
14 call the ABEST system, and that's the Legislative Budget
15 Board's computer system for tracking all of these
16 different budgeting pieces.

17 And that's -- there are additional information
18 that go into a lot more detail about the strategic
19 planning process in your training materials. There is a
20 link provided that you can go to the LBB's website, if
21 you're really interested, and you can see the instructions
22 from the last round for preparing a strategic plan in
23 great detail. There are some charts in there that kind of
24 explain pictorially how the budget process works and the
25 relationship between the strategic plan and the budget
26 process.

1 And that's really all I have for prepared
2 comments. If you have any questions, I'd be happy to
3 answer them.

4 MR. VANDERGRIFF: Any questions from the board
5 members? This will obviously be a process we'll get knee-
6 deep in, neck-deep --

7 MS. HEIKKILA: I can imagine.

8 MR. VANDERGRIFF: -- the future --

9 MS. HEIKKILA: Okay.

10 MR. VANDERGRIFF: -- coming up. I don't know.

11 It might be -- but I know on the agenda we've got you
12 sandwiched around Vehicle Titles and Registration. I
13 don't know if you're prepared to perhaps talk about the
14 budget and audit --

15 MS. HEIKKILA: Sure.

16 MR. VANDERGRIFF: -- but since you're sitting
17 here --

18 MS. HEIKKILA: Sure.

19 MR. VANDERGRIFF: -- if it's all right with
20 Rebecca Davio, then maybe you can just go ahead and
21 proceed into the budget.

22 Oh, and I did note this earlier. I do want to
23 note it for the board members and for the audience that
24 we -- in the staffing section that was previously in Item
25 D, that part of those staffing issues may be considered in

1 a resolution section, or the resolution section, here as
2 we set up some interim positions. So I want to make sure
3 that the public is aware that there will probably be some
4 votes on some of this.

5 MS. HEIKKILA: Okay. All right. The next item
6 that I'm going to talk about is the 2010 DMV operating
7 budget. And I'm not going to get into real specific nuts
8 and bolts of the budget, but I wanted to give you just
9 kind of an overview of what the expectations were from an
10 agency standpoint for the 2010 operating budget.

11 In non-session years, agencies have a
12 responsibility to the Legislative Budget Board to submit
13 an operating budget. And non-session years are the even-
14 numbered years. And the operating budget is due December
15 1. They have issued the instructions for that, and we'll
16 be working in conjunction with the Texas Department of
17 Transportation finance staff to make sure that the DMV
18 operating budget is submitted timely.

19 The budget has to be entered into the ABEST
20 system, which is the Automated Budget and Evaluation
21 System of Texas. That's the Legislative Budget Board's
22 tracking system. The operating budget summarizes the
23 agency's budget by object of expense code. It basically
24 breaks the budget down by, you know, chunks. This the
25 chunk that's going to be for salaries: This is the chunk
26 that's going to be for professional fees and services;

1 this is what we're going to spend on consumable
2 supplies. And it's a mechanism for allowing the LBB to
3 track our budget trends, expenditure trends, and it also
4 ties in with the Comptroller's Office Uniform Statewide
5 Accounting System, which we call USAS. And there's a
6 reconciliation that happens between the Comptroller's
7 Officer and the LBB for kind of a checks and balance to
8 make sure the agencies are spending their funds according
9 to how they were appropriated and how the agency has
10 indicated we're going to spend them, so we don't overspend
11 in one area and underspend in another.

12 The operating budget is -- the numbers for the
13 operating budget have been incorporated into Attachment A
14 of the MOU, which I understand you'll be getting later
15 this afternoon.

16 The next item I wanted to touch on was the 2011
17 budget process. And for the DMV for the second year of
18 our biennium it's a little bit different than state
19 agencies generally experience for budgeting, and that's
20 because of the way the bill is created and the agency was
21 created and that the funding primarily resides in TxDOT.

22 For 2010, we've developed and worked very
23 diligently to come up with the memorandum of understanding
24 that identifies the budget components for the DMV for
25 2010, and there will be comparable process for 2011. And
26 I'm hoping that we'll have an opportunity to begin that

1 process in the spring as well, so that we're not down to
2 the last hour trying to get it all fixed up.

3 MR. VANDERGRIFF: Literally.

4 MS. HEIKKILA: Literally. This morning, as a
5 matter of fact.

6 MR. VANDERGRIFF: Yes. That's why I was
7 referring to that.

8 MS. HEIKKILA: I wanted to kind of step you
9 through the LAR, Legislative Appropriation Request
10 process for state agencies. We have a responsibility to
11 begin working on that in the spring as well. That's part
12 of the -- it's in conjunction with the strategic planning
13 process. And what we're going to be doing is we're going
14 to be identifying, or trying to identify, what the
15 agency's budgetary needs are going to be going forward to
16 the year 2012-2013, which I know seems like a really long
17 way away, but we start planning early.

18 And so I just wanted to hit some of the
19 highlights. And it starts with the approval of the
20 strategic plan, which is your structure for your budget.
21 It identifies your appropriation items and allows a
22 mechanism for identifying like your -- for your program
23 areas, you'll have, you know, Vehicles Titling and
24 Registration as a program area, and that gives the
25 comptroller something to attach a monetary item to.

26 There are time lines associated with creating

1 the budget, and the agency's LAR, the budget request,
2 legislative request for appropriations, covers a two-year
3 period, as I mentioned. And it will begin September 1,
4 2011, and the biennium will end August 31, 2013. The
5 agency's request will be brought to the board for review,
6 and I'm sure that working through the committees, you'll
7 have an opportunity to provide input and guidance in the
8 process.

9 As I mentioned in the strategic planning piece
10 of the presentation, that there are performance measures
11 associated with not only the strategic planning process
12 but also the legislative request for appropriations. We
13 have key performance measures, some of which will have
14 transferred over, that we'll want to make sure that we
15 address as we're preparing the request for appropriations.

16 Once the agency submits its request for
17 appropriations, it goes to the Legislative Budget Board
18 and the Governor's Office of Budget Policy and Planning,
19 and that happens usually in the late summer. So if you
20 can kind of imagine a calendar, we'll begin the process of
21 trying to identify what our future needs are going to be
22 for funding in the spring. We'll work -- the agency and
23 the board will work together during the spring and the
24 summer, and by the late summer, you know, and first part
25 of August, we'll be submitting -- of 2010, we'll be
26 submitting this document to the Governor's Office and the

1 LBB for funding in the year 2012-2013.

2 Let's see. Once the agency submits its request
3 for appropriations, we'll begin meeting in the fall with
4 staff from the Legislative Budget Board and from the
5 Governor's Office of Budget Policy and Planning to review
6 the agency's request and to answer questions, initial
7 questions about funding or future goals or the direction
8 of the agency or any legislative issues we think might
9 come up.

10 Once the legislative session starts, which will
11 be in January of 2011, both the House and the Senate will
12 draft their own versions of the budget bill, as will the
13 governor. And as we work through the session, both sides
14 work together to come up with one budget bill for the
15 state. And that, in and of itself, is quite an impressive
16 process.

17 And then once the Legislature has agreed on a
18 budget, the Comptroller's Officer has to certify that
19 budget, make sure the funding is available, and we have a
20 balanced budget, because we are required by the
21 constitution to have a balanced budget. Then the
22 governor -- the budget is passed to the governor for his
23 signature, and he has an opportunity to write his veto
24 proclamation if there's something in there he chooses not
25 to fund.

26 And once he signs the budget bill and has

1 issued his veto proclamation, then the Legislative
2 Budget Board has the responsibility for publishing the
3 General Appropriations Act, and that becomes the budget
4 for the next biennium. And the DMV will have its own
5 budget and bill pattern.

6 Now, for 2011, I think as our chairman
7 mentioned, there is a fiscal size-up that the LBB has
8 prepared, and it identifies the direct program areas that
9 appropriations were provided for by strategy for TxDOT for
10 the DMV. So the main focus for the 2011 budget for the
11 DMV will be the indirect portions or central admin.

12 And that's pretty much all I have. There is
13 additional detailed information on the budget process, as
14 well as some links in your training material, if you're
15 interested and want to get knee-deep into this.

16 MR. VANDERGRIFF: And we certainly, in future
17 board meetings and workshops, will be doing that as well.

18 Any questions at this point?

19 I will ask you one, because it obviously has
20 been a topic of great interest, that as it's all boiled
21 down, at least for this upcoming period, upcoming cycle,
22 the year -- the ten months coming forward, there -- in
23 terms of what we would be costing extra, if you will, to
24 the State of Texas for standing up a new agency, do you
25 have an estimate of what that number is?

26 MS. HEIKKILA: Yes, sir. We estimate that

1 number to be about \$3.4 million.

2 MR. VANDERGRIFF: Okay. I think that's
3 important to note in that the original fiscal impact that
4 the Legislature came up was in about the 600,000 range,
5 but that was obviously in the heat of the moment of the
6 end of the session and passing a bill. And -- but at the
7 same time, there was also consideration that TxDOT had
8 provided that the fiscal impact of a new agency would
9 be -- do you remember kind of what that number was, if it
10 was -- that was, I believe --

11 And, of course, Mr. Serna, I remember, that it
12 included perhaps new facilities, new computers, everything
13 else. And do you remember the range of that number?

14 MR. SERNA: Yes, sir. That was in excess of
15 \$190 million, I believe.

16 MR. VANDERGRIFF: Yes.

17 MS. HEIKKILA: Right.

18 MR. SERNA: And that included all the direct
19 and indirect appropriations as well.

20 MR. VANDERGRIFF: But in terms of the increase
21 that a new agency would have been, that would have --

22 MR. SERNA: Approximately \$37 million.

23 MR. VANDERGRIFF: So I guess I want to commend
24 TxDOT and the staff of the Department of Motor Vehicles
25 for bridging a considerable gap to make this new agency a
26 reality that can stand up on its own with an independent

1 staff and structure, but yet during this period of
2 certainly budget austerity at all times, but also as we
3 moved forward that we were very mindful of being partners
4 in doing this.

5 So the dramatic and Draconian impact was not
6 near what it was thought would be.

7 MS. HEIKKILA: Right.

8 MR. VANDERGRIFF: At the same time that we are
9 being stood up properly, under the circumstances.

10 And you might note for the board and the public
11 kind of in general what that 3.4 is. I mentioned the
12 central administration, but there are a couple of other
13 costs that are required of the state agencies.

14 MS. HEIKKILA: Right. The biggest one is going
15 to be enterprise software licensing. There are agreements
16 that you have to have with vendors to use their products.

17 And initially, during the planning process, it was
18 anticipated that the DMV would be able to piggyback on
19 TxDOT's enterprise licenses, and that does not look like
20 it's going to be the case. And the estimated cost for
21 that expenditure is about \$3 million. And those are
22 software applications that are mission-critical. If we
23 don't have those applications, we cannot function.

24 There are additional costs associated with
25 being an independent agency that TxDOT doesn't have,
26 because they are self-funded. So they do not participate

1 in the State Office of Risk Management for insurance
2 policies, which I think is something that's going to come
3 up during the MOU discussions. Workers' compensation,
4 there are Texas Workforce Commission reimbursements,
5 because again, the Texas Department of Transportation is
6 self-funded, that they don't have to make payments to the
7 Workforce Commission. And the DMV is not self-funded, so
8 we, by statute, have to participate in these state
9 programs.

10 MR. WALKER: Mr. Chairman?

11 MR. VANDERGRIFF: Yes.

12 MR. WALKER: I'm trying to understand a little
13 bit here. With us being a board, a policy board, do --
14 would the process be that the executive director, through
15 his staff, would come up with that budget and work in
16 conjunction with the Budget and Finance Committee of this
17 board, and then that would be presented by that committee
18 to us to approve to submit back to the State?

19 MR. VANDERGRIFF: Yes.

20 MS. HEIKKILA: Yes.

21 MR. WALKER: That is the process. Okay.

22 MR. VANDERGRIFF: Any other questions for Dawn?
23 Sure. Go ahead.

24 MR. CAMPBELL: Dawn, let me clarify. You're
25 saying that 3 million of that 3.4 million is licensing and
26 software?

1 MS. HEIKKILA: Anticipated to be enterprise
2 licenses, transfer fees, and setup fees. Yes, sir.

3 MR. CAMPBELL: Whew. Okay.

4 MR. VANDERGRIFF: That's a subject for future
5 discussion, I'm sure.

6 MS. HEIKKILA: It is.

7 MR. RODRIGUEZ: Dawn, may I ask a question,
8 please?

9 MS. HEIKKILA: You bet.

10 MR. RODRIGUEZ: Our revenue, I thought I saw
11 some numbers in here that tend to indicate they're down,
12 and I was wondering what that percentage was and what the
13 current indicator is.

14 MS. HEIKKILA: I'm sorry. For revenue --

15 MR. RODRIGUEZ: Right.

16 MS. HEIKKILA: -- figures, for the DMV going
17 forward?

18 MR. RODRIGUEZ: Right.

19 MS. HEIKKILA: I don't have that information,
20 but I can certainly get it to you.

21 MR. RODRIGUEZ: Thank you.

22 MS. HEIKKILA: I do have one more of these.

23 MR. VANDERGRIFF: Sure. I would say, in
24 response to that question, I think they can get you the
25 exact numbers, but the revenue is primarily down on the

1 general sales tax revenue based upon vehicle sales,
2 which the numbers are down significantly over the previous
3 year.

4 MS. HEIKKILA: Right.

5 MR. VANDERGRIFF: Registration and titling
6 activity is actually up, so it's doing quite well. So the
7 impact of Fund 6 has been less than the impact to the
8 General Revenue Fund of the state.

9 Jim, did you have another question?

10 MR. CAMPBELL: No.

11 MR. VANDERGRIFF: Okay. Any other questions?

12 (No response)

13 MR. VANDERGRIFF: And there's one other piece,
14 so please go ahead.

15 MS. HEIKKILA: Yes. I need to talk to you a
16 little bit about audit, because as an independent agency
17 we do have a requirement under the Government Code to have
18 an internal auditor. And it's -- the Internal Audit Act
19 is a section in the Government Code, Chapter 2102.001, and
20 it requires the DMV to have an internal auditor. The
21 internal auditor must develop an annual audit plan that
22 the board will have an opportunity to review and approve.

23 In addition to the internal audit requirement, House Bill
24 3097 -- well, let me just explain a little bit about it.

25 The purpose of the internal audit requirement
26 is to help the DMV accomplish its objectives by bringing

1 systematic, disciplined approach to evaluate and improve
2 the effectiveness of risk management, control, and
3 governance processes. And that's right out of the
4 Government Code.

5 House Bill 3097, which is the statute that
6 created the DMV, requires the State Auditor's Office to
7 conduct an initial financial audit to establish financial
8 benchmarks for the Department of Motor Vehicles that will
9 identify its overall status and condition with regard to
10 the funds on hand, our equipment, other assets, and any
11 other pending matters that the State Auditor's Office
12 feels are appropriate. And that -- the audit has not been
13 conducted yet, and -- but the State Auditor's Office will
14 be engaging the Department of Motor Vehicles to conduct
15 that as soon as it begins to stand up its central
16 administration section, I would presume, because there
17 really isn't anything to look at.

18 Additionally, there is additional audit
19 information in your training materials that will give you
20 an idea of prior audits that the program areas have gone
21 through and some information on that. And then there's
22 also, in more detail, covers the Internal Audit Act in the
23 Government Code. And there is, I believe, a section in
24 there that has -- provides the language for the state
25 auditor's benchmarking audit for the DMV, from our organic
26 statute.

1 MR. CAMPBELL: Dawn, you're saying the
2 internal audit -- who does that? Is it -- I mean, do we
3 hire --
4 our executive director hire the internal auditors?

5 MS. HEIKKILA: The DMV will have to hire an
6 internal auditor.

7 MR. CAMPBELL: Do we need to do an external
8 audit?

9 MS. HEIKKILA: I'm sorry?

10 MR. CAMPBELL: Do we do an external audit from
11 somebody outside of our agency? Is there a requirement --

12 MS. HEIKKILA: The State Auditor's Office can
13 provide external auditors, and we also, in addition to the
14 internal auditor, will have an option of hiring a third-
15 party auditor if we found a program area or you had
16 concerns that you wanted looked at.

17 MR. CAMPBELL: But there's no statute saying
18 that -- or is there a specific time frame or statute
19 saying when the external audit is required?

20 MS. HEIKKILA: No, sir.

21 MR. VANDERGRIFF: Any other questions at this
22 point?

23 (No response)

24 MR. VANDERGRIFF: I don't believe so.

25 Thank you very much. I do want to note how

1 hard Dawn has worked on putting all these numbers
2 together, and she was not kidding when she said,
3 Literally, or I said, Literally, and working on these
4 numbers just right up to the time the board meeting
5 convened.

6 So thank you very much for your service, and
7 look forward to working with you.

8 MS. HEIKKILA: Thank you.

9 MR. VANDERGRIFF: All right. For the interest
10 of the public, want to note that this board meeting, we're
11 going to -- the next two briefing items are really part of
12 our training activity as well. We're going to hear from
13 Rebecca Davio from Vehicle Titles and Registration and
14 from our counsel with respect to various ethical and
15 recordkeeping requirements. We could go as long as we
16 budgeted to -- could go as long as one o'clock, so we're
17 doing kind of a marathon here. And then we'd go into work
18 session with -- at that point in time. So I did want to
19 note that for everybody in the audience, not to put any
20 pressure or any ability for you to lengthen any of your
21 presentations, but we certainly wanted to make that
22 familiar to you as well.

23 So -- and then the last thing I did want to
24 note, I failed to note him earlier, the director of the
25 Human Resources Division within TxDOT, George Ebert, is in
26 the back of the room. He is our Interim Director of Human

1 Resources, and he's very diligently been working to help
2 us stand up the agency staff and the central
3 administration staff yet to come. So I wanted to note
4 that.

5 And we also have Brian Ragland from TxDOT, who
6 is a finance director there that is serving in that
7 capacity for us. We'll talk about that here in the
8 future. There in the back of the room.

9 And Amadeo Saenz, I don't believe -- I think he
10 left the room, but at some point I saw him. We waved at
11 each other, and he's obviously the executive director of
12 TxDOT, so he was here in the room as well. Want to note
13 that, that their support's here.

14 All right. And with that, we are at the
15 Vehicle Titles and Registration Operations.

16 MS. DAVIO: Victor did tell me that I could
17 have an hour and a half. (Laughs) Chairman, thank you
18 and the board members for being here this morning. And
19 thank you for allowing me to come and speak to you and
20 tell you a little bit about the Vehicle Title and
21 Registration Division. For the record, my name is Rebecca
22 Davio. I'm the director of that division.

23 I've prepared a PowerPoint presentation for you
24 to give you some basic information. It is projected on
25 the screen behind you, if that's easier for you to see.

26 What I'd like to do is tell you a little bit

1 about the Vehicle Titles and Registration Division, what
2 we do. I'd like to tell you about some of the issues that
3 we're facing, and then I'd also like to tell you about the
4 Vision 21 program that Victor mentioned earlier.

5 The first thing, what do we do? We manage the
6 vehicle title ownership records. So when Ms. Marzett's
7 company issues a manufacturer's certificate of origin for
8 that vehicle, that's the birth of the vehicle, all the way
9 to the end of the vehicle when that vehicle -- the life of
10 that vehicle when that vehicle is demolished. So that's
11 the first thing.

12 The second thing that we do is we collect the
13 annual road-use fees. Those, you're familiar with, are
14 registrations. And we do that for motorcycles all the way
15 up to apportion vehicles from up to 80,000 pounds.

16 We also then issue license plates, and these
17 are really the items that help differentiate one vehicle
18 from another. I have a white Honda Accord, looks like a
19 whole lot of other white Honda Accords out there, if that
20 vehicle were involved in a crime, if they were looking --
21 anybody was looking for it for Amber Alerts, and it's also
22 just really, really nice to have a unique license plate to
23 find it in the parking lots. So those are the three basic
24 functions that we do: title, registration, and license
25 plates.

26 We work with multiple partners. We do consider

1 these folks our partners, because without them we would
2 not be able to do titles, registration, and license
3 plates. We work with 254 tax assessor-collectors. They
4 are very, very important partners to us. We're grateful
5 for them. They actually do the bulk of the day-to-day
6 customer interactions with the customers. If you're
7 getting a title, if you're getting your registration, or
8 getting plates, more than likely, you're interacting with
9 the tax assessor-collectors. So they're very important to
10 us.

11 Another very important element is law
12 enforcement. We work with officials, local to federal
13 level, and they're big users of our data, but they're also
14 very helpful for us in interpreting policy, you know,
15 getting enforcement.

16 Our new- and used-car dealers and our salvage
17 dealers, very, very important. Also the lien holders, the
18 motor carriers, and our specialty license plate sponsors.

19 That's a lot of people that we work with and interact
20 with, but makes it all fun.

21 Our service numbers are very big, so last
22 fiscal year we issued over 21 million registrations. That
23 is -- the number last year was just slightly up from the
24 year before. We produced -- we oversaw the productive of
25 more than 11.6 million plates, issued 5.4 million titles.

26 That was down from the year before. It was approximately

1 6 million titles the previous year. We also outreach
2 and do a tremendous amount of public inquiries. We get
3 calls, we get emails, we get letters, and we have 16
4 regional offices.

5 And so all told, this 2 million public
6 inquiries that we do every year, that's only for Vehicle
7 Title and Registration Division staff. That does not
8 include any of the outreach or contacts that the tax
9 assessor-collectors do. Vehicle Title and Registration
10 Division has 403 full-time equivalent positions, and we
11 have a budget just a little over \$110 million this year.

12 So the last number that I'd like to call your
13 attention to there is the 72 million law-enforcement
14 inquiries. What that means is we have a registration and
15 titling system database. Law enforcement hits that every
16 time they pull over a vehicle, they're doing an inquiry.
17 They look at that information, and it's really an
18 astounding number. 72 million's big, but more than 8,000
19 times an hour that database is hit. It's critical that
20 the information in there be accurate. And so we take that
21 part of our job and our responsibilities -- it's really an
22 ancillary function to those first three, issuing the
23 titles, issuing registration, and the license plates, but
24 it's a very, very important function for us, and it's
25 clearly one that's used a lot.

26 We also -- our operations generate big revenue.

1 Last fiscal year that's \$2.3 billion that went to the
2 General Revenue Fund. That is a combination of sales tax
3 and there's also some funds that come from the title that
4 go to that General Revenue Fund. And the \$1 billion goes
5 to the Highway Fund. That's another name for Fund 6. And
6 as Ed told you earlier, that funds TxDOT's operations, the
7 Department of Public Service, and now the Texas Department
8 of Motor Vehicles.

9 In addition to generating a lot of money for
10 the State, the title and registration operations generate
11 approximately \$460 million for the counties. That money
12 stays in the county. It helps maintain the local
13 transportation system. It also compensates the tax
14 assessor-collectors for the work that they do on our
15 behalf. All told, we generated last year, and last year
16 was a down year, approximately 3.8 billion -- billion with
17 a B -- dollars last year for the State and for local
18 governments. That was down. Chief Rodriguez, that
19 previous year, it was about \$4.7 billion. So it was down
20 fairly significantly, but we're looking forward to a good
21 year this year.

22 There are some issues facing the Vehicle Title
23 and Registration Division though. The very first one is
24 demographics. The population of the state of Texas is
25 growing. That's a good thing. The economy is growing.
26 But what that means is that there's more customers to

1 serve, and the Vehicle Title and Registration Division
2 and many of the county tax assessor-collectors are not
3 getting more staff to serve that growing population.

4 In fiscal year '07 and '08, the vehicles -- the
5 number of vehicles registered in the state of Texas
6 increased by almost a million vehicles each year. That's
7 an incredible increase, but yet we didn't get any more
8 staff to provide that service. So what we have to do is
9 start to look at how we can work more efficiently.

10 So we're coping with demographics. We've also
11 got extremely complex chapters, extremely complex
12 statutes. The laws that govern our operations, there's
13 basically four chapters in the Transportation Code that
14 covers our operations. And they have been -- the first
15 laws were passed in 1917, and they've just been added onto
16 over the years. Nobody to date has really taken a
17 comprehensive look and said, Hmm, you know, we've just
18 been adding onto them, and really looking at conflicts and
19 how we can streamline those statutes.

20 Our last issue that's facing us, our last
21 really big issue that's facing us, is that we have some
22 aging technology. The registration and titling system is
23 an automated system. It is a great system. Ms. Johnson
24 will tell you that it works; it works very reliably.
25 We're glad, and it's a huge improvement over the index
26 cards that we used to do our business by.

1 (General laughter)

2 MS. DAVIO: They laugh. We have pictures of
3 them in our office. The system, the registration and
4 titling system, development work began on that in 1987.
5 In the terms of technology and the life of technology,
6 that is an ancient system. And it was -- work began --
7 the development began on it before the Internet was there,
8 before all the new technology systems are available.

9 So growing population, growing customer base,
10 really complex statutes that are difficult and convoluted
11 because we're serving so many different customers, and we
12 also have aging technology. So we've got some things that
13 we need to address.

14 MR. VANDERGRIFF: If I can stop you a second, I
15 realize that it's going to change in September of 2011,
16 but can you again -- how many different categories -- all
17 right.

18 MS. DAVIO: Victor's asking about fees, and I'm
19 going to tell you about that and give you -- show you --

20 MR. VANDERGRIFF: Apologize for jumping the
21 gun.

22 MS. DAVIO: No, no. It's okay. The first
23 vehicle was registered in Texas in 1917. You know, there
24 were a lot of things that were very, very different then.
25 There was less than 200,000 vehicles that were registered

1 then. I already told you we do more than 21 million
2 registrations. The road system wasn't quite as good as it
3 is today.

4 (General laughter)

5 MS. DAVIO: And there was no such thing as
6 faxes, computers, the Internet. And so we are in the 21st
7 century now, and we need to be doing the vehicle title and
8 registration function as if we're in the 21st century.
9 And fortunately we have a plan. We're working on that.

10 The Vehicle Title and Registration Division has
11 created a program that Victor mentioned earlier, Vision
12 21, also known as V-21. It is our vision for how we are
13 going to do vehicle title and registration in the 21st
14 century. And as the logo indicates there, it is all about
15 putting our customers first, really focusing on how we can
16 make this process as easy as possible.

17 Everyone is required who lives in Texas and
18 operates a vehicle in Texas is required to title their
19 vehicle, to register it every year, and to have license
20 plates on it. But we want that to be as easy and as
21 simple a process for the motoring public and for all of
22 our partners that help us do that process in Texas.

23 So Vision 21, Chairman Vandergriff mentioned
24 that it is going to be a new technology system. It's time
25 that we replace our -- that we enhance and replace our
26 registration and titling system. But it's more than that.

1 That technology system is going to help us, enable us,
2 to do these other things. And it's really a total
3 rethinking of the registration and titling system. It's
4 asking ourselves and our customers and our partners and
5 saying, How can we do this better? How can we make this
6 easier?

7 And so what we think, this Vision 21, we're
8 committed to improving the efficiency of our operations,
9 our tax assessor-collector partner operations, our other
10 partners, and making it easier for the motoring public to
11 do their business. That's really about providing superior
12 customer service.

13 And I am very, very fortunate to have many
14 employees in the Title and Registration Division that have
15 a great deal of expertise, and they have a tremendous
16 commitment to providing great, world-class customer
17 service. And I can't tell you how good it makes me feel
18 when I read an email or get a note from a customer that
19 says, Wow, thank you for providing great customer service.

20 I didn't expect that from a state agency. It's just a
21 real pickup to your day.

22 And while we're trying to craft Vision 21 --
23 and we don't have all the answers. We don't have
24 everything all figured out. But we have reached out and
25 really touched and asked our partners and the motoring
26 public what they want to see, much like is planned for the

1 listening tours of the Department of Motor Vehicles. We
2 asked the tax assessor-collectors. We asked our industry
3 partners. We did virtual focus groups with some of our
4 industry partner groups, the dealers and the salvage
5 dealers as well.

6 And then we also went out and asked the
7 motoring public, What is it -- how would you like to do
8 your title and registration business? Do you want to do
9 more business online? Do you understand? Do you have the
10 information that you need to be able to do your business
11 and to protect yourself when you're selling your car, for
12 example. And so we did focus groups, and we also did a
13 telephone survey, just to validate that. And we will
14 continue with that process to reach out and ask our
15 customers and our partners what they need.

16 Vision 21, admittedly, is a very ambitious,
17 very large process. Anytime you're looking at everything
18 you do and saying, How can we do this better, there's a
19 lot of pieces to it. We've identified five particular
20 pieces. The first one is we have to streamline our
21 processes, so we're going through it, mapping all of
22 processes, and really saying, Do we need this step? Where
23 is there a bottleneck? How can we do this better?

24 The second thing, we have to go through and do
25 some cleanup of our data. We have more than 50 million
26 records in the registration and titling database. And as

1 you can imagine, there's some fat-finger issues there,
2 and there's some duplicate plates that may have been
3 issued over the years where someone kept their plate when
4 they were supposed to turn it in. And so we need to do
5 some cleanup on the data. We're working on that.

6 We also have to design the new replacement, the
7 evolution of the technology system, and we have to
8 simplify our fee structure. This was the element that
9 Chairman Vandergriff was referring to earlier. We have a
10 lot of very, very complex fees. And did you realize that
11 the registration for your passenger vehicle, for your
12 truck, for your heavy vehicles, those fees, your title
13 fees, they are all set in statute. So there is a great
14 deal of complexity with that.

15 There's also -- in this code that we have that
16 governs our operations, as I mentioned before, there's a
17 lot of overlap, some things where, you know, one place in
18 the code tells you here; another place in the law tells
19 you something different. It's very difficult for us all.

20 It's difficult to explain to our customers. It's also
21 difficult for us to understand. And you can only imagine
22 how difficult it is to get a good grasp of that. I've
23 been in my position for three-and-a-half years, and I am
24 overwhelmed every day with all the things that there still
25 are to learn and all of the complexities. So all of these
26 different elements are really what will characterize

1 Vision 21. And you can see that it's very comprehensive
2 in its approach.

3 So this here is some of the fees that are in
4 statute right now. We are working, and we worked,
5 actually, last session, to get those simplified. We
6 just -- I mean, even listing the fees was crazy. It was
7 too hard to do. And so we worked with legislators last
8 session and said, Help us fix this for our customers and
9 for our partners. The first thing that we did was we
10 standardized the passenger and light-truck fees. These
11 fees take effect in 2011. We wanted to make sure that we
12 were going to be able to program those into our new Vision
13 21 system and not have to pay for programming those into
14 our current system and our new system.

15 And so I have to -- I'm really proud of this
16 accomplishment to streamline these fees. When I was
17 covering this at the Texas Association of Automobile
18 Dealers, this particular item got me applause. It was
19 great. They were that happy. And it just goes to show
20 that we are doing things that are going to help, not only
21 the motoring public, but our partners, because you can
22 operate more efficiently. Right now, passenger vehicle
23 fees are done by vehicle age, and light trucks are done by
24 weight. It's very, very complex.

25 The next element is we simplified the fees for
26 the heavy vehicles. 1600 different fees for heavy

1 vehicles, those vehicles that weight from 10,000 to
2 80,000 pounds. 1600. I started asking around and saying,
3 Why are we collecting fees in 100-pound increments? I
4 went to the Texas Motor Trucking Association and said, Do
5 your members know the weight of your vehicle in 100-pound
6 increment? It's like, No. And it's not even the same --
7 or a different class of vehicle, both weighing 10,800
8 pounds, would pay different fees. It's like, How can we
9 do this? So we're simplifying those 1600 different fees
10 to seven categories. And if you'd like, I'll tell you
11 about them, because I can now tell you what those seven
12 vehicle fee categories are.

13 So we also standardized the license plate fees.
14 We standardized the collection of the one-dollar
15 automation fee. That one-dollar automation fee that's
16 collected at the time of every registration is actually
17 what is enabling us to look at replacing our technology
18 system. And there were different rules. It was collected
19 in some counties, not in every county. And we feel like
20 every single vehicle owner in Texas is benefitting from
21 this. It should be paid. And think how much easier that
22 is to collect that fee when you can universally say, It's
23 in 254 counties. And it really simplifies the programming
24 that will be required in our new Vision 21 system.

25 And just to prove, we gave up the 30-cent
26 reflectorization fee that was originally collected for

1 license plates. That reflectorization fee is now
2 included in the price of the plates. We didn't need to
3 have a separate line item and complicate it.

4 And so we are really about the efforts that we
5 were able to make and the support of the Legislature to
6 help us simplify those fees from 1600 different fees to a
7 much more understandable level. And I would like to point
8 out that those fee changes were made, they were revenue-
9 neutral to the State. So we didn't increase the fees a
10 lot. We didn't lose money for the State. That was a
11 revenue-neutral proposition. But the real savings will
12 come for the State by not having to have such a
13 complicated system that it takes all of us too much time
14 to understand.

15 We are looking at making some modifications. I
16 said earlier that no one had gone through and done a
17 comprehensive review of the governing laws for the Vehicle
18 Title and Registration Division. That was no one until
19 us, and we did that last year. We went through and we
20 really did a scrub of our statutes and again said, What
21 kind of things here don't work? Where do we have
22 problems? Where are there conflicts? And so we
23 identified some key changes that need to be made.

24 And so the very first thing that has to be done
25 is to eliminate the conflict and to eliminate
26 inconsistencies. So it may be that there are different

1 definitions or something.

2 The next thing that we think is very, very
3 important is to establish the Texas Department of Motor
4 Vehicle record as the official ownership record. Right
5 now, when you have a title, that paper title governs
6 everything. If you leave your title in your vehicle's
7 glove box and your vehicle is stolen, it's very easy for
8 that thief to sign it, make it look like they are the new
9 owner of that vehicle, and, in fact, they are. Whereby
10 having an electronic record, the Department of Motor
11 Vehicles record is the official record, then you could
12 still choose to have a paper title, but you could also
13 choose to not have a paper title.

14 We think that that's a very, very big thing
15 that will benefit the vehicle owners, will benefit the
16 dealers, the lien holders. And so that's a key element
17 that we're looking at to be able to change. Remember, the
18 laws were crafted initially when there was no computer
19 system, and so we think that that's important.

20 We also believe that it's important to clearly
21 designate the Department of Motor Vehicles as the
22 procedural and the policy authority. In the state,
23 registration of vehicles started over at the Capitol, as I
24 told you before, in 1917, with about ten, at that time,
25 Highway Department employees. And very quickly, even
26 though there were less than 200,000 vehicles, remember,

1 there were no computers, there were no fax machines or
2 anything like that, and so it became evident that it was
3 inefficient to do that from a centralized vantage point.
4 And so the counties were tapped to help with that process.

5 And that's very important, but there's 254 counties.

6 And all we want to do -- I know that Ms.
7 Johnson sometimes gets frustrated when there's a little
8 inconsistency. The dealers probably get frustrated if you
9 have operations in multiple states -- multiple counties,
10 when things aren't the same. And part of that confusion
11 is because it's really not clear. We don't feel like it's
12 clear in the law that we are responsible for setting the
13 policy and procedures for our agents, the tax assessor-
14 collectors, to carry out on our behalf.

15 Another thing that we think is important is
16 allowing the full use of technology. Really we envision
17 that Mr. Walker's 15-year-old son in the future may be
18 able to register his vehicle on his phone. And that was
19 not something that was envisioned, and we feel like we
20 don't have the clear authority to do that. And we'd like
21 to make that clear in the law that there is a such a
22 thing. It would be possible to have electronic titles.
23 It would be possible to do more work online. In fact, the
24 Vision 21 system is really envisioned to be an online
25 system.

26 Another thing, there are two other elements.

1 And really these are just kind of study elements that
2 we'd like the Legislature's endorsement to look at. One
3 of those is to study the merging or the sharing, really,
4 of customer vehicle records, which is the responsibility
5 of the Texas Department of Motor Vehicles, and the driver
6 records, which is currently the responsibility of the
7 Texas Department of Public Safety.

8 We feel like most people who own a vehicle are
9 also drivers, and most people who have a driver's license
10 are conversely vehicle owners. And so what this will do
11 for the motoring public is it would enable them to go in
12 once and -- you know, you have to get a driver's license,
13 if you're new to the state, and you have to register your
14 vehicle. And they would be able to do that once, and the
15 information would be shared by both agencies. That's
16 something that we would like the permission, as I said, to
17 study and look at and see what the possibilities are.

18 The second thing that we'd like to study is the
19 consolidation of the registration sticker, the windshield
20 sticker, also the safety-inspection sticker that's a
21 windshield sticker, and the toll. Many entities, TxDOT
22 and several counties have operations where they have
23 tolls, and it's just -- there's a lot of stickers there.
24 What efficiencies can be gained if those are merged into
25 one sticker? So is that even possible? There could be
26 some down sides to that, but we feel like it's something

1 that has enough merit that it deserves to be looked at.

2 So very quickly, those are some of the key
3 statute changes that we are hoping the board will endorse
4 and propose to the Legislature next session. It's
5 important that we look at these in a timely fashion and
6 get those, because as we're crafting our new technology,
7 as we're looking at our policies and procedures and seeing
8 how we can do these things better, there are some things
9 that we specifically are prohibited from doing in law, or
10 we don't have the authority to do.

11 So if we don't get those changes, then we're
12 tied to paper titles, we still have -- you know, we have
13 to do forms. I mean, there's not even the provision
14 really on a lot of things to be able to do electronic
15 transactions. We could have the capability to do that via
16 the web, but we don't have the authority to do that.

17 We also feel like our processes, some of them
18 are inconsistent. They're confusing for our customers.
19 It just inconveniences Texans and gives them limited
20 service options. You know, you can do online banking
21 these days. How come you can't do more Department of
22 Motor Vehicle transactions online?

23 And we also feel like there's just some basic
24 good business practices here that we don't have the full
25 authority to be able to do. And we want to make sure that
26 we can get these changes, get authority and approval from

1 the Legislature to do these, so that we don't have to
2 go back through and program changes in our technology
3 doing it one way, doing it the old way, and then come back
4 very shortly after we get authority and program to do it
5 the new way.

6 We feel like Vision 21 is really going to be a
7 vital element in moving the Texas Department of Motor
8 Vehicles forward, helping Texans go, and helping Texas
9 grow. So thank you very much for your attention. If you
10 have any questions?

11 MR. VANDERGRIFF: Before turning it over to the
12 board to ask questions, I do want to note, again,
13 appreciation for all the hard work you and your staff have
14 done on this. This is quite a huge undertaking project.
15 This actually was a bill in the last session that over 200
16 and, I think, 80 pages to put forward. And it had
17 universal bipartisan support. It unfortunately got stuck
18 behind the -- for those of you that are student of Texas
19 politics -- the voter ID issue that kept it from getting
20 out in the last legislative session.

21 But rather than look upon it as an opportunity
22 lost, it's an opportunity gained to refine it and make it
23 better and have more comment and involvement from the
24 industry than even before. So I think that that's good.

25 The other thing I would note on Vision 21, for
26 the board purposes, we don't have to go find the money for

1 this. We do have to have legislative approval to use
2 it all, but that since 1999, as Rebecca pointed out,
3 they've been collecting this, and the sum total is around
4 \$70 million, I believe, now that's been collected. So the
5 citizens are actually paying and really are not getting,
6 at this point, the full benefit of the online process that
7 they really looked to do back a decade ago. So look
8 forward to this one moving forward.

9 But with that, I'll open it up. Yes, Ramsay.

10 MR. GILLMAN: You're sure you're not going to
11 need to call this V-22?

12 (General laughter)

13 MR. GILLMAN: On a more serious note, and a
14 personal note, your office does a heck of a job.

15 MS. DAVIO: Thank you very much. I appreciate
16 that.

17 MR. GILLMAN: And we do appreciate it. But all
18 the things you mentioned, it's hard to imagine us not
19 having it now. Like you say, time's slipped past us here.

20 And I congratulate you on your enthusiasm and look
21 forward to trying to help you as much as I can. I may not
22 live long enough to get it done, but --

23 MS. DAVIO: The stated time frame for full
24 implementation --

25 MR. GILLMAN: That was going to be my next
26 question.

1 MS. DAVIO: -- is January 1, 2013.

2 MR. GILLMAN: Well, I may make it.

3 MS. DAVIO: I hope so. Yes, sir. I hope I
4 make it. As I mentioned, this is extremely ambitious.
5 It's very aggressive. Anybody who knows me, knows that
6 I'm eager, I'm enthusiastic, and I'm impatient. And, you
7 know, the thing about it is we've got customers, we've got
8 tax assessor-collectors, we've got dealer partners who are
9 going, When are you going to do this? How can we continue
10 doing our business like this? And so we have a lot of
11 people that are very enthusiastic supporters. We also
12 have a lot of people who are very smart and who are
13 working very hard to look and try and make sure that we
14 get this done.

15 MR. GILLMAN: Well, it's a necessary job.
16 Thank you.

17 MS. DAVIO: Thank you. I appreciate your
18 support, and I will pass your thanks along to my staff.

19 MR. GILLMAN: Please do.

20 MR. VANDERGRIFF: I want to note one other
21 thing that I think you could certainly elaborate if you
22 need to, but we do have, in this biennium appropriations,
23 to use those program funds, about 35 million. So the
24 project will be ongoing and moving forward. It's just
25 like flipping the legislative switch will take place

1 hopefully in the 2011 session. But so there's no grass
2 growing underneath their feet moving it forward right now.

3 MS. DAVIO: No.

4 MR. VANDERGRIFF: Any other questions?

5 MR. RODRIGUEZ: Dr. Davio, are we in design
6 already or have we gone out for RFPs on this or RFQs, or
7 what are we going to do?

8 MS. DAVIO: No, sir. We have not gone out for
9 an RFP yet. We are doing a lot of the background
10 preparatory work at this point in time. We're trying to
11 look and figure out -- we can't implement a new technology
12 just all at one time. You can't flip on a switch. That's
13 a very, very dangerous thing. So we're looking and trying
14 to figure out where we can have some quick wins.

15 Some of the things that we've already done, the
16 dealers will be familiar with our e-tag system. That was
17 a system -- previously, when you bought a vehicle, the
18 paper tag that was on the vehicle, the information about
19 the vehicle owner that normally comes from a license plate
20 that's available through our system was not available on
21 that, on the paper tags at all, because they weren't part
22 of an electronic database.

23 The e-tag system that we launched in September
24 of last year was a system to collect that information and
25 make that available so that the moment that vehicle left
26 the lot it was -- that information was available to law

1 enforcement. So that's something that we've already
2 implemented.

3 We already have made available to our customers
4 the vehicle transfer notification. So I would encourage
5 our board members, our audience, anyone listening on the
6 Internet, when you sell a vehicle, simply signing your
7 name on the back of the title is not sufficient protection
8 for you. If the person who buys that vehicle does not go
9 to the tax assessor-collector's office to transfer the
10 vehicle into that name, you can find yourself being
11 responsible for red-light violations, for parking tickets,
12 for -- I won't tell your story, Mr. Walker -- for other
13 things.

14 You know, we've had examples of people who have
15 been woken up in the middle of the night by law
16 enforcement because the person they sold their vehicle to
17 had not transferred into their name and they committed a
18 crime. And so what we did was we made it possible, we
19 made it so much easier for customers to go on line and
20 tell us, because we have the vehicle ownership record,
21 that they no longer own that vehicle. So we make a
22 notation. So that's another thing that we've implemented.

23 There's a number of things, but we are looking to --

24 MR. RODRIGUEZ: Is there a state model anywhere
25 that you're using? I mean is there anyone else in this
26 country that's doing this whose model we're following? Or

1 I'm just wondering, number one.

2 Number two, and this will be my last question,
3 you hit on a topic there about people visiting in the
4 middle of the night. And I'm just wondering, has the
5 issue presented itself about P.O. box addresses with
6 registrations? I mean, they're meaningless to someone
7 when they need to get somewhere. And I know we're now a
8 rule-making agency, and we can probably fix it by rule,
9 but is that a problem to prohibit registration of motor
10 vehicles by P.O. box address? Or is it -- the step that
11 we ought to take as required by driver's license address?

12 I'm just wondering if that has presented itself at all?

13 MS. DAVIO: Mr. Rodriguez, I'm going to take
14 your first question, and I may need some help with your
15 second question to make sure that I understand it. The
16 first question was what are other states doing. Other
17 states, many other states are in similar positions. They
18 started their electronic recordkeeping for vehicle titles
19 and registration close to the same time that we did. And
20 so there are other states that are looking at that.
21 Believe me, we are in contact with those other states.
22 We're asking them about their lessons learned, what they
23 would recommend, the approach that they have taken. We're
24 trying to really learn from that.

25 The second question, I believe, was about P.O.
26 boxes and problems that have been caused by allowing P.O.

1 boxes to be the registration address? Did I get that
2 right? Okay. So then I personally have not heard of any
3 particular issues with regard to P.O. boxes. We do have
4 four different addresses in our title registration
5 database. So there are a number of different addresses
6 that are available. There's the --

7 MR. RODRIGUEZ: Would it be a problem to
8 require --

9 MS. DAVIO: A physical address?

10 MR. RODRIGUEZ: -- a physical address in
11 registration? I'm just wondering.

12 MS. DAVIO: I believe that we could require a
13 physical address for one of those address fields. Yes,
14 sir. I think that would be possible.

15 MR. GILLMAN: I didn't understand. Address
16 fields. You have four fields.

17 MS. DAVIO: Yes, sir, four different address
18 fields. So, for example, there's where the vehicle is
19 located, and that makes sense that that would be the
20 physical address. There's also the registration renewal
21 address. Perhaps you want to have that registration
22 mailed to a different address. Maybe it's the child's
23 vehicle but the parent still wants to get the registration
24 renewal so they make sure that it's renewed on time, that
25 kind of thing.

26 Are there other questions?

1 (No response)

2 MS. DAVIO: I didn't take near my hour and a
3 half.

4 MR. VANDERGRIFF: Don't see any.

5 MS. DAVIO: Thank you very much.

6 MR. VANDERGRIFF: Thank you very much.

7 Our last item on this portion of the agenda on
8 Item Number 2 is H, the Explanation of the Requirement of
9 Certain Public Laws in Accordance with the Texas
10 Transportation Code. And we have Linda Secord, our
11 Interim General Counsel from the Attorney General's
12 Office, here to guide us in that, as well as Jennifer
13 Soldano, who is Counsel for the Vehicle Titles and
14 Registration Division.

15 MS. SECORD: Is my microphone on? Is my
16 microphone on now? Yes.

17 Good afternoon. I'm Linda Secord. I am an
18 Assistant Attorney General. I have represented one of
19 this new agency's four division, the Motor Vehicle
20 Division, for about ten years. General Abbott has lent me
21 to you until you don't need me anymore and you have your
22 own General Counsel.

23 We're going to go into executive session a
24 little bit after I finish this, which is the end of your
25 training. And you can save your questions, if you have

1 any for me. If you have specific questions about what
2 I'm going to tell you, it's perfectly appropriate for you
3 to ask me those in executive session, if you'd rather.
4 There are no dumb questions, but if you'd rather wait till
5 executive session, you can.

6 Some of you have already received your training
7 materials. For those of you who have not, we have heavy
8 boxes in the back room for you to take home. And it's
9 three different components. There is a large white
10 notebook that contains information about all of the
11 divisions. I know you're inundated with paper, but this
12 is another large white notebook to go along with the one
13 you already got Friday night.

14 The blue notebook contains the statutes that
15 this agency administers and the rules. And then the
16 Redwell, the brown Redwell folder, contains the basic
17 public laws that govern all state agencies and some
18 handouts and books made by the Attorney General's Office
19 to help guide public officials.

20 But I'm going to speak very briefly to you.
21 The two divisions that you did not hear about in detail
22 today are found in the white notebook at Part 4(B) for the
23 Motor Vehicle Division and Part 4(C) for the Motor Carrier
24 Division. So if you'll review those, that will complete
25 your understanding of the details of what those divisions
26 do. And at future board meetings you will hear more

1 detailed, live presentations from those divisions as
2 well.

3 The first public law that I'm going to talk to
4 you about is found at Part 8 of the white training manual,
5 for you leisure reading on the weekends. It's the Open
6 Meetings Act. And I'm just going to hit the highlights of
7 the things that you have to remember.

8 You all have a copy of the agenda, and there
9 were extra copies at the table as we came in for the
10 public. The agenda was prepared by me and Gail Anderson,
11 who is a most valuable member of the staff of the Motor
12 Vehicle Division, and the chairman. And the chairman sets
13 the agenda for each meeting. He told us what he wanted to
14 get done at this meeting, and we translated that as best
15 we could into legalese, and it was posted with the
16 Secretary of State. We are required to post every public
17 meeting that you have in which you sit as a quorum. A
18 quorum for your group of nine is five people.

19 The purpose of the posting, there are two
20 things. As you go about your duties as board members,
21 you're going to find yourselves in situations in which you
22 have to quickly make a decision about whether you can have
23 a conversation or not with the other board members. And
24 so there are a couple of things that I want you to
25 remember. The operative word is quorum. For you, that's
26 five or more. If five or more of you are gathered

1 together, then the other operative word that you need
2 to think about is whether you are discussing public
3 business. And public business would be the work of this
4 board.

5 We post notice to the public with the Secretary
6 of State, and we do it in enough time for it to be posted
7 for a full seven days before the board meeting. The day
8 that the meeting is held does not count, and the day that
9 we send off the posting does not count. The public is
10 entitled to a real week, a full seven days. So for
11 today's meeting, we posted by the close of business early
12 last week. And that's for two reasons. The public is
13 entitled to know far enough ahead of time in a state this
14 size whether they want to come to Austin to hear what you
15 all are going to be talking about.

16 The agenda is drafted with enough specificity
17 that if they've got time to clear their calendar and come
18 to Austin, the agenda tells them enough information for
19 them to decide whether it's worth their time to come to
20 Austin and listen. And you will find, as you go through
21 your duties, you will have meetings that are quite large,
22 because there is public interest.

23 But remember, if you're not in this room, you
24 need to be thinking about, Are there five of us? And are
25 we going to be deliberating on public business? For
26 instance, you have a launch event next Thursday on the

1 12th. We want you to go if you can. We have posted
2 it. There will be no vote taken. You should not discuss
3 public business there as a quorum. It is okay for you to
4 be there, but we have done everything we can to comply
5 with the Open Meetings Act.

6 Briefing by staff. In the old days, a quorum
7 of a board could sit and ask no questions and not say
8 anything to each other and get briefings from the staff.
9 That is no longer true. The statute has been changed. So
10 the staff briefings are being held in public meeting this
11 morning.

12 The thing that has come upon our world, as
13 Rebecca was talking about just before me, is the Internet.

14 And with the advent of email, email is a hybrid. The
15 mail portion of email makes it very, very good as a
16 substitute, quick, easy substitute for the United States
17 Mail. So you can receive things through your email that
18 are simply being transmitted to you as if we were mailing
19 them. But email also, in most business circumstances, now
20 creates the opportunity for a virtual meeting.

21 I have found, in my law practice, it has been a
22 godsend not to have to worry about, Who can come Tuesday?

23 Okay. Who can't come? Okay. Well, who can come
24 Thursday? Well, no, they can't either. You just send the
25 email, and people chime in. And by the -- you know, if
26 I'm chairing a committee or something, by the end -- not

1 subject to the Open Meetings Act -- by the end of the
2 week, I've heard from everybody finally, and we've got a
3 consensus. You can't do that.

4 What you saw from me yesterday, I think it was,
5 or the day before, I chimed in and said, Do not use --
6 when someone sends you something, you know, Here's your
7 briefing book for whatever, do not hit the Reply All. Do
8 not have a discussion, even in cyberspace, among you all.

9 One of the things that a good General Counsel
10 does is tell you no. I have had to say to Mr. Serna
11 earlier this week that all afternoon you'll be hearing,
12 No, no; no, no; no, no, from me. But that is one of the
13 things that people have to do to serve you, to make sure
14 that the Open Meetings Act is complied with. You do not
15 want your decisions to be invalidated for failure to
16 comply with the Act.

17 Now, we're going to meet in executive session,
18 and I want to explain real briefly that that is allowed
19 under the Open Meetings Act, but you do need to be
20 discussing the items that the chair is going to identify.

21 When he closes this session to take us into executive
22 session, he will let the public know what we're going to
23 be talking about by topic or item number listed on the
24 agenda. It can't be something not on the agenda. And the
25 discussion's purpose needs to be to consult with me or to
26 consult on an item that's been made very clear we're going

1 to be discussing.

2 You can talk about it in executive session, but
3 you can't make a decision in executive session. You can't
4 vote, and you can't do a straw vote. You can't get in
5 there and say, Well, okay, you know -- you can express
6 your opinions. You can ask me questions. You can argue
7 with each other. But you can't actually take the action.

8 The Open Records Act is the companion to the
9 Open Meetings Act, and every single one of you has been
10 creating an open record this morning, because I've seen
11 you taking notes. And that's something that's very
12 important at the Office of the Attorney General that we
13 make sure that our client agencies understand. The
14 presumption in Texas is that every document created in
15 state business is available to members of the public to
16 see. There are exceptions. My communications with you
17 can be covered by the attorney-client privilege if they're
18 for the purpose of providing legal services.

19 There are other exceptions to the Open Records
20 Act. The public is not allowed to see some things: the
21 litigation strategy that has not been shared with anyone
22 else in the litigation, if we're representing you in a
23 matter at the courthouse; my attorney-client
24 communications with you; my work product on your behalf as
25 your attorney, even if I don't share it with you, if it's
26 my work product. And there are various other kinds of

1 exceptions. They have to be claimed by asking the
2 Attorney General's Open Records Division for a decision on
3 whether the document can legitimately be withheld. And
4 that has to be done quickly when the request comes in.

5 So the next half of my remarks about the Open
6 Records Act are really designed to explain to you why, as
7 you go through this process, you will see a need for staff
8 in your budget to help manage the agency's duties and
9 responsibilities under this statute. You have far-flung
10 duties all over the state. And if a request comes in to
11 an employee who's offsite -- I believe VTR has people in
12 other places -- it needs to get to the agency's public
13 information officer quickly. And the staff has been
14 trained on this. I'm just explaining to you what they
15 have to go through.

16 They have to get it to the public information
17 officer quickly. That person has to determine whether the
18 agency has documents responsive to the request and then
19 decide, once they've gathered the documents, are any of
20 them privileged, exempt from disclosure. There are some
21 documents for some of my client agencies they can't
22 disclose to anyone, because under federal law, they're
23 required to keep it confidential.

24 So you can get in trouble two ways under the
25 Open Records Act. You can have a document that's public
26 that you need to turn over and you don't. But you can

1 have a document you're supposed to keep confidential,
2 and you want to be open and disclose it and you do. So we
3 have to have people who are trained to do this very
4 carefully.

5 But the primary concern, you don't have to be
6 as super vigilant at all times about the Open Records Act
7 as you do about the Open Meetings Act, because the bulk of
8 the work of responding will occur at the staff level. But
9 be mindful, you're documents, your notes are public
10 records.

11 We had an incident in which there was an
12 exchange between board members writing a note, and
13 somebody said, What was that? Was that a secret? Was
14 there some kind of secret vote going on, some kind of
15 secret meeting? That's a public record; I want to know
16 what it was. And it was, I am hungry; we need a lunch
17 break soon. But -- and that's true right now.

18 MR. VANDERGRIFF: I expect to get that note
19 shortly.

20 MS. SECORD: Yes. I second that motion. But
21 that is still a public record. So and when you take your
22 notes, if someone's addressing you, don't say, you know,
23 Linda Secord is clearly a moron. Why did Greg Abbott hire
24 her? That -- I mean, if you feel that and it's true,
25 write it down, but it will be a public record, and I will
26 be embarrassed. I don't know about General Abbot.

1 (General laughter)

2 MR. RODRIGUEZ: Linda, on that point, let me
3 ask you this question. Text-messaging between board
4 members while you're here, or with other people, if
5 somebody's watching us right now on the Internet system
6 and they're sending one of us a text message, you know, Do
7 this, do that, or whatever -- do we now -- is it
8 considered like those notes? I'm just wondering,
9 because --

10 MS. SECORD: I am advising you that, for now,
11 you should consider that could be a public record. There
12 is a case pending involving the period of time in which
13 Laura Hall [phonetic] was the mayor of Dallas, involving a
14 BlackBerry -- a set of BlackBerry messages.

15 MR. RODRIGUEZ: Right. And that's what I'm
16 getting to, the BlackBerry stuff.

17 MS. SECORD: Yes.

18 MR. RODRIGUEZ: Today it's getting very easy to
19 communicate back and forth while we're here, or with
20 others outside of the -- even the room.

21 MS. SECORD: But for now, you should
22 consider -- until we know from the courts, you should be
23 mindful that that could be a public document.

24 The next public law -- any other questions
25 about -- and you can ask questions in executive session

1 too -- the Administrative Procedure Act -- which is
2 actually where I spend most of my time in my day job at
3 the Attorney General's Office practicing -- covers two big
4 duties that state agencies do. One is rule making, and
5 you will hear a -- after you've taken the oath, you will
6 hear a whole bunch this afternoon about the rules of this
7 agency.

8 Rules are the administrative agency version of
9 statutes. When you are passing rules, you are performing
10 what we call the quasi-legislative function. The
11 Legislature of Texas has delegated to you the ability to
12 pass rules. It is, in essence, their ability to pass
13 statutes, and they have given to you the ability to carry
14 out what they've told you in the statute by further
15 fleshing out what the statute means, how it's going to be
16 implemented, all that.

17 It's a very, very important duty. Rules are
18 proposed. They are reviewed before we send them. You
19 will hear about rule proposals this afternoon. That's the
20 starting point. But they are looked at by lawyers and
21 certified to the Secretary of State for publication in the
22 Texas Register that they've been reviewed and are within
23 the agency's authority to promulgate.

24 Then there is a period of time in which the
25 public gets to comment and that people -- I mean, people
26 do, in the regulated industries of the clients that I

1 represent, they read those rules and they look at them
2 carefully, and they will often bring concerns and worries
3 to our attention, things we might not have thought about,
4 we need to hear. And, you know, the comments have to be
5 reviewed and commented on when the rules are finally
6 adopted.

7 But there's a period of time for the public to
8 be involved. Texas has a very strong commitment to wide-
9 open open government and involvement of the public all
10 through the process. And then the rules are reviewed
11 again by counsel and brought to the board for adoption.

12 That's the quasi-legislative work that you do.
13 Your rules are treated by the courts as if they were
14 statutes. The standards that the courts apply to rules is
15 as -- they use the same principles from the Code
16 Construction Act as if they were statutes of the
17 Legislature as well.

18 The second thing that the Administrative
19 Procedure Act covers is decisions of the agency that are
20 contested cases between entities who have an interest that
21 the agency regulates, either enforcement of people who the
22 agency regulates who are not doing what they're supposed
23 to be doing, the case of the Motor Vehicle Division, there
24 are cases that arise between car dealers and car -- I'm
25 sorry. Vehicle. I always say car, because I don't drive
26 a truck. But -- sorry, Mr. Walker. But vehicle dealers

1 and vehicle manufacturers. And those are reviewed.
2 The decisions are made, and they are -- at the agency
3 level, and then they are reviewed by the courts.

4 And under the Administrative Procedure Act, the
5 losing party in an agency dispute can appeal that decision
6 to the Travis County District Court first, then to the
7 Austin Court of Appeals, and then on to the Texas Supreme
8 Court. This agency's -- the Motor Vehicle Division that
9 has now come into this new agency has actually been
10 instrumental in the development of a number of important
11 principles in administrative law at the Intermediate Court
12 of Appeals and Supreme Court levels. So it's a lot of fun
13 to represent this agency.

14 Mr. Gillman, do you have a question?

15 MR. GILLMAN: No, ma'am.

16 MS. SECORD: No. Okay.

17 Then as part -- and then we need to move to
18 conflicts of interest and ethics law. And the biggest
19 ethics law -- and those are covered in tab -- oh. The APA
20 is covered in Part 10 of your training manual, and ethics
21 and conflict of interests are in Part 11 of your training
22 manual.

23 The big ethics rule I want to highlight in the
24 interests of time this morning is the ex parte
25 communication. Ex parte communications are when someone
26 wants to talk to the decision-maker in their case and

1 influence that decision-maker without the other party
2 being there.

3 I just talked about the Administrative
4 Procedure Act and the contested case side. That's when
5 the agency is performing the quasi-judicial function.
6 There's a dispute between discrete, identifiable parties.

7 And it's either heard it's so or heard somewhere else,
8 decided by some entity within the agency. And there's a
9 lot of different authority for doing that.

10 And people are very interested and concerned
11 about their case going forward. They can't talk to you
12 about it any more than if you had a matter at the
13 courthouse you could call up the judge and say, You know,
14 my next-door neighbor's husband is a real jerk, and she
15 needs to get the kids in the custody battle. You're not
16 allowed to do that. The judge is not allowed to have that
17 conversation.

18 I can help you practice, if you need to, the
19 words that you need to graciously say: I'm sorry, I'm not
20 able to visit with you about that. Everyone who comes
21 before you or any of the people who make decisions on your
22 behalf needs to have a fair shot at being listened to and
23 listened to equally. And that's the basic principle
24 behind the ex parte communication.

25 MR. BUTLER: I have a question. If someone did
26 approach you ex parte, is it a requirement then that even

1 if they said anything, that you would not vote on that
2 particular -- do you abstain from that -- this board
3 member would abstain from that particular agenda item?

4 MS. SECORD: It's going to vary according to
5 the circumstances as to how long the conversation went on
6 and how we handled it. You can -- I think of it as
7 occurring in three stages, but it really is a spectrum.
8 Sometimes you'll have the opportunity to just cut it off
9 and say, I'm sorry, we can't talk about that; that's
10 pending before me. That happens at dinner parties all
11 the -- I mean, it happens all the time, I mean, when
12 people are at dinner parties and they may not realize that
13 their pediatrician is actually married to a local judge,
14 and they're starting to talk about it, and you just sort
15 of say, Well, Shelia here has that before her. And then
16 it just stops.

17 Then there is a way to cure that, and that's to
18 make -- if they do start down that road and talk to you
19 some, it can be cured by posting a notice, letting the --
20 or sending notice to all of the parties that this has
21 occurred, this was the gist of the conversation, and
22 everybody has a chance to have their say too.

23 Then if there has been a real -- you know, it
24 just -- it all went south, and somehow we found ourselves
25 in this position, you call me, we figure it out. If you
26 have to recuse, you recuse. But we can work on sort of

1 how to make sure that that doesn't happen.

2 I have not -- in the ten years that I've
3 represented the Motor Vehicle Division, we haven't had a
4 big problem with it. But we do have -- we have some
5 clients where that has happened.

6 MR. BUTLER: So what if it were a letter. Then
7 you just trash the letter immediately?

8 MS. SECORD: No. If it's a letter, then you
9 keep the letter, and we make sure that everybody who's
10 involved in the matter gets a copy of the letter. The
11 principle behind the ex parte communication prohibition is
12 somebody shouldn't have a conversation with you that
13 nobody -- they shouldn't have it at all. But they
14 certainly shouldn't have one that nobody else knows about
15 and doesn't have a chance to weigh in on.

16 So with some of my client agencies, they have
17 a -- and most do. They have a screening process at the
18 mail room, and it doesn't get through. They even have an
19 email screening process, and it doesn't get through.
20 Sometimes it gets through. And then we make it -- you
21 cure the problem by making sure that everybody involved in
22 the case knows. Mr. Butler received this letter; we're
23 making you aware of this letter, et cetera.

24 MR. BUTLER: Or an email.

25 MS. SECORD: Or an email.

26 MR. BUTLER: Thank you very much.

1 MS. SECORD: And I represent another agency
2 that actually sanctioned an attorney for providing the
3 email so that people could email their comments to the
4 members of the commission. And they were not happy.

5 MR. BUTLER: Yes. Thank you very much.

6 MR. RODRIGUEZ: Linda, I'm sorry. On that
7 point, Linda, on the mail that comes to, let's say, myself
8 as -- because of this position right here, is that subject
9 to records retention issues because I have it? Or do I
10 send it to the executive director here and then let him
11 worry about records retention?

12 MS. SECORD: Records retention is a different
13 statute, and we can do a separate training on that for
14 you, if you like. Records retention is slightly
15 different, and that's the time period for which certain
16 kinds of documents must be retained. Many documents are
17 considered transitory and just disappear. Some types of
18 email do need to be retained. Each agency has to have a
19 policy. We can train you and make you aware of your
20 agency's policy right now. We're operating under TxDOT
21 policies until you all make a decision about whether you
22 want to keep, modify, change drastically, or whatever.

23 MR. RODRIGUEZ: I guess the big question was,
24 something that comes to me because of this particular
25 arrangement, is it my personal property, or is it official

1 business that's subject to -- and that's what I'm
2 saying. I can't -- he says, Can we just tear up a letter?
3 I'm just wondering.

4 MS. SECORD: No. Do not tear it up. Call me.
5 Call me, and let the chairman know.

6 MR. BUTLER: And on an email, you could just
7 forward the email to you, and it'd be public record.

8 MS. SECORD: Uh-huh.

9 MR. CAMPBELL: But you said -- one thing you
10 said, you said, Get the letter to everybody else. But
11 really what you mean is get it to you, and you get it to
12 everybody else.

13 MS. SECORD: Yes. Yes. Oh, yes. And
14 remember, for ex parte communications, I'm talking about
15 matters that are contested cases, where you're going to be
16 making the decision. And we're going to talk later in the
17 day about -- I'm not talking about every single piece of
18 business that you all do. I'm talking about things where,
19 let's say, Chrysler and a dealer are having a problem over
20 whether that dealer is going to get terminated or not.
21 And that's a case before this agency. That's what I'm
22 talking about now.

23 An email that's more general that doesn't
24 pertain to a case in which you're going to be the decision
25 maker doesn't fall under the ex parte communication -- so
26 it's not every single thing you're going to do. Don't

1 panic. But those things are very important to the
2 people involved in those cases, and we need to be very
3 careful.

4 Ms. Johnson, I sensed you had a question.

5 MS. JOHNSON: Yes. Open -- records retention
6 is, of course, very important in my office, and as a
7 political figure we frequently, frequently have Open
8 Records requests filed, particularly on email. I've
9 begun, since this appointment, segregating my DMV email.
10 But if I receive an Open Records request, should I involve
11 you in reviewing those documents to make sure there isn't
12 anything that should not be released?

13 MS. SECORD: Those that are the documents of
14 this agency, yes.

15 MS. JOHNSON: Okay.

16 MS. SECORD: Well, me or whoever is going to be
17 handling it. And let me be clear. Records retention is a
18 separate statutory obligation from the Open Records Act.
19 Records retention is a statute that talks about how long a
20 state agency has to keep a document. And every state
21 agency develops its own policies.

22 Because I'm not your real General Counsel, the
23 agency I know best is my own home agency, the Attorney
24 General's Office. We have some pieces of paper we never
25 get rid of it. As a young lawyer, I got to pull the file
26 in which Ralph Yarborough saved Texas' offshore lands, and

1 pull his file and look at it, because land never goes
2 away. Texans' concerns about land never go away. We have
3 General Land Office files that go back to the Republic.

4 Now, other things are very -- you know, Linda
5 Secord's notes about her conversation with Cheryl Johnson,
6 that might be transitory, once I've -- you know, you've
7 reviewed my brief or whatever, and I can throw it away.
8 Those are different. I mean, there are -- there's a duty
9 to keep a piece of paper, even if nobody ever asks for it,
10 under the Open Records Act. And it's hard for me to keep
11 those separate in my mind, but they are two separate
12 kinds of obligations.

13 Conflicts of interest. You are lucky, because
14 you have your own conflicts of interest provision in your
15 statute. Your conflict of interest provision is found at
16 Section 1001.028 of the Transportation Code. And in your
17 Redwell folder, you will find a spiral-bound green
18 pamphlet. Those of you who have already gotten your
19 training materials have probably seen it. That has,
20 towards the back half of the pamphlet, the Transportation
21 Code. And if you look at 1001.028, that's your conflict
22 of interest provision. You must notify the chairman in
23 writing if you have two kinds of interest, just plain old
24 interest -- and we'll talk about that in a second -- or a
25 substantial financial interest.

26 A substantial financial interest, you're also

1 fortunate, it's been defined for you. It is whether
2 you are an employee, a member, a director, or an officer
3 of an entity with a matter before the board or a 5 percent
4 business interest or investment, directly or indirect
5 business investment.

6 So you have a substantial financial interest
7 even if you're on the board of a local charity. You know,
8 you sit on the Girl Scout Council, and they've got a
9 matter before the board for some reason, then you need to
10 let the chairman know that.

11 The other one is the more general interest, and
12 that's one that's going to be something that is you will
13 need to make a decision. You know, you don't plan on ever
14 supporting your brother if he goes into bankruptcy. On
15 the other hand, he has a matter -- you know, you don't
16 have any financial interests in him, and you don't want to
17 have a financial interest in him, but you do have an
18 emotional interest in him. They've got a matter before
19 the agency, you should -- you know, everyone makes their
20 own decisions, but you should probably let the chairman
21 know in writing that that is your brother.

22 Then one other thing that's very important for
23 you to know about is no entity that you have an interest
24 in, a vendor or any other entity, may -- they may not
25 enter into a contract with this board. And it's not a
26 question of you as an individual board member recusing

1 yourself. The board cannot enter into a contract. So
2 it's not just a question of letting the chairman know in
3 writing. The real question there is you need to let your
4 vendor know, We can't bid on that contract, because the
5 board can't enter into it, and if we somehow mess up and
6 don't pick up on it and did enter into a contract, the
7 contract itself would be void. So, you know, if you own a
8 software company, they shouldn't be helping Rebecca fix,
9 you know, through Vision 21, the titling problems. That's
10 just an absolute prohibition.

11 MR. RODRIGUEZ: Linda, let me ask a question on
12 that. All of us, someday, somehow, will benefit from the
13 Automobile Theft Prevention Authority grants. Is that a
14 conflict for us?

15 MS. SECORD: I'm sorry. The Automobile --

16 MR. VANDERGRIFF: Burglary and Theft Prevention
17 Authority. Is that a conflict for us, since everyone, in
18 effect, benefits from the work that that particular
19 division does?

20 MS. SECORD: No. That's very diffused. Yes.
21 That's separate.

22 MR. RODRIGUEZ: It has its own board, but
23 ultimately now it's part of the DMV. It's got its own
24 decision board, but it's a wing of service under DMV.

25 MS. SECORD: I think that's all right, but I
26 can look into it for you in more detail.

1 And the last thing is you need to look --
2 when you -- Section 1005.001 of your Transportation Code
3 imports the Code of Ethics and Standard of Conduct of
4 Chapter 572 of the Government Code, and those are in your
5 training manual here. And that is, as you might imagine,
6 you should not accept a gift, employment, or make an
7 investment that would tend to influence your duties as a
8 public official.

9 I always say this is What Would Your
10 Grandmother Expect of You rule. I mean, most of you will
11 know when confronted with that opportunity, you should not
12 do that.

13 If you have any other questions for me, we can
14 certainly cover them in executive session, time
15 permitting.

16 MR. VANDERGRIFF: Any other questions?

17 MS. SECORD: And we are at four minutes till
18 1:00.

19 MR. VANDERGRIFF: We are on target.

20 MS. SECORD: Barely.

21 MR. VANDERGRIFF: Barely, but we are on target.

22 Thank you.

23 Any other questions?

24 (No response)

25 MR. VANDERGRIFF: I don't believe so.

1 MS. SECORD: Four minutes early is better
2 than four minutes late.

3 MR. VANDERGRIFF: Thank you very much, Linda.
4 Appreciate your able service in this standing-up capacity.

5 I did want to note two other people, senior
6 executives from TxDOT, that are serving interim functions
7 for us that I believe are here, or at least have been
8 here, from Technology Services, Frank Bushong, who's --
9 the director is actually Judy Skeen, and she is not here
10 today, but I wanted to note that he was here as well. And
11 also Scott Burford from General Services that particular
12 helps us with vehicles and purchasing. He's in the back.
13 So I wanted to note those as well. And --

14 MR. SERNA: And I'm sorry, sir. That's
15 actually Glenn Hagler --

16 MR. VANDERGRIFF: Oh, I'm sorry. Subbing for
17 him.

18 MR. SERNA: I had written that down that Glen
19 is representing Scott. Scott was here earlier. He had to
20 leave to go to a committee meeting.

21 MR. VANDERGRIFF: Okay. I knew she didn't look
22 like Scott, so I was like --

23 (General laughter)

24 MR. VANDERGRIFF: My eyesight must be dimming
25 on me.

1 We are -- now, we really still have the same
2 quorum. I don't believe I have to take a roll call again,
3 but I've noted that no director has left the room. Excuse
4 me. No board member has left the room. And we are still
5 in open session at this point. I'm going to note that --
6 before closing the meeting, that we will take first, I
7 assume, maybe perhaps a ten-, 15-minute break is in order,
8 so -- the board and audience, and then we will be in
9 executive session. It is right now approximately two
10 minutes to one o'clock on November 4, 2009. Having closed
11 the open session, at this time, the -- after a 15-minute
12 break -- so therefore at approximately 1:15, the Texas
13 Department of Motor Vehicles board will go into closed
14 session pursuant to the Government Code, in terms of
15 Section 551.071, to obtain the advice of legal counsel
16 regarding Agenda Items 2(A), 2(D), 2(B), 5(B), 5(C), and
17 also 5(A), which I skipped earlier; and Section 551.074,
18 to discuss personnel matters under Agenda Item 3.

19 And I would also say that we will be meeting in
20 the back room here in the conference room immediately in
21 front of us behind the wall. We will have with us present
22 our legal counsel, Linda Secord and Jennifer Soldano. And
23 we will also have, as necessary, in there in particular
24 items, Ed Serna, Dawn Heikkila, George Ebert, and perhaps
25 even Bill Harbeson. So I wanted to make sure to note that

1 as well.

2 And with that, we are, again, adjourned from
3 the public portion. I would anticipate, for those of you
4 in the audience, that we will be in closed session for
5 approximately an hour, and then we will be back in here
6 after that. So sometime between 2:00 and 2:15, we will
7 come back. And we do have agenda items to take up at that
8 point.

9 Thank you very much. We are adjourned.

10 (Whereupon, at 12:59 a.m., the open session was
11 adjourned for Executive Session and lunch recess, to
12 resume at 3:15 p.m., this same day, Wednesday, November 4,
13 2009.)

14 A F T E R N O O N S E S S I O N

15 (3:15 p.m.)

16 MR. VANDERGRIFF: It's approximately 3:15 in
17 the afternoon of November 4, 2009, and the Texas
18 Department of Motor Vehicle board is now -- Motor Vehicle
19 Department is now in open session. I do want to report to
20 you that no action was taken in closed session.

21 With that, I will ask -- we are back on Agenda
22 Item Number 4, which is Ceremonial Administration of Oath
23 of Office to Board Members and a reestablishment of the
24 quorum. I don't believe I have to call the roll again,
25 and I note that all board members have returned from
26 executive session and all nine are here. Excuse me. I'm

1 sorry. I take that back. Chief Rodriguez, Victor
2 Rodriguez, left the meeting before executive session and
3 was not in attendance, obviously, at executive session or
4 is in attendance here with us in this public session. But
5 we do have eight members still with us, so we have a
6 quorum.

7 And with that, I would say that we could move
8 on to Agenda Item Number 4.

9 (Whereupon, the board members were sworn in as
10 a group and a group picture was taken.)

11 MR. VANDERGRIFF: All right. With that, I
12 would ask that we have a couple of matters to come before
13 the board. One is we need to appoint -- make some interim
14 appointments, and I would ask, I believe, Board Member
15 Butler has a motion to make there.

16 MR. BUTLER: Mr. Chairman, I move to appoint
17 Linda Secord, of the Office of the Attorney General, as
18 Interim General Counsel; George Ebert, of the Texas
19 Department of Transportation, as Interim Human Resources
20 Manager; and Brian Ragland, of the Texas Department of
21 Transportation, as Chief Financial Officer, until TxDMV
22 employees are appointed to these positions. This motion
23 also includes the board's authorization for TxDMV employee
24 Dawn Heikkila to be the individual to obtain a signature
25 card to enable her to approve payments, to standardize
26 payroll personnel reporting system, and the uniform

1 statewide payroll personnel system. The board also
2 appoints Brett Bray as Interim TxDMV Motor Carrier
3 Division Director.

4 MR. VANDERGRIFF: Do you have a second?

5 MR. CAMPBELL: Second.

6 MR. VANDERGRIFF: Have a second by Mr.
7 Campbell. With that, I would ask if there is any
8 discussion on this motion?

9 (No response)

10 MR. VANDERGRIFF: There is none. Seeing none,
11 I would call for your vote, please, by raising your right
12 hand and signifying aye.

13 (Chorus of ayes)

14 MR. VANDERGRIFF: The motion carries
15 unanimously.

16 We have another item for consideration based
17 upon previous -- we had -- as you recall, we had
18 discussion first upon the need for these positions, and
19 then, second, we had discussion about the personnel
20 staffing. And I would call for -- I believe we have a
21 motion that will be before us on a committee with respect
22 to an executive director.

23 MS. JOHNSON: Mr. Chairman, I move to authorize
24 a special hiring committee to move forward to post, begin
25 the screening process, and screen for the position of
26 executive director, senior management, and other

1 appropriate support staff.

2 MR. VANDERGRIFF: All right. Do I have a
3 second for that motion?

4 MR. GILLMAN: Second.

5 MR. VANDERGRIFF: Second by Mr. Gillman. The
6 motion is seconded. Don't see any indication of any
7 discussion, so I would call for your vote. Raise your
8 right hand, please, signifying aye.

9 (Chorus of ayes)

10 MR. VANDERGRIFF: Thank you. I double-
11 signified that. I apologize. It should just be right
12 hand next time.

13 We'll now move into Resolutions for Individual
14 Consideration. It's Number 5(A). And these are the
15 proposed rules that we need under the Texas Administration
16 Code.

17 MS. SOLDANO: Good afternoon, Mr. Chairman,
18 board members. My name is Jennifer Soldano, and I'm legal
19 counsel for the Vehicle Titles and Registration Division.

20 New Chapters 206 and 210 are necessary to implement the
21 provisions of House Bill 3097, 81st Legislature, which
22 created the Department of Motor Vehicles from the Motor
23 Carrier, Motor Vehicle, Vehicle Titles and Registration,
24 and Automobile Burglary and Theft Prevention Authority
25 Divisions of the Texas Department of Transportation.

26 The proposed rules adopt many aspects of the

1 existing practices and procedures under TxDOT. The
2 purpose of these rules is to provide for business
3 continuity. House Bill 3097 provides that TxDOT's rules
4 remain in effect until the board modifies them. The board
5 may decide to amend the rules later on, but we are
6 proposing these rules as we need a basis to start the
7 department.

8 Proposing these rules will invite public
9 comment and starts the process for the department to stand
10 independently. The rules will be published in the Texas
11 Register. We will respond to any comments, and then bring
12 the rules back before you for final adoption.

13 Chapter 206 establishes the management
14 structure and policies for the department. New Subchapter
15 A establishes the Texas Motor Vehicles Board and its
16 responsibilities and reporting requirements. It also
17 establishes the responsibilities of the executive director
18 and department staff.

19 New Subchapter B requires the board to meet at
20 least once a quarter, provide for subcommittees, and
21 meeting and hearing procedures.

22 New Subchapter C provides a procedure to submit
23 a petition to request rules.

24 New Subchapter D provides procedures in
25 contested cases, including filing, interaction with the
26 State Office of Administrative Hearings, and the

1 Administrative Hearing process.

2 New Subchapter E, Advisory Committees,
3 prescribes procedures for advisory committees including
4 appointment and the standard for conflict of interest.

5 The New Subchapter F provides a procedure for
6 the department to assign a vehicle to an individual or to
7 a motor pool.

8 New Subchapter G prescribes requirements that
9 govern the issuance, use, and revocation of digital
10 certificates issued for electronic commerce.

11 New Chapter 207 establishes a policy of the
12 department to provide the public information in a manner
13 that will facilitate and maximize public access and the
14 process for acquiring this information. It also
15 establishes how to acquire motor vehicle information.
16 This chapter follows TxDOT's existing policy, except that
17 the types of records that do not pertain to the DMV have
18 been removed. The rules clarify that the department may
19 prohibit the release of personal information in accordance
20 with Transportation Code Section 730.01 if contracts,
21 terms and conditions have been violated.

22 New Chapter 2000 -- I'm sorry -- 208 follows
23 existing TxDOT policy for the sick leave program and
24 employee training and education. New Subchapter A
25 establishes job application procedures, including notice.

26 The subchapter allows fax applications, which is a change

1 from TxDOT procedure. Another change is that the rule
2 does not require drug-testing for job applications, as
3 this is something we thought the board and its General
4 Counsel would like to give consideration.

5 New Subchapter B, Sick Leave, establishes a
6 sick leave pool program for employees who have suffered a
7 catastrophic illness or have a family member with such an
8 illness.

9 New Subchapter C, Employee Training and
10 Education, includes continuing education for employees and
11 requires an employee to work for the department in return
12 for college assistance. The section sets forth repayment
13 procedures for an employee who voluntarily withdraws from
14 the program or does not complete a service requirement.
15 It does not contain TxDOT's program that was specifically
16 designed for engineers and then extended to computer
17 personnel.

18 New Chapter 209 establishes the same procedure
19 that TxDOT uses for collection of debts and payment of
20 fees for department goods and services.

21 New Chapter 210 concerns contract management.
22 Subchapter A provides a resolution process for certain
23 contract claims. Government Code Chapter 2260 applies to
24 purchase contracts of the Texas Department of Motor
25 Vehicles and into -- under the State Purchasing and
26 General Services Act.

1 New Subchapter B, Civil Rights, requires the
2 department to monitor the operations of recipients and
3 sub-recipients of federal funds from the department to
4 ensure compliance with Title VI of the Civil Rights Act of
5 1964 and its amendments. The department will also monitor
6 the operation of all public and private entities with
7 federally funded contracts.

8 New Subchapter C, Historically Underutilized
9 Business Program, adopts the rules of the Comptroller of
10 Public Accounts relating to their Historically
11 underutilized Business Program, as most of the program
12 will consist of purchasing under the Comptroller's program
13 anyway.

14 New Subchapter D, Disadvantaged Business
15 Enterprise Program, establishes policies and procedures to
16 implement the department's Disadvantaged Business
17 Enterprise Program and the process for resolving related
18 business complaints. This program applies to all
19 contracts and purchases made with federal funds. This is
20 a shorter chapter for the Department of Motor Vehicles
21 than it was for TxDOT, because the DMV will not perform
22 the same types of construction work and that necessitated
23 a much longer chapter for TxDOT.

24 It also provides that the DMV will contract for
25 certification with TxDOT of the Disadvantaged Business

1 Enterprises. This is a common practice for smaller
2 agencies, as the DMV is not anticipated to be working with
3 many DBEs that need to be certified. Most DBEs should
4 already be certified through another department.

5 The Motor Vehicle and Motor Carrier Divisions
6 will also be presenting rules today. The Vehicle Titles
7 and Registration Division will be presenting their rules
8 to you in December. These rules are scheduled for them
9 because amendments to the Vehicle Titles and Registration
10 rules are becoming effective November 19, and we can't
11 make changes to the rules before the previous changes are
12 effective. Delaying the rules for the Vehicle Titles and
13 Registration Division will not affect the operations of
14 the division.

15 MR. VANDERGRIFF: Do any board members have any
16 questions?

17 (No response)

18 MR. VANDERGRIFF: I do have one quick question
19 on Chapter 208. I think it was subsection A, but may be a
20 new one. The drug-testing provision, you wanted to change
21 the -- or not you, but the department wanted to change the
22 -- or lower the standards, not using drug testing? Can
23 you explain that a little bit to me?

24 MS. SOLDANO: We did not put in the drug
25 testing because we thought that that was something that
26 you all would want to discuss with General Counsel and

1 make a decision as a board on, rather than us
2 presenting it to you as a done deal.

3 MR. VANDERGRIFF: Okay. All right. Thank you
4 very much.

5 Any other questions?

6 MR. WALKER: Is drug testing currently required
7 of DOT personnel?

8 MS. SOLDANO: Yes. Before they accept a job
9 position, the final applicant is drug tested.

10 MR. WALKER: So we would have a proposal -- is
11 that not correct? -- to accept her rules? Is that what
12 we're looking at?

13 MR. VANDERGRIFF: We're not voting on the rule
14 itself. It's just the publication of the rule.

15 MR. WALKER: Publication.

16 MR. VANDERGRIFF: So we would have a chance to
17 vote on it at the point in time we're actually standing it
18 up. We'll have a public comment. It will be a couple
19 months from now before the process works its way through.

20 MS. SOLDANO: Yes.

21 MR. WALKER: Do we want to leave drug testing
22 out, if it's -- or do we want to add that back?

23 MR. VANDERGRIFF: Open to discussion. I
24 mean --

25 MR. WALKER: I would like to think that -- in
26 my industry, we drug-test all of our employees today, and

1 I think that it's a pretty important thing that we do,
2 and I wouldn't want to see the DMV lower the standards. I
3 would think that we would want to continue to drug-test
4 our employees just as we have in the past.

5 MR. RUSH: We do the same thing, and I agree
6 100 percent.

7 MS. SOLDANO: Well, one thing we can do is we
8 can -- for December, since we will not be hiring anyone
9 this month, we can put it on the agenda for December.

10 MR. VANDERGRIFF: Okay. That'd be great.
11 Okay. Thank you very much. Appreciate.

12 All right. We have the next section of this,
13 Brett Bray.

14 MR. BRAY: Mr. Chairman, members, I'm Brett
15 Bray, Director of the Motor Vehicle Division. I was also
16 on the transition team and wonder if I can pick up on that
17 last item for a moment. As to the drug testing, I
18 remember the discussions about this. And you have to
19 remember that the Department of Transportation has a lot
20 of people operating a lot of really big equipment and
21 under a lot of federal regulations and rules. And so
22 theirs is a pretty stringent standard.

23 And I was sitting in the audience. I'm not
24 sure I heard exactly what you're doing. Because this is
25 just for publication -- and I'm just trying to get some
26 clarification from Ms. Soldano -- do you want her to

1 publish it with the drug testing back in, which is easy
2 enough to do, or do you want to wait and consider drug
3 testing at your December meeting?

4 MR. VANDERGRIFF: I think the issue was to
5 consider it at the December meeting.

6 MR. BRAY: So not to publish --

7 MR. VANDERGRIFF: That particular, yes, that
8 change in that portion.

9 MR. BRAY: Okay. This agenda item involves the
10 transfer of the Motor Vehicle Division operating rules
11 from Texas Department of Transportation to the DMV. And
12 in addition to the transfer, there are some proposed
13 amendments that give effect to legislation that passed
14 during this session and also some changes to promote
15 efficiency and clarify policy.

16 I committed to Mr. Serna I can do it -- I can
17 give you the changes in about four minutes. I'm happy to
18 even speed that up, if you care for me to, and really not
19 do that, and just suggest that we publish them.

20 MR. VANDERGRIFF: I think it's appropriate,
21 even with four minutes, that you give us the changes.

22 MR. BRAY: All right. This is Chapter 215, and
23 in general, one of the major changes is everywhere where
24 it did say "director," it will either now say "board" or
25 "division," depending on what's appropriate at that point.

26 It allows for the director to delegate to

1 staff, which is just to clarify the matter, because
2 I've delegated pretty much everything to staff for as long
3 as I've been here. It clarifies -- and this has also been
4 the case for as long as I've been here -- that informal
5 opinions of the staff do not bind the board. There's a
6 formal opinion process that the board would have authority
7 over, and an informal opinion of the staff would not bind
8 you in making that final determination.

9 There is also a provision that reinforces ex
10 parte prohibitions, and it outlines how the board can cure
11 an ex parte prohibition, in other words, the way Ms.
12 Secord was telling you earlier about notifying all the
13 other parties. It also outlines that the board has
14 authority to raise the criminal aspect of the issue if you
15 elected to do so in a particular instance.

16 It clarifies that the official address for MVD
17 filings, for division filings, is the MVD address.

18 It eliminates the two-year transition period
19 that has previously been in the rules. And the reason for
20 that is the two-year transition period has ended. About
21 four years ago we got authorization to do a two-year
22 transition to transition licensees to a two-year license.

23 As of October, that has been completed, and there is no
24 longer a reason for the rule for transition, because
25 everybody is on a two-year license.

26 Franchise license application changes are also

1 proposed in these rules, and they just provide
2 basically catching up with what the practice truly is at
3 the agency.

4 There's a change changing an aspect from one
5 mile to two miles for relocation without a protest risk.
6 That's a statutory change that occurred in 2009.

7 Manufacturers, distributors, and converters
8 records are to be retained and conformed to our other
9 licensees. Dealers have to retain a certain amount of
10 records for a certain period of time, and we're asking
11 that the other licensees that we regulate do the same.

12 All GDN holders should have a bond. GDN
13 holder's a general distinguishing number; that's a car
14 dealer. Mr. Gillman can tell you that new car dealers,
15 new motor vehicle dealers don't have to have a bond, but
16 this clarifies that wholesale used car dealers and other
17 types of used motor vehicle dealers would have to have a
18 bond just like a regular used car dealer would have to
19 have a bond.

20 Metal plates would be restricted pretty much in
21 the way that they are now, other than it would give a
22 good-cause exception that extends for four years instead
23 of the current three years. With two-year licenses, you
24 need to have an equal number of year good-cause
25 exceptions.

26 .141 allows more electronic communication to

1 occur instead of everything having to be by a hard
2 copy, and it begins the elimination of the word
3 "cardboard," which happens from 141 through about 149,
4 because the Legislature now allows dealers to use things
5 other than cardboard for temporary tags.

6 And 144 talks about sales and inventory, and it
7 conforms to the Comptroller and the Consumer Credit
8 Commissioner's standards. Also in 144, just a slight
9 change. I have to confess that I just learned at nine
10 o'clock this morning that in the middle of the night the
11 word "working" ran into the building and jumped onto the
12 page, and we just caught it this morning. And so I
13 would -- I think there's two ways to solve this. One is
14 to publish the rules with the word "working" in it, and
15 the other is to get your blessing to publish the rules
16 without the word "working" in it, because it was never
17 intended to be that way.

18 This is the rule that allows seller-financed
19 transactions, for dealers to have 45 days to apply for
20 title, 45 calendar days, not working days. And the word
21 "working" should not have been in there. So when we're
22 done, I would ask that we publish them without that word.

23 Export sales, not just to Mexico any longer.
24 This is -- this used to be called the foreign dealer rule,
25 and now it would be the export sales rule and require
26 dealers to stamp all titles that are going -- for vehicles

1 going to export, wherever they may be going outside of
2 the U.S.

3 150 and 56 through 59 eliminate emergency tags.
4 Emergency tags are confusing and makes confusing choices.
5 And what this does is allows for just one tag that
6 broadens the usage of the tag. So we're not taking away
7 anything from dealers; we're just combining everything
8 into one exceptional tag, if you will.

9 It also makes it clear that dealers must secure
10 the tag to the vehicle, and it allows e-tags to be used on
11 loaner vehicles when the customer's is in the shop. And
12 this was also a legislative change.

13 Lessors and lease facilitators must meet
14 minimums under .177 just like dealers do, minimums in
15 terms of sales facilities. In this case, I guess they'd
16 be leasing facilities.

17 And in 308 we attempt to streamline the default
18 process in contested cases to limit defaults to
19 nonappearance at hearings.

20 With that, we request approval to post and
21 publish the proposed new rules and amendments along with
22 those already brought before you by Ms. Soldano and those
23 that are about to be brought before you by Ms. Davis. And
24 I'm happy to answer any questions.

25 MR. VANDERGRIFF: Any questions?

26 MR. CAMPBELL: Yes. So you want to publish it

1 with the change of the 45 calendar days, to 45 calendar
2 days, instead of 45 working days?

3 MR. BRAY: Yes, sir. Now, understand -- and
4 this is true for pretty much all of the questions thus
5 far -- that's just publishing.

6 MR. CAMPBELL: right.

7 MR. BRAY: Because once we publish, then we
8 have the ability for everybody to comment and modify.

9 MR. VANDERGRIFF: We'll have a public hearing
10 on this.

11 MR. BRAY: That's correct. And the statute, by
12 the way, appears to call for calendar days. It did not
13 call for working days, and that word "working" just snuck
14 in on its own.

15 MR. CAMPBELL: I would recommend changing to
16 the calendar days.

17 MR. VANDERGRIFF: Any further questions?

18 (No response)

19 MR. VANDERGRIFF: Seeing none, thank you.

20 And we now have Carol Davis, from Motor Carrier
21 Division of TxDOT, here to talk to us about motor carrier
22 rules.

23 MS. DAVIS: Good afternoon. For the record,
24 I'm Carol Davis, Director of TxDOT's Motor Carrier
25 Division. First of all, I would like to extend my
26 congratulations to the chair and board members on the

1 creation of this new state agency and your appointment
2 to its board. You are welcome.

3 The proposal before you, Texas Administrative
4 Code, Chapter 218, transfers existing motor carrier
5 registration, investigation, and enforcement rules from
6 TxDOT to the Texas DMV per House Bill 3097. Amendments
7 are also included in these rules to implement the
8 provisions of House Bill 2985 from the last legislative
9 session. These amendments require motor carriers to
10 provide a USDOT number when applying for operating
11 authority from the Texas DMV and provides for the DMV to
12 issue USDOT numbers in the future.

13 Additionally, new amendments also authorize the
14 DMV to revoke or deny motor carrier registration for a
15 for-hire carrier of passengers -- that's a charter bus --
16 if federal operating authority is revoked, suspended, or
17 denied, and also authorizes the DMV to issue cease and
18 desist orders if the agency determines it is necessary to
19 protect the public health and safety. The purpose of both
20 of these sections is to give the DMV greater authority in
21 getting repeat violators off the road.

22 And unless you have any questions, your staff
23 is recommending board approval to post the rules for
24 public comment.

25 MR. VANDERGRIFF: Have any questions?

26 (No response)

1 MR. VANDERGRIFF: Before you leave, I do
2 want to note the great work that Carol Davis did in
3 studying this option that we've now created the Department
4 of Motor Vehicles and in working with -- through Motor
5 Carrier Department, and she is split it two, so to speak -
6 -

7 MS. DAVIS: Yes.

8 MR. VANDERGRIFF: -- which is very difficult,
9 but we will continue to enjoy working with you and look
10 forward to making this whole thing work.

11 MS. DAVIS: Thank you. I appreciate it.

12 MR. VANDERGRIFF: And again, I want to offer my
13 congratulations for a lot of hard work and for the great
14 job you do at your department.

15 MS. DAVIS: Thank you.

16 MR. VANDERGRIFF: With that, I would be seeing
17 any questions, in general, on the proposed rules. Again,
18 this is just for publication at this point. I'm not sure.
19 Do I have someone willing to make a motion? I know, but
20 I'm not sure who has this motion. May I get someone to
21 make a motion for approval of posting these rules?

22 MR. BUTLER: I make a motion we approve the
23 rules, the publication of the rules as presented by --

24 MR. VANDERGRIFF: Thank you, Mr. Butler. Do I
25 have a second?

1 MR. WALKER: I'll second that motion.

2 MR. VANDERGRIFF: We'll get to discussion
3 afterwards.

4 MS. SECORD: Member Campbell had responded to
5 Mr. Bray's recommendation for one change. So I just
6 wanted to remind you all of that.

7 MR. VANDERGRIFF: Thank you very much.

8 Making sure I have a second on record? Was
9 that --

10 MR. WALKER: I second the motion.

11 MR. VANDERGRIFF: Mr. Walker seconds. Now to
12 have discussion.

13 MR. CAMPBELL: And the discussion is regarding
14 the 45 days, calendar days versus working days. I think
15 the statute -- you know, there was discussion on the 45
16 days, whether -- it used to be 21 days, calendar days or
17 working days or something, and now it's 45 days. So I'd
18 just like it to be clarified and be posted as the 45
19 calendar days.

20 MR. VANDERGRIFF: You're offering an amendment
21 to this motion?

22 MR. CAMPBELL: Yes, sir.

23 MR. VANDERGRIFF: All right. Do I have a
24 second to that?

25 MS. MARZETT: Second.

1 MR. VANDERGRIFF: All right. Second from
2 Board Member Marzett. So with that, we have to vote on
3 that amendment first and then the full motion. All in
4 favor of that amendment, signify by raising their right
5 hand, aye.

6 (Chorus of ayes)

7 MR. VANDERGRIFF: Thank you. And now we'll go
8 to the full motion as amended. Any discussion on that
9 motion?

10 (No response)

11 MR. VANDERGRIFF: Seeing none, I will call for
12 your votes. Raise your right hands, signifying aye.

13 (Chorus of ayes)

14 MR. VANDERGRIFF: The motion carries. So with
15 that, the proposed rules as presented to us, with the one
16 change, will be published and moved forward in the process
17 here.

18 With that, I'd move to Item 5(B), which is the
19 Handling of the Contested Cases Process and Final Order
20 Authority.

21 MS. SECORD: Good afternoon. I have looked
22 carefully at the statute and the bill that created this
23 board, and I recommend a resolution -- because the
24 language is somewhat detailed, staff, very able staff, has
25 reduced it to specific language that's before you in the

1 form of a resolution that Mr. Campbell has and will
2 share with you.

3 Because of some of the wording in the statute,
4 in Chapter 2301 of the Occupations Code, it's my
5 recommendation as your Interim General Counsel that you
6 adopt a resolution clarifying for the regulated industry
7 and the public at this time that it is our interpretation
8 of the statute that you, the members of the board, have
9 the order authority in contested cases in Occupations Code
10 2301, with the exception of cases brought under Subchapter
11 M, and that the executive director of the Texas Department
12 of Motor Vehicles, or his or her authorized delegate, has
13 the order authority in contested cases involving the
14 Vehicle and Titles Registration Division and the Motor
15 Carrier Divisions, and that the director of the Motor
16 Vehicle Division of your agency has the order authority in
17 contested cases involving Subchapter M of 2301 and
18 Transportation Code 503.

19 Translated into layperson's language, what that
20 means is that this board, in our view, has the final order
21 authority over those cases that the former Motor Vehicle
22 Board did. And those would be cases falling under 2301 of
23 the Occupations Code that do not involve the Lemon Law.
24 The Lemon Law is specifically covered under Subchapters --
25 it's 6.06(a) of Subchapter M, indicates that the director
26 of the division does make the final decision in Lemon Law

1 cases.

2 And for enforcement matters covered under
3 Chapter 503 of the Transportation Code, those are by
4 statute handled like Lemon Law, which would mean the
5 director makes those. But there are some, in our view,
6 left for you all. So it's our recommendation that you
7 make this clarification now so that people with cases
8 pending know to whom they should go and who's going to
9 hear them and all of that.

10 But we also think that the scholarly lawyers at
11 the Attorney General's Office ought to do some heavy
12 lifting and help us out here too. So we -- I also
13 recommend that you authorize the chair to make a formal
14 request for an Attorney General opinion to look into this
15 matter and give us a formal opinion on that, as well as
16 the question as to how many of the board members -- if our
17 interpretation is correct that the board hears some
18 matters, how many of the board members are authorized to
19 vote. So that's my recommendation.

20 MR. VANDERGRIFF: Thank you. Any questions.

21 MR. WALKER: Yes.

22 MR. VANDERGRIFF: Go ahead, John.

23 MR. WALKER: Roughly how many cases are out
24 there that we're assuming responsibility of?

25 MS. SECORD: You know, I talked with staff
26 yesterday, and I have to tell you, I do not have another

1 client who can respond as quickly or graciously to
2 stupid questions as the Motor Vehicle Division staff.
3 They were back to me within an hour. My understanding is
4 that there's a total of nine. Eight fall under the
5 regular 2301. I think they're --

6 Molly Cost is here, and she and Brett Bray are
7 the experts on this. But there's one enforcement case and
8 eight others, I think. Is that right? Ms. Cost is
9 nodding, for the record, if we could have that -- yes. So
10 it's nine cases.

11 MR. WALKER: And that's just in the Motor
12 Carrier Division, or are those cases also still over in --

13 MR. VANDERGRIFF: Just Motor Vehicle.

14 MS. SECORD: Motor Vehicle.

15 MR. WALKER: Okay.

16 MS. SECORD: It's basically going to be -- and
17 Ms. Cost and Mr. Brett will correct me if I'm wrong, and
18 they'll tell you I'm often wrong. But it's cases
19 involving a motor vehicle dealer and manufacturer in a
20 situation in which the manufacturer wants to terminate the
21 dealer. It's cases involving a situation where a dealer
22 wants to sell their dealership, and the manufacturer has
23 said, No, you can't; I don't want to take the guy you want
24 to sell it to.

25 It's cases where a dealer wants to relocate,
26 and that's fine with the manufacturer, but it's not fine

1 with the dealer in the same line make who fits within
2 the geographic statutory area that allows them to protest.

3 So it's those kinds of cases involving motor vehicle
4 dealers and manufacturers, and then some enforcement
5 cases.

6 MR. WALKER: What about Ms. Davis' division
7 that also --

8 MS. SECORD: Those are -- the resolution at
9 Item 2 of the resolution indicates that VTR and Motor
10 Carrier, those contested case decisions are made by the
11 executive director of your agency, once you have one.
12 Once you have one. And an earlier motion today has put
13 you on the path to having one. That person or their
14 authorized delegate would make those.

15 MR. WALKER: So until we have a director, those
16 cases will just be hanging out there, I guess?

17 MS. SECORD: I do not know how many of those
18 cases there are, but at --

19 MR. VANDERGRIFF: At this point, I wouldn't
20 think we'd be hanging. The directors are -- although we
21 may need to have another motion with respect to making
22 sure that the directors who have that authority at the
23 moment are authorized to continue.

24 MS. SECORD: I think that's covered by Item 3
25 of the resolution that says the processes established by
26 the divisions continue. And I think if there are any, I'm

1 not sure that there are --

2 MS. COST: There's three or four.

3 MS. SECORD: There's three or four. They would
4 continue as they are, because the statute is much clearer
5 that that moves.

6 MR. VANDERGRIFF: And by the way, just to note
7 that the only dumb question is the one you don't ask. So
8 thank you for asking all those questions.

9 MS. SECORD: Yes.

10 MR. CAMPBELL: Mr. Chair, I'd like to make a
11 motion.

12 MR. VANDERGRIFF: All right.

13 MR. CAMPBELL: I'd move that the board adopt
14 the resolution before you, but also I'd like to add that
15 they request that the chair ask for a formal Attorney
16 General opinion on this matter and on the question as to
17 our board's voting ability.

18 MR. VANDERGRIFF: Okay.

19 MR. BUTLER: Second.

20 MR. VANDERGRIFF: Have a second by Mr. Butler.

21 Any discussion on it?

22 (No response)

23 MR. VANDERGRIFF: All those in favor, please
24 raise your right hand?

25 (Show of hands)

26 MR. VANDERGRIFF: Seeing no one opposed, motion

1 carrier unanimously. Again, on all of these votes,
2 Board Member Rodriguez is absent, as we've noted before.

3 With that, we come to Item 5(C) on the agenda,
4 which is on the Memorandum of Understanding, which is hot
5 off of the press this morning.

6 MR. HARBESON: Good afternoon, Chairman
7 Vandergriff and other board members. My name is Bill
8 Harbeson. I'm an attorney with the Motor Vehicle Division
9 of the DMV.

10 You have been presented with a copy of the
11 memorandum of understanding, which is called for House
12 Bill 3097. The Legislature, when they created the new
13 agency, directed that the Texas Department of
14 Transportation and the new agency enter into a joint
15 memorandum of understanding or contract by which the
16 duties and responsibilities of TxDOT were transferred to
17 the new agency, the employees of the affected divisions
18 that you've discussed today were transferred, FTEs that
19 will be filled with the central administration staff were
20 moved to that agency, as well as necessary funding for
21 funding those positions.

22 Again, I believe you have the memorandum of
23 understanding in front of you, and at this time, I ask if
24 you have any questions about the agreement, which was
25 finished earlier today.

26 MR. VANDERGRIFF: Does anyone have any
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1 questions of it?

2 (No response)

3 MR. VANDERGRIFF: I don't believe so. Don't
4 see any. All right. Thank you very much. Appreciate it.

5 MR. HARBESON: Yes, sir.

6 MR. VANDERGRIFF: With that, I would submit
7 this to you for a motion, if I could.

8 MR. BUTLER: Motion to approve the MOU.

9 MR. VANDERGRIFF: I have a motion from Mr.
10 Butler to approve the MOU. Do I have a second?

11 MS. JOHNSON: I second.

12 MR. VANDERGRIFF: A second from Ms. Miller --
13 or excuse me, Ms. Johnson. I apologize. With that, any
14 discussion on it?

15 (No response)

16 MR. VANDERGRIFF: All right. Seeing none, I'd
17 ask you to raise your right hand signifying support.

18 (Show of hands)

19 MR. VANDERGRIFF: Motion carries unanimously.
20 And again, Director -- excuse me -- Board Member -- I'll
21 get all these titles right -- Board Member Rodriguez is
22 absent today.

23 With that, I'd move to the last item, or next-
24 to-last item on our agenda, which is 5(D), and that is
25 regarding insurance matters.

26 MS. SOLDANO: Again, for the record, I'm

1 Jennifer Soldano with the Vehicle Titles and
2 Registration
3 Division. I'm legal counsel, and I'm going to talk to you
4 a little bit about your insurance choices.

5 The first one I'm going to cover is automobile
6 insurance. We have 43 vehicles that are owned by the
7 department. Under my recommendation, the chair already
8 signed the agreement for that, since we had employees as
9 of Sunday, some of those employees were traveling. We
10 needed to be covered if they were traveling.

11 The insurance policy right now is for 41
12 vehicles. We just added two vehicles, so that will up
13 updated. The cost for the 41 vehicles is \$11,512 for the
14 year. The coverage limit is the usual 250,000; 500,000;
15 100,000. The 250,000 for one person; 500,000 for more
16 than one person; and then the \$100,000 for property
17 damage. There is a million dollar combined single limit
18 if the Tort Claims Act does not apply. There is no
19 deductible.

20 And this is going to cover our vehicles as well
21 as if personal vehicles are used, with the caveat that
22 first the personal insurance -- for example, my vehicle,
23 if I'm using my vehicle to go to a conference, my
24 insurance kicks in first, and then the department's
25 insurance comes into play. There are some notable
26 exclusions: medical payments, uninsured, under-insured,

1 comprehensive physical damage, and collision. So this
2 is your usual bare bones insurance.

3 The property insurance is through Wells Fargo.
4 This is going to really cover our three regional offices
5 that are not TxDOT property. We have the advantage, while
6 we were in TxDOT property, that TxDOT's insurance, per
7 se -- they're self-insured -- covers us. So the annual
8 premium for the property insurance is \$922 for these three
9 regional areas we lease the space. The coverage limit is
10 \$100 million for every one occurrence, which I don't think
11 we could ever get to with these three regional offices.
12 There is a deductible of 10,000 per occurrence.

13 Notable exclusions: within a hundred miles of
14 the coast, if a hurricane's reported -- these are not in
15 that area, and mold and fungus. Mold and fungus comes up
16 as an exclusion on pretty much everything.

17 The third is a directors and officers liability
18 insurance through Arthur J. Gallagher Risk Management
19 Services. And I should mention that all of these
20 insurances are obtained through the State Office of Risk
21 Management. That is a state agency established for all
22 but a few agencies. Very large agencies are self-insured,
23 like U.T. and Department of Transportation. Other
24 agencies get their insurance or workers' compensation all
25 through the State Office of Risk Management, which offers
26 us the lower premiums.

1 There are three choices with the directors
2 and officers liability insurance. There is a 100 million
3 -- I'm sorry. There's -- yes, a hundred -- an annual
4 premium of \$59,687 for an aggregate of 100 million -- it's
5 one million in coverage. B is 140,000 for 3 million, and
6 C 179- for 5 million in coverage.

7 This is what it covers. It covers the
8 professional actions of the board members. This might be
9 especially important to you as you will be doing the
10 contested cases. It covers the directors. It covers the
11 officers. It covers the accountants. It covers the
12 attorneys. It includes neglect; error and omissions;
13 misstatements; some employment practices; mismanagement of
14 funds and grants; denial of permits, which we do have some
15 permits; First Amendment constitutional claims; violations
16 of employment law; discriminatory employment; sexual
17 harassment; failure to hire, promote, or train; punitive
18 damages; and a defense if that's not provided by the
19 Office of the Attorney General. Realistically,
20 constitutionally, the Office of Attorney General always
21 represents us; therefore, the insurance company sits in as
22 second chair and helps out.

23 On notable exclusions, fungus and mold again.
24 I don't know why. Didn't make any sense, but it's in the
25 policy. Fraud and criminal acts are excluded; breach of

1 contract, except for employee practice violations;
2 intellectual property; violations of the Fair Labor
3 Standards Act, except as to equal pay; ADA facility
4 claims, such as we don't have access ramps, things to that
5 nature; claim of a violation of a civil right or of third-
6 party employment practices.

7 We've already signed the automobile liability
8 insurance, because we have to either say we're going to be
9 self-insured or have insurance. We had to make that
10 decision, and that was very reasonable. We have not
11 signed the property, but our staff recommendation, at
12 \$922, is to sign the property.

13 The directors and officers liability insurance
14 is more expensive. I did some research of the other mid-
15 size agencies. In general, there are 24 state agencies
16 who currently participate in the directors and officers
17 liability insurance program. Among them are the State
18 Office of Risk Management, who, of course, procures the
19 insurance; the Office of Court Administration; the
20 Teachers Retirement System; the State Library and
21 Archives; the Texas Lottery Commission; the Texas Board of
22 Architectural Examiners; and the Railroad Commission of
23 Texas. And this was just an informal summary I sent out
24 to the agencies, but there's a total of 24.

25 Again, your choices are really the -- are, at
26 the premium level, we've got 1, 3, and 5 million that

1 cover the same thing. There's a \$50,000 deductible no
2 matter what.

3 Uh-huh?

4 VOICE: You keep saying 1, 3, and 5, and my
5 listing says 100.

6 MS. SOLDANO: I'm sorry. You're correct. It's
7 100 million, 300 million.

8 VOICE: So it's not the 1.

9 MS. SOLDANO: It's not 1.

10 VOICE: It's the 100s. Okay.

11 MS. SOLDANO: Right. 100. The 100 million
12 is -- that's a big difference with the zeros. 100
13 million. You're right. Just under 60,000 for premium for
14 100. You're at 140 million with 300, and then just under
15 180 with the 500.

16 MR. VANDERGRIFF: You didn't say -- you said
17 the 24 state agencies. What typically do they have?

18 MS. SOLDANO: I'm not sure. Typically they
19 have -- I imagine it depends on -- partially on their
20 budget, but \$100 million seems to be quite a bit.

21 MR. VANDERGRIFF: Yes.

22 MR. CAMPBELL: What type of -- in a state
23 agency, isn't there some sort of liability -- I mean, some
24 kind of -- you've got some kind of coverage in serving in
25 the capacity of the State?

26 MS. SOLDANO: You're talking about sovereign

1 immunity.

2 MR. CAMPBELL: Yes.

3 MS. SOLDANO: So it's actually -- it's a
4 defense --

5 MR. CAMPBELL: Yes.

6 MS. SOLDANO: -- to a lawsuit against a person.

7 And Linda can probably better address it. But there is
8 a -- that's a defense, it's a state -- and normally we are
9 able to get -- the Attorney General's Office is able to
10 get individual -- named individuals out of the State, so
11 they're just suing the actual State. But this would cover
12 the State as well. It may not go against the board member
13 themselves, but the State.

14 MR. VANDERGRIFF: Does the department have a
15 recommendation with respect to the director and officer
16 liability insurance?

17 MS. SOLDANO: I think the legal counsel
18 suggests that we at least do the minimum. This is
19 something we can do -- also all of these things are annual
20 premiums. If we decide we do not need them next year, we
21 can forgo them next year. With the contested cases,
22 whether you are the deciding person or Mr. Bray is the
23 deciding person, there is some risk --

24 MR. VANDERGRIFF: Sure.

25 MS. SOLDANO: -- to being the judge on those
26 cases. Would you be comfortable waiting a month until

1 December and I can get more information from the other
2 agencies, what they have?

3 MR. VANDERGRIFF: Me personally, that would be
4 a good idea.

5 VOICE: Will we have coverage in the meantime?

6 MS. SOLDANO: We have the automobile coverage
7 right now. We do not have the property or the directors
8 and liability.

9 MR. VANDERGRIFF: Well, that's up to the board
10 in this regard. If you're prepared to decide on this now
11 or make a motion and decide on it, then certainly we can
12 take it up.

13 MS. SECORD: Is it okay if I make a --

14 MS. SOLDANO: Please.

15 MS. SECORD: Let me make a suggestion then,
16 from what I'm hearing. The property and the vehicles, I
17 think, are a very good idea. Why don't -- I mean, so my
18 recommendation would be that the one thing you table would
19 be the officers and directors and let us see how exactly
20 how much you need and what kind of defenses you would have
21 without it.

22 MR. CAMPBELL: And AG's going to cover us until
23 that time?

24 MS. SECORD: Nobody tell General Abbott I said
25 that.

26 MS. JOHNSON: The other piece of information

1 that I am curious about is you mentioned four mid-sized
2 agencies that do not participate in this, and I'm really
3 surprised to see the ones listed that do. You would think
4 the Department of Banking would absolutely have director
5 liability insurance. So I would also be curious as to
6 what coverage, what protects those directors in lieu of
7 this, because they have to have something.

8 MR. RUSH: Can I ask a question?

9 MR. VANDERGRIFF: Absolutely.

10 MR. RUSH: This is protection for the board
11 members and everybody else. Correct?

12 MS. SECORD: It extends farther down into the
13 staff to the division directors.

14 MR. RUSH: Well I'm a public company, and we've
15 got 50 million on us and our law firm says, That won't pay
16 your legal bills if you get in a big one. So what are
17 they for?

18 MR. WALKER: Wouldn't pay the legal bills.

19 MR. RUSH: Uh-huh.

20 MR. WALKER: Well, I just renewed a policy on
21 another board I'm on, and it wasn't near this much money
22 for this same kind of coverage, and that's a pretty
23 significant board also. I'm telling you, I think the
24 premium -- we need to get some more bids on this to start
25 with.

26 MS. SECORD: Then I recommend that you let us

1 look into that one. I'm a little worried about you not
2 having the property and the vehicles, and that's \$12,000.

3 MR. CAMPBELL: I think the property and
4 vehicles, because of the coverage, I don't think there's a
5 question there. It's just I think the premium for this,
6 when you already have a state agency that's kind of got
7 immunity to some degree, and we've got counsel also, the
8 premiums should maybe be a little less, is what --

9 VOICE: That's what I would think.

10 MR. GILLMAN: I'd say for \$100 million worth of
11 coverage --

12 VOICE: It's only a million.

13 MR. GILLMAN: -- 80,000 -- huh?

14 VOICE: It's the 100 million?

15 MR. GILLMAN: Yes, but a 100 million worth of
16 coverage?

17 MS. SOLDANO: Right.

18 MR. GILLMAN: 100 million worth of coverage for
19 \$80,000 is nothing. I mean, they must not think there's
20 much of a risk.

21 VOICE: Do we --

22 MS. SECORD: I'm sorry.

23 MR. WALKER: Another question.

24 MR. GILLMAN: We're talking about 100 million.

25 MR. WALKER: 100 million. Okay. Do we have it
26 in a budget somewhere, this money to pay this, is my next

1 question?

2 MR. RUSH: I'll say this. Ours is more than
3 that for 50 million.

4 MR. VANDERGRIFF: I think, given the level of
5 discussion, I think it's appropriate that we bring this
6 back at the next meeting with a little more information.
7 So that's appropriate.

8 MS. SOLDANO: And if you would like, I can also
9 get a representative from the State Office of Risk
10 Management.

11 MR. VANDERGRIFF: I think that's a good idea.
12 I think that's appropriate.

13 So with that, assuming no other further
14 questions at the moment, we'll bring this particular item
15 back up, and then I would ask to entertain a motion for
16 approval of the insurance for both the automobiles and the
17 property.

18 MR. GILLMAN: I so move.

19 MR. VANDERGRIFF: Okay. Have a motion from Mr.
20 Gillman.

21 MR. CAMPBELL: Second.

22 MR. VANDERGRIFF: And a second from Mr.
23 Campbell. Any further discussion on it?

24 (No response)

25 MR. VANDERGRIFF: All right. With that, I
26 would call for your vote. Raise your right hand, please,

1 in support?

2 (Show of hands)

3 MR. VANDERGRIFF: Motion carried. Anybody
4 against.

5 (No response)

6 MR. VANDERGRIFF: No. Motion carries
7 unanimously. So we'll do that. We'll hear back from you
8 first of next month.

9 With that, this is not an agenda item, but I
10 think it's okay to bring up the fact that we'll have a
11 board meeting coming up. I'm asking that we reserve the
12 2nd and perhaps the 3rd, given the level of contested
13 cases that we might have to look at and the potential for
14 an interim -- or excuse me, the potential for an executive
15 director discussion.

16 So with that, I'd ask you to keep that on your
17 calendar. Between now and then we will work out a
18 schedule which we would vote on and adopt at our next
19 meeting for a schedule of meetings for 2010, that we'd
20 have a standing time that people could count on in the
21 public and certainly on the board.

22 MR. CAMPBELL: 2nd and --

23 MR. VANDERGRIFF: 2nd and the 3rd. And I
24 appreciate very much everybody coming together here at the
25 inaugural first meeting of the Department of Motor
26 Vehicles Board. I would like to think it's been a

1 successful board, getting through a lot of paperwork,
2 moving on time.

3 Yes. That's right. I'm sorry. There is one
4 item I've got. Since we have it at the end of the
5 session, we do -- I moved it to the end, and that is if
6 anybody here from the public that would like to comment on
7 a matter that hasn't been addressed in our agenda already,
8 certainly the floor and the mike is open to you.

9 (No response)

10 MR. VANDERGRIFF: In the future, we'll move
11 that back as it's posted on our agenda, up at the top, so
12 that people can come and be able to talk. Did you have
13 something you'd like to say? Okay. I saw you look for --
14 motion for a mike.

15 All right. Well, thank you very much.

16 Well, seeing nothing further, anybody from the
17 public comment, do any of my fellow board members have
18 anything they'd like to say?

19 (No response)

20 MR. VANDERGRIFF: All right. Seeing nothing,
21 with that, I would entertain a motion to adjourn.

22 MR. RUSH: Make a motion.

23 MR. GILLMAN: Second.

24 MR. VANDERGRIFF: Have a motion from Mr. Rush
25 and a second from Mr. Gillman. No discussion, obviously,
26 on that one. Everybody raise your right hand, if you're

1 in support of the motion.

2 (Show of hands)

3 MR. VANDERGRIFF: Motion carries unanimously.

4 Thank you very much. We are adjourned.

5 (Whereupon, at 4:05 p.m., the meeting was
6 concluded.)

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MEETING OF: Texas Department of Motor Vehicles Board

LOCATION: Austin, Texas

DATE: November 4, 2009

I do hereby certify that the foregoing pages,
numbers 1 through 182, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Joe Schafer before the
Texas Department of Transportation.

(Transcriber) 11/24/09
(Date)

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