

TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

Thursday,
February 8, 2018

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

BOARD MEMBERS:

Raymond Palacios, Chair
Blake Ingram, Vice Chair
Robert "Barney" Barnwell, III
Luanne Caraway
Brett Graham
Kate Hardy
Gary Painter
Guillermo "Memo" Treviño
Johnny Walker

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- Amendments, §217.41
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 (Proposal Published December 22, 2017 -
 42 Tex. Reg. 7371)
 - Amendments, §217.123 and §217.124
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 (Proposal Published December 22, 2017 -
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EXECUTIVE SESSION

- | | | |
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| 21. | The Board may enter into closed session under
one or more of the following provisions of the
Texas Open Meetings Act, Government Code,
Chapter 551:
<ul style="list-style-type: none"> • Section 551.071 • Section 551.074 • Section 551.089 | 130 |
| 22. | Action Items from Executive Session | none |
| 23. | Public Comment | none |
| 24. | Adjournment | 131 |

P R O C E E D I N G S

1
2 MR. PALACIOS: Good morning, everybody. It's a
3 great day in Austin, Texas. So happy to have everyone
4 here with us today.

5 My name is Raymond Palacios, and I'm pleased to
6 open the Board meeting of the Texas Department of Motor
7 Vehicles. It is 8:01 a.m., and I'm now calling the Board
8 meeting for February 8, 2018 to order. I want to note for
9 the record that public notice of this meeting, containing
10 all items on the agenda, was filed with the Office of the
11 Secretary of State on January 31, 2018.

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

17 If you wish to address the Board or speak on an
18 agenda item during today's meeting, please complete a
19 speaker's sheet at the registration table. Please
20 identify on the sheet the specific item you are interested
21 in commenting on and indicate if you wish to appear before
22 the Board and present your comment or if you only wish to
23 have your written comment read into the record. If your
24 comment does not pertain to a specific agenda item, we
25 will take your comment during the general public comment

1 portion of the meeting. In accordance with the
2 department's administrative rules, comments to the Board
3 will be limited to three minutes. To assist each speaker,
4 a timer has been provided. The timer light will be green
5 for the first two minutes, yellow for one minute, and then
6 red when your time is over. Individuals cannot accumulate
7 time from other speakers. Comments should be pertinent to
8 the issues stated on the comment sheet. When addressing
9 the Board, please state your name and affiliation for the
10 record.

11 Before we begin today, I'd like to remind all
12 presenters of the rules of conduct at our Board meetings.

13 In the department rules, Section 206.22, the board chair
14 is given the authority to supervise the conduct of the
15 meetings. This includes the authority to determine when a
16 speaker is being disruptive of the meeting or otherwise
17 violating the timing or presentation rules I just
18 discussed.

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

21 Board Member Caraway?

22 MS. CARAWAY: Present.

23 MR. PALACIOS: Board Member Graham?

24 MR. GRAHAM: Present.

25 MR. PALACIOS: Board Member Hardy?

1 MS. HARDY: Present.

2 MR. PALACIOS: Board Member Ingram?

3 MR. INGRAM: Present.

4 MR. PALACIOS: Board Member Painter?

5 MR. PAINTER: Present.

6 MR. PALACIOS: Board Member Treviño?

7 MR. TREVIÑO: Here.

8 MR. PALACIOS: Board Member Walker?

9 MR. WALKER: Here.

10 MR. PALACIOS: Board Member Barnwell?

11 (No response.)

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

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

19 (The Pledge of Allegiance was recited.)

20 MR. PALACIOS: Thank you.

21 We'll begin today with agenda item 3.A, Section
22 1001.023 of the Transportation Code sets out the duties of
23 the Board chair and vice chair. One of the duties of the
24 chair is to report to the governor on the state of affairs
25 of the department. The report is in a final draft and

1 will be submitted to Governor Abbott very soon. This
2 report includes updates on the agency's key
3 accomplishments, revenues, expenditures, 2017 performance
4 data, operations, facilities, technological improvements
5 through enterprise projects, and significant legislation
6 enacted by the 85th Legislature. The report will be
7 distributed to legislators as we meet with them and their
8 staff.

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

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

25 All right. Welcome, Carrie. So happy to have

1 you here.

2 (Applause.)

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

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

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

19 MS. BREWSTER: Thank you, Chairman Palacios.

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

21 MR. PALACIOS: Sure.

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

1 the know when it comes to this important effort.

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

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

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

24 With that, I'm happy to answer any questions o
25 this item.

1 (No response.)

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

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

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

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

23 The volume of applications continues to
24 decrease from the peak season in October, and we have now
25 scaled back to having about six temporary employees on

1 board to help process the increased number that we're
2 still seeing. We're not seeing as many but it still is an
3 increased amount that are coming into the agency.

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

12 MR. WALKER: What was the percentage?

13 MS. BREWSTER: To the same time period in 2016,
14 October to December.

15 MR. WALKER: What was the number?

16 MS. BREWSTER: 131 percent increase.

17 MR. WALKER: 131 percent?

18 MS. BREWSTER: Yes, sir.

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

23 (No response.)

24 MS. BREWSTER: I am very pleased to announce
25 the hiring of Timothy Menke.

1 Tim Menke, if you don't mind standing up and
2 letting everybody see your face.

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

17 Prior to joining TxDMV, Tim served as vice
18 president for program integrity for Meridian Healthcare
19 Solutions, and was responsible for designing programs to
20 eliminate fraud, waste and abuse in federal contracts and
21 ensuring compliance with federal and state regulations.
22 He also has served as the assistant deputy inspector for
23 investigations for the Texas Health and Human Services
24 Commission, and he is a 26-year veteran of being a federal
25 agent, specializing in fraud investigations at the United

1 States Department of State and United States Department of
2 Health and Human Services. He was also the deputy
3 inspector general at HHS. So Mr. Menke has great
4 experience, we're really lucky to have him on board.

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

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

15 (Applause.)

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

1 in protecting our stakeholders, protecting citizens
2 throughout Texas.

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

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

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

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

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

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

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

23 (Applause.)

24 MS. YANCEY: Linda currently serves in the
25 Vehicle Titles and Registration Division as the

1 department's chief of registration. Linda started her
2 career at the Wichita Falls Regional Service Center where
3 she served for 20 years. She left Wichita Falls to assume
4 her current position where she has served for 15 years and
5 has the distinction of being the longest tenured chief of
6 registration in TxDOT and TxDMV history.

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

9 (Applause; pause for presentation and photos.)

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

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

19 Thank you.

20 (Applause.)

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

23 MR. PALACIOS: Thank you, Ms. Brewster.

24 MR. TREVIÑO: Mr. Chairman, I've got a question
25 for Ms. Brewster.

1 Whitney, have we seen an increase in fraud
2 around salvage and flooded vehicles after the hurricane?

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

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

19 I can tell you the primary reason why we
20 brought on those additional temporary employees, in
21 addition to meeting the statutory requirement, is to get
22 as quickly as possible in the registration and titling
23 system the brands that are associated with those vehicles
24 so that people aren't purchasing those unknowingly, those
25 flooded vehicles. But specifically to your question,

1 Member Treviño, you have two very capable folks up there
2 to answer your questions.

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

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

11 MR. TREVIÑO: Great. Jeremiah, anything?

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

18 There's obviously vehicles that are going to be
19 flood vehicles that don't apply for salvage titles. We
20 had this testimony actually in the House Transportation
21 Committee yesterday, this topic came up, and one of the
22 things that we relayed to the committee is that in an
23 insurance claim where there is a full coverage insurance
24 policy, we are highly confident that the insurance
25 companies are bringing those vehicles in to get salvage

1 titles so that they can dispose of those vehicles
2 properly. However, individuals that do not have full
3 coverage insurance, that have some lower level liability
4 insurance or no insurance, it is very difficult to compel
5 those folks to come in and actually apply for a salvage or
6 non-repairable vehicle.

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

19 We always highly encourage anybody that's
20 purchasing a used vehicle to bring it to a mechanic and
21 ensure that they have that vehicle fully looked through,
22 check the oil to make sure that there's not any water
23 that's showing up in the oil, in the transmission fluid,
24 those places, because those would be other indicators that
25 something had happened to that vehicle.

1 MR. TREVIÑO: Great. Thank you very much.

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

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

14 MR. GRAHAM: Thank you.

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

18 MR. KUNTZ: So there's two titles that result
19 out of this flood event. So we have salvage vehicles. A
20 salvage vehicle, the repairs exceed the cash value of that
21 vehicle, so the example I would give is a \$5,000 vehicle
22 that has an estimate of repairs of \$5,200, that would be
23 considered a salvage vehicle. It can be rebuilt, it has
24 to go through the rebuild process, you have to demonstrate
25 during the rebuilt application process receipts and

1 repairs that were made to that vehicle to show that you
2 have brought it back to roadworthiness, and it must pass a
3 vehicle safety inspection. A non-repairable vehicle,
4 however, the only residual value of that vehicle is as
5 scrap or parts, and those vehicles cannot be repaired and
6 can never be registered for operation back on the roadway.

7 We definitely have quite a number of non-repairable
8 vehicles that are coming out of the Harvey event. Those
9 vehicles are heading to the scrap yards to be parted out
10 or to be crushed.

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

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

21 MR. PALACIOS: Okay. In a case in which a
22 vehicle is not insured, I know there are -- well, let's go
23 to a vehicle that is insured, there are third party
24 companies, Auto Check, the other one I don't remember,
25 where a consumer can go and determine whether or not a

1 vehicle has been either salvaged or it's branded. Is
2 there any other way within our database that a consumer
3 can go to to verify whether or not a VIN number has a
4 salvage title on it?

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

20 MR. WALKER: So, Jeremiah, there's hundreds of
21 thousands of cars a year, regardless of the flood or not,
22 that go from Texas down to Mexico, so is there any
23 protection for a Mexican citizen that a car leaves here,
24 gets shipped down to Mexico and sold down there, do they
25 know it's a flooded car or not?

1 MR. KUNTZ: Well, I can't speak to Mexico's
2 title requirements. I know that once we've issued a
3 salvage or non-repairable title, I'm not sure if Mexico
4 requires that that title be presented there in order to
5 obtain ownership documentation in Mexico, but that would
6 be available to them.

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

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

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

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

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

20 MR. DUNCAN: My understanding currently,
21 because we've had some issues with this, is that the
22 Mexican government has instituted a block such that
23 vehicles cannot cross the border unless they are currently
24 operable in the country of origin. So it can't go from
25 Texas to Mexico if it's inoperable, it has to have current

1 registration and be operable, but I could check on that
2 just to be certain and we could get you a report.

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

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

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

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

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

18 MS. BREWSTER: Mr. Chairman.

19 MR. PALACIOS: Yes.

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

1 well as how to obtain a title check.

2 Thank you.

3 MR. PALACIOS: Thank you.

4 Any more questions on this issue?

5 (No response.)

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

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

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

24 One of the things that you'll see on this board
25 also -- sorry, I should have started with this -- we have

1 added all of the plates so that you can see all of the
2 different plate designs. Historically we've only brought
3 the passenger vehicle plate to the Board for view, but
4 we've gone ahead and added all of the different plates so
5 you can see the design on all of the different options
6 that will be available for this license plate design.

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

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

16 MR. KUNTZ: The next license plate is Route 66
17 license plate. We received 154 likes and 152 dislikes on
18 this license plate. One thing that I will note, there are
19 numerous other states that have a Route 66 license plate,
20 Arizona, Illinois, New Mexico and Oklahoma also have
21 variations of a Route 66 license plate. We have a very
22 small section of Route 66 up in the very northern part of
23 the State of Texas, but this would allow individuals that
24 are interested in a Route 66 license plate to obtain that
25 as well.

1 MR. WALKER: Are these all specialty plates
2 from MyPlates?

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

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

8 MR. TREVIÑO: I move we accept these.

9 MR. PAINTER: Second.

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

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

16 MR. PALACIOS: All opposed.

17 (A show of hands: Member Palacios.)

18 MR. PALACIOS: Motion carries.

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

20 MR. KUNTZ: We'll take up agenda item number
21 12, I believe is the next one I have. These are rules
22 that are for final adoption; we are seeking the Board's
23 decision on final adoption of these.

24 These rules relate to the retention of original
25 titles when a dealership or salvage dealer is processing

1 in our webDealer or webSalvage applications. These
2 amendments are to Chapter 217 of our Administrative Code.

3 They were published for public comment on December 22,
4 the comment period closed on January 22, we received no
5 comments on these rules. They already existed for dealers
6 to retain the original title documents, we've added that
7 for salvage dealers that are applying for salvage titles,
8 and we've reorganized all of this into one area, so that's
9 why the dealers are brought back into this where we tried
10 to consolidate all of those record retention issues around
11 webDealer and webSalvage into one area.

12 That concludes my presentation on agenda item
13 number 12.

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

18 MR. INGRAM: Second.

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

22 (A show of hands.)

23 MR. PALACIOS: Motion carries unanimously.

24 MR. KUNTZ: So the next agenda item is 13.

25 There are three rules that I'll be covering here. All of

1 these are for final adoption and these are amendments to
2 217.2, 217.41 and 217.123 and 217.124.

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

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

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

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

23 MR. KUNTZ: So on ATVs we require titling, they
24 cannot be registered. We are specifically defining that
25 recreational versus non-recreational use so that those

1 airport type vehicles would not be required to have a
2 title. We've had issues where people have inquired about
3 whether or not they required title or not.

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

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

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

17 MR. KUNTZ: Exactly.

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

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

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

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

25 MR. WALKER: Are they going to be titled?

1 MR. KUNTZ: No.

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

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

8 MR. WALKER: Okay.

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

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

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

25 MR. WALKER: So I get it that we issue those.

1 Number one is who seizes it; number two is if you've had
2 it seized why wouldn't you just walk in the tax assessor
3 office and say, Hey, I lost my tag, can I get a new one?

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

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

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

16 MS. CARAWAY: Starting over.

17 MR. KUNTZ: Yes.

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

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

23 MR. PAINTER: I think, also, under this
24 particular statute it says that a law enforcement officer
25 that seizes a placard must email DMV to let them know what

1 the circumstances are.

2 MR. KUNTZ: Correct. And we've had a process
3 by which they have notified the department in the past,
4 and so they would continue to just notify the department
5 so that we can mark those records. We've basically done
6 away with somebody submitting an appeal to the department.

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

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

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

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

18 MR. DUNCAN: The process was not being
19 followed. The process in statute was that the person who
20 had their placard seized was supposed to come to us and
21 request a hearing. In a handful of counties, the counties
22 were directing the people to do that, and so we were
23 getting large numbers from Bexar County, as I recall,
24 somewhere in northeast Texas, Tyler, I think, so there was
25 just a handful of counties that were actually following

1 the statute and everybody else was doing the practical you
2 come in and prove to me that you're entitled to a placard.

3 So we really just wanted the statute to be more
4 streamlined and more effective because some people were
5 waiting months and months to get their placards back and
6 that doesn't make a lot of sense. And it was a paper
7 exercise, their appeal to us was a paper document and we
8 would respond with a paper order that they would sign and
9 agree to. It just really was not much of a hearing
10 process, it really wasn't worth going through it.

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

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

17 MR. DUNCAN: Uncluttered it.

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

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

23 MR. KUNTZ: Part of the challenge that we had
24 with this process actually goes back to what Sheriff
25 Painter actually raised which was law enforcement was

1 required to notify us of a seized placard. In many
2 instances what we would see is that a placard would be
3 seized, the same day that individual would go into a
4 county office to get a replacement, law enforcement hadn't
5 even notified the department yet that the placard had been
6 seized, so they would obtain a replacement before the
7 seizure was even noted in the record and they would have
8 short-circuited the whole process which is why we just
9 said this process is not actually working the way it was
10 intended to work.

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

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

15 MR. WALKER: And how many is that?

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

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

19 MR. KUNTZ: We'll get them.

20 The next item?

21 MR. PALACIOS: Yes.

22 MR. KUNTZ: So the next item is amendments to
23 217.123 and 217.124. This relates to the charges for our
24 motor vehicle records and title histories that we provide.

25 It also has provisions related to who can obtain those

1 documents from the department for free.

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

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

24 With that, that completes my presentation on
25 agenda item 13.

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

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

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

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

19 And my general counsel is reminding me, also
20 clarifying who is getting those for free. We did not have
21 a clearly defined administrative rule over governmental
22 entities being able to obtain our records for free,
23 through practice we did provide those records for free to
24 governmental entities, and so we are codifying when they
25 get our weekly files, they can get those for free. They

1 must data mine them themselves, however, if they are
2 requiring the department to do either a batch inquiry or
3 look up and do certified title histories that they would
4 still have to pay for those services.

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

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

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

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

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

14 (No response.)

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

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

21 MR. PAINTER: Second.

22 MR. PALACIOS: Okay. We have a motion by Board
23 Member Treviño, second by Board Member Painter to adopt
24 the rules. All those in favor please signify by raising
25 your right hand.

1 (A show of hands.)

2 MR. PALACIOS: Motion passes unanimously.

3 Please proceed.

4 MR. KUNTZ: Agenda item number 14, this agenda
5 item we are seeking approval for amendments to 217.43,
6 217.45 and 217.46. These are rules that were previously
7 published, these are for final adoption.

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

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

24 We received no comments. The comment period
25 closed on January 2.

1 MR. PALACIOS: Are there any questions on this
2 item?

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

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

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

22 MR. KUNTZ: I'm looking for it.

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

25 MR. WALKER: No, no. Let's just pass it and

1 I'll find it.

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

5 MR. WALKER: No.

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

8 (No response.)

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

11 MS. HARDY: I move that the Board approve the
12 adoption of the amendments to Chapter 217, Sections
13 217.43, 217.45 and 217.46, as recommended by staff.

14 MR. GRAHAM: Second.

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

19 (A show of hands.)

20 MR. PALACIOS: Motion passes unanimously.

21 Please proceed.

22 MR. KUNTZ: The next agenda item is agenda item
23 number 15. These are amendments to 217.168, 217.185.
24 These are rules that are for final adoption; staff is
25 seeking approval for these.

1 These rules relate to the processing and
2 handling fee as it relates to a dealer deputy. When the
3 processing and handling fee was originally passed, \$1 from
4 the processing and handling fee was able to retained by a
5 dealer deputy when a dealer deputy processed the
6 transaction. This rule would allow for that \$1 to go to
7 the county tax assessor-collector, bringing their
8 compensation from \$1.30 to \$2.30, as it is for walk-ins,
9 mail-ins and other transactions that they process.

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

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

1 application changes that are necessary to fully implement
2 this rule.

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

15 MS. CARAWAY: So April or May time frame?

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

18 MS. CARAWAY: That's fine.

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

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

24 MS. BREWSTER: And, Mr. Chairman, we will also
25 make sure that we communicate that out to the tax

1 assessor-collector community because I know that they're
2 very interested in this, as well as the dealer community.

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

7 MR. KUNTZ: Yes.

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

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

18 MR. WALKER: Okay.

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

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

23 MR. PALACIOS: Are there any questions?

24 (No response.)

25 MR. PALACIOS: Hearing none, I will entertain a

1 motion to adopt the amendments.

2 MR. DUNCAN: Do you have a comment card?

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

6 MR. WALKER: You related to him?

7 MR. PALACIOS: No relation.

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

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

20 That's it. Thank you.

21 MR. PALACIOS: Thank you for your comments.

22 Are there any other questions on this item?

23 (No response.)

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

1 MR. INGRAM: Mr. Chairman, I'd move that the
2 Board approve the adoption of amendments to Chapter 217,
3 Section 217.168 and 217.185, as recommended by staff.

4 MR. PAINTER: Second.

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

9 (A show of hands.)

10 MR. PALACIOS: Motion passes unanimously.

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

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

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

22 We just finished in the final adoption some
23 rules related to motor vehicle information and the fees
24 associated with them. We are reopening some of those
25 rules to actually address the actual vetting of

1 individuals that are requesting those motor vehicle
2 records and files from the department. So what you see
3 here are some additional amendments that would
4 differentiate between a person who is requesting records
5 and one that receives motor vehicle records directly from
6 the department with one who receives records from a
7 reseller or re-discloser. We have had numerous instances,
8 we know, there are individuals who purchase our database
9 and then re-disclose that to specific industry groups.
10 They do some reformatting of the data, but we are going
11 ahead and differentiating between somebody who receives
12 records directly from us or somebody that has received re-
13 disclosed records.

14 We are also allowing the department to accept
15 identification documents not otherwise enumerated. If
16 there's additional documentation we want to request of
17 somebody, we're asking for the ability to request
18 additional identification documents from individuals,
19 potentially documentation that would demonstrate that they
20 actually work for an insurance company or some kind of
21 credentials that would show that they are who they say
22 they are. Some of the individuals that are allowed to
23 receive these are like private investigators. We would
24 potentially want to see their actual private investigator
25 credentials to ensure that they actually are a private

1 investigator and serving in their official capacity when
2 they obtain our records.

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

16 We would limit the unlawful resale or re-
17 disclosure of motor vehicle records, define what records
18 must be maintained by somebody who is re-disclosing or
19 reselling them. We are adding a records retention
20 requirement for anybody that is re-disclosing these
21 records to retain documentation on who they have re-
22 disclosed those records to for, I believe, it's five years
23 in this rule. So again, we are trying to increase our
24 efforts to be able to verify what is going on with our
25 records once they leave the department.

1 We also are putting in place a requirement that
2 if somebody has re-disclosed those record that the
3 department may go in and actually review or demand that
4 they submit their documentation on who they have provided
5 documents to so that we can do an audit or review of who
6 they have been actually re-disclosing motor vehicle
7 records. Providing a process for reestablishing access,
8 as well, so if we ever terminate somebody for not
9 following these rules, we have actually added in a process
10 by which they can request to be reinstated and what they
11 would have to show as additional information to ensure
12 that they do not violate our rules again if they should be
13 turned back on to receive motor vehicle records.

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

16 MR. PALACIOS: Member Walker.

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

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

23 MR. WALKER: You made a mention of different
24 people. Is there a list of who we're going to disclose
25 these to and what credentials they have?

1 MR. KUNTZ: The list of individuals who are
2 able to obtain -- actually, it's a list of permitted uses,
3 that is enumerated in statute, it's actually in 730.007,
4 actually subpart (2).

5 MR. WALKER: So do we have that?

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

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

13 MR. KUNTZ: It already is.

14 MR. DUNCAN: It's in statute.

15 MR. KUNTZ: It's in statute.

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

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

20 So Chapter 730 of the Texas Transportation Code
21 is the Texas Motor Vehicle Record Disclosure Act, it
22 contains the list of what are called permitted releases,
23 permitted reasons for release of these records. We can't
24 change those but what we've done is we've prescribed for
25 each exception here's what we need to see to prove that

1 you're qualified to receive records under that exception.

2 That's what this is it takes that language and goes
3 beyond it to set the standards for what they're required
4 to show us to prove that they're in a research occupation
5 or that they work for an insurance company.

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

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

21 One is there are penalties in federal -- it's
22 called the Driver Privacy Protection Act -- in federal law
23 if someone has their personal information released, they
24 can actually file a federal lawsuit and seek damages.
25 There are quite a few of those lawsuits pending around the

1 country, there are a couple in Texas, there's a major one
2 in Wisconsin and there are two major ones in Florida. And
3 of course, they're being brought as class actions, they'll
4 get large groups of people together that all received a
5 certain type of mailing and they'll realize that that came
6 from the state's DMV list and that that's against the law,
7 and so they'll sue these companies, and they don't just
8 sue one company, they sue 15 or 20 different companies.
9 And so those are having some effect, we're seeing some
10 companies express some serious hesitation. So that's
11 under the federal law and there are some remedies.

12 Back to your question about what we could do,
13 one of the things I wanted to point out is that in the
14 last legislative session, Senator Kolthorst introduced a
15 bill, Senate Bill 1013, and it would have done some of the
16 things that we're doing here. We actually felt that under
17 Chapter 730, the Texas statute, we had the authority to do
18 some of what Senator Kolthorst was going to tell us to do
19 anyway, so we're doing that, but her bill also would have
20 given us some penalty authority. We don't have any under
21 730 or under our statutes where we could actually get
22 civil penalties, we could refer to Corrie's group,
23 Enforcement.

24 And Senator Kolthorst has expressed an interest
25 in bringing that up in the next session, and we will keep

1 her apprised of these rules and what we're doing with
2 these rules and the reaction that we get because she has
3 definitely expressed an interest in bringing this back up
4 and in getting us some teeth, if you would, to enforce
5 these requirements.

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

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

1 expired. I mean, how do we prevent that kind of stuff
2 from going on out there with these records getting out?

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

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

17 MS. BREWSTER: Member Walker.

18 MR. WALKER: Yes, ma'am.

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

20 MR. PALACIOS: Yes.

21 MS. BREWSTER: I think we're doing as much as
22 we can within the existing statutory allowances. I think
23 it's definitely worthy of further discussion as we get
24 closer to the legislative session regarding any Board
25 recommendations that you would like to make to the

1 legislature to include in the 86th Legislature, and
2 certainly the agency would be very supportive of any
3 efforts that move forward in tightening the release of
4 people's personal information.

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

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

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

24 MR. INGRAM: Okay.

25 MR. KUNTZ: The reason for me smiling is

1 because in recent history the incidents that we have
2 discovered where there has been misuse, it has in both
3 instances been where a reseller is involved and they have
4 re-disclosed that information and the person they re-
5 disclosed it to misused the data. What we do in those
6 instances is we hold the original purchaser responsible
7 for that, but we have terminated access to two companies
8 in recent months because we have discovered that they had
9 re-disclosed it to somebody else.

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

17 MR. INGRAM: Understood.

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

23 MR. KUNTZ: I will answer it this way: a
24 majority of the people that access our records, access our
25 records one at a time.

1 MR. WALKER: But it's the list that's getting
2 out there that's the problem.

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

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

21 MR. KUNTZ: Most of the time what I would say
22 is they could access our data through the individual
23 record lookup, and I would say that most of them do. Some
24 of those entities may have their own systems. We
25 definitely are looking at that exact issue and whether or

1 not those individuals really need the master file and
2 weekly updates versus just getting them one vehicle at a
3 time.

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

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

25 MR. KUNTZ: Most of the time when General

1 Motors, Toyota, any of the major manufacturers are getting
2 our list, the full list, is when they have recalls, and
3 that's generally what you're seeing, and that is a
4 permitted purpose specifically under state and federal
5 law.

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

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

9 (General laughter.)

10 MR. KUNTZ: That is a specific permitted
11 purpose.

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

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

23 MR. KUNTZ: They can resell it, but if they
24 resell it, it must be sold for one of the permitted
25 purposes, and the obligation is on them to ensure that

1 when they re-disclosed it, it was re-disclosed for one of
2 those permitted purposes.

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

6 MR. DUNCAN: That's in statute.

7 MR. PALACIOS: Statute. Okay.

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

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

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

21 Use by a governmental agency, including any
22 court, law enforcement agency in carrying out its
23 functions, or a private person or entity acting on behalf
24 of a governmental entity in carrying out its functions of
25 the agency;

1 Use in connection with a matter of motor
2 vehicle or motor vehicle operator safety, motor vehicle
3 theft, motor vehicle product alterations, recalls, or
4 advisories, performance monitoring of motor vehicles,
5 motor vehicle parts or motor vehicle dealers, motor
6 vehicle research activities including survey research, or
7 removal of non-owner records from an original owner record
8 of motor vehicle manufacturers.

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

11 Again, these are very broad.

12 MR. WALKER: That's everybody.

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

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

23 MR. INGRAM: Your finance companies.

24 MR. KUNTZ: Correct, yes.

25 MR. WALKER: But it says any legitimate

1 business.

2 MR. KUNTZ: yes.

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

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

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

12 MR. KUNTZ: Yes, legitimate purpose.

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

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

16 (General laughter.)

17 MR. PALACIOS: Member Walker, other Board
18 members, I think we all concur that this is a very, very
19 important matter, and I know the frustration lies in we
20 only have so many things within our purview that we can
21 amend and change for stricter enforcement, ultimately, if
22 we're going to tighten this up. As you go through that
23 list, a lot of those entities already have access to this.
24 General Motors already has access to all their customers;
25 to your point, why do they need Ford's information,

1 they're not recalling Fords. The insurance companies, the
2 finance companies already have this information without
3 accessing our database.

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

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

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

1 your people or is this going to the audit staff?

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

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

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

1 really incensed.

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

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

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

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

14 (No response.)

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

17 MR. PAINTER: Mr. Chairman, I make a motion
18 that the Board approve the proposed amendments to Chapter
19 217, Sections 217.122 and 217.123, and proposed New
20 Sections 217.125 through 217.130, for publication in the
21 *Texas Register* for public comment.

22 MS. HARDY: Second.

23 MR. TREVIÑO: Second.

24 MR. PALACIOS: Okay. We have a motion by
25 Sheriff Painter, second by Board Member Hardy and Board

1 Member Treviño to approve the proposed amendments. All
2 those in favor please signify by raising your right hand.

3 (A show of hands.)

4 MR. PALACIOS: Motion passes unanimously.
5 Thank you very much.

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

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

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

19 MR. PALACIOS: Thank you.
20 Thank you, Mr. Kuntz.

21 MR. KUNTZ: Thank you.

22 MR. PALACIOS: Good luck on The Hill.

23 Let's move on now. We'll go back, I want to
24 move out of order a little bit here. We have somebody
25 who's registered for public comment.

1 Mr. Gober, Mr. Giles Gober, are you here?
2 Would you like to come forward, please?

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

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

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

15 Thank you.

16 MR. PALACIOS: Thank you.

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

19 MR. DUNCAN: Correct.

20 MR. PALACIOS: Please proceed.

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

25 Mr. Duncan and I have exchanged emails where

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

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

15 Mr. Palacios, you have a dealership, you get a
16 lot of cars in, you've got somebody on your staff who is
17 certified to do the inspections, he runs through them and
18 inspects them and says they're ready to go. When you sell
19 the car you register the inspection; up until then, you've
20 covered this cost just under your cost of operations. The
21 cost of doing business is built into the sales price of
22 the vehicle. The \$16.75 is not, that goes to the Texas
23 Mobility Fund, that is a clip, it needs to stop. It is
24 against Texas law to force that on people. As a public
25 servant, it goes from a Class C misdemeanor to a Class B

1 misdemeanor. As an official of this state to watch it
2 happen, it goes from a Class B misdemeanor to official
3 oppression which is a Class A misdemeanor. Y'all need to
4 get to this, you need to stop it.

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

8 MR. PALACIOS: Yes, sir.

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

11 MR. PALACIOS: A few.

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

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

18 MR. GOBER: Who do I give these to?

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

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

25 MR. WILSON: I'm Bryan Wilson, director of the

1 Automobile Burglary and Theft Prevention Authority. I
2 believe the action that will be coming before you this
3 morning will be a committee recommendation.

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

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

20 About 85 percent of the funds are for staff,
21 about 85 percent of our grants are for highly specialized
22 and skilled motor vehicle theft investigators within
23 police and sheriff offices throughout the state. Those
24 investigators when they retire or when they turn over or
25 if they get transferred to another unit, it can take

1 months, 90 days, six months based on civil service rules
2 in the different departments, so oftentimes, because we're
3 reimbursing the departments for the expenditures they
4 make, we can end up with a significant lapse.

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

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

19 MR. INGRAM: Second.

20 MR. PALACIOS: Okay. We have a motion by Board
21 Member Caraway, a second by Board Member Ingram to accept
22 the recommendation from the Finance and Audit Committee
23 regarding the ABTPA to transfer the unexpended funds going
24 forward from 2018 to the fiscal year beginning September
25 1, 2018. All those in favor please --

1 MR. WALKER: Question.

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

4 MR. WALKER: In her proposal she said up to
5 \$500,000 of unexpendable balance. Why wouldn't we say any
6 unexpendable balance to be transferred? Why limit it to
7 \$500-? If there's \$600,000 unexpendable, why wouldn't we
8 request that it all be transferred into Auto Burglary?

9 MR. PALACIOS: Would you like to address that?

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

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

21 MR. WILSON: I don't know today because part of
22 the strategy that the ABTPA Board took on was to extend by
23 90 days the grant period that we were concluding. My
24 rough estimate is about \$200,000, but sometimes
25 grantees -- I mean, we rigorously review these

1 expenditures, only pay for allowable expenses, only
2 reimburse proper expenses.

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

5 MR. WILSON: It will.

6 MR. WALKER: That's my question.

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

9 (No response.)

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

13 (A show of hands.)

14 MR. PALACIOS: Motion passes unanimously.
15 Thank you, Mr. Wilson.

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

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

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

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

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

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

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

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

20 MR. INGRAM: Right. Including dealer
21 transactions?

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

24 MR. INGRAM: Okay. Just making sure.

25 MR. GRAHAM: That would be of interest to you,

1 wouldn't it?

2 (General laughter.)

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

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

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

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

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

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

22 MR. WALKER: Second.

23 MR. PALACIOS: Okay. Motion by Board Member
24 Graham, second by Board Member Walker. I will also note
25 that this item was discussed yesterday at the Finance and

1 Audit Committee, so this is a recommendation that they
2 would like to move forward as well.

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

6 (A show of hands.)

7 MR. PALACIOS: Motion passes unanimously.
8 Thank you, Mr. O'Quinn.

9 MR. O'QUINN: Thank you, Chairman.

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

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

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

22 MS. CARAWAY: Sounds good.

23 MS. FLORES: For the record, Linda Flores,
24 chief financial officer for the agency. My staff are all
25 here at the table, Sergio.

1 With your indulgence, we did provide the
2 Finance Committee additional information on our end of
3 year reports, the balance sheet and the income statement,
4 primarily because the official report that's submitted to
5 the Comptroller does not include prior year comparisons,
6 however, internally we are required to do a variance
7 analysis of both the balance sheet and the income
8 statement. So what Sergio passed out to you is that
9 information. It looks a work paper, so my apologies for
10 that, but we wanted to make sure that the Board had that
11 information as well.

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

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

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

19 Today will be an overview of the annual
20 financial report, and this was submitted on November 20 to
21 our oversight agencies, and what I'd like to highlight
22 today is the fact that in this year's report we have moved
23 over into the Texas Department of Motor Vehicles Fund, so
24 it's our primary source of funding, and therefore, had a
25 significant impact on our reporting. Our fund balance

1 increased by \$30 million and that, in essence, was a net
2 difference between the reduction in our general revenue
3 appropriations and our increase in our cash in the state
4 treasury based on the revenue and the fees from the TxDMV
5 Fund fees that were previously in general revenue.

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

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

21 As far as expenditures are concerned, a normal
22 year of expenditures with the one category having the
23 significant impact was the materials and supplies which
24 had an increase there attributed to changes in our postage
25 costs and increased cost in our computer equipment

1 supplies, like toner, so each of those had \$5-1/2 million
2 of increases. Our item of decrease was the professional
3 services fees which we reduced by \$3 million, and that was
4 because of the completion of major projects throughout the
5 year, specifically eLICENSING. That's pretty much the
6 overview of the annual financial report.

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

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

14 MR. REY: Yes, sir.

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

22 MR. REY: From a budgeted perspective?

23 MR. GRAHAM: Yes. I mean, I see the variance
24 between '16 and '17, I'm just curious what was actually
25 budgeted. Obviously, it was a \$12 million difference in

1 the line item, and I would just be curious what the
2 budgeted figure was.

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

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

7 Thank you. Please proceed.

8 MR. REY: No problem, sir.

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

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

23 (No response.)

24 MR. PALACIOS: Thank you, Mr. Rey.

25 MS. FLORES: So moving on, agenda item 8.B, now

1 we're moving from end of year reports over to the first
2 quarter financial activities for fiscal year 2018, and
3 I'll let Ms. Bankhead address that topic.

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

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

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

1 in the report.

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

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

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

21 Motor Carrier is doing better than what we
22 anticipated them to do. We're not hitting those record
23 permit sales that we had several years ago, but we are
24 doing better than what we even anticipated for the current
25 fiscal year.

1 This particular slide shows the revenue
2 collections versus expenditures, and as you can tell, we
3 are certainly covering all of our obligations with the
4 revenue we're collecting, so that is a major plus for the
5 agency.

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

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

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

24 And with that, we'll turn to the expenditure
25 side of the house.

1 MS. BANKHEAD: Renita Bankhead again, of your
2 staff.

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

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

20 Also, on page 76 of your materials we talk
21 about first quarter obligations. The expenditures and
22 encumbrances as of the end of the first quarter total
23 about \$84 million, that's about half of the approved
24 budget. The largest drivers there are salaries, of
25 course. In November we reported 95 vacancies; as of the

1 end of January, that number has gone down to 79 vacancies
2 so we are filling positions now that the hiring freeze is
3 over.

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

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

21 Next, beginning on page 78 of your materials is
22 information on the capital budget. The other capital
23 projects include the vehicles that we've requested, both
24 the new and replacement vehicles for the agency and the
25 new vehicles for the new Compliance and Investigations

1 Division. The Comptroller in November awarded the new
2 vehicle contract, so now we can begin the process of
3 purchasing the vehicles, the replacement vehicles that
4 we've requested.

5 Other technology projects includes almost
6 everything else. Agency growth and enhancements, the
7 biggest piece of that is the Data Center Services
8 contract. Also, on page 72 -- which is not a slide here
9 but you'll see that big square in the middle -- that's
10 automation projects. On page 72 of your materials is
11 detailed information on the automation projects. RTS
12 refactoring is also the major driver within automation,
13 with \$5.7 million in obligations, followed by webDealer
14 and eLICENSING. Also included is the budget status at
15 this point for the planned automation initiatives. That
16 budget status really just shows the budgeted amounts, but
17 as the year goes on, we'll be able to show how much is
18 being expended for those initiatives, and that's on page
19 72 of your documentation.

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

22 MR. WALKER: So they've released our funds, the
23 \$900,000 for the capital purchases of the vehicles, and so
24 we can make those purchases now?

25 MS. BANKHEAD: Yes, we can.

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

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

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

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

22 What we did is we asked our end-users,
23 Enforcement, VTR, what kind of vehicle would you prefer in
24 the field and doing what you need to do. They gave us
25 their information and we've put together a plan, and we

1 are acquiring, I believe, it's 21 sedans this year for
2 both headquarters and the regions, I think we might even
3 have some SUVs in place or on the plan, and a couple of
4 trucks. So we actually asked our folks what would you
5 prefer. They've been driving some large Crown Victorias,
6 I know, out there, so sedans work for the most part, in
7 some instances we need a little bigger car. So once we
8 know what kind of car they want, we go look at the list
9 that's available to be acquired, and we go from there.

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

13 MR. PALACIOS: She should get it.

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

16 MR. WALKER: Do what?

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

19 MR. PALACIOS: Sorry, Renita.

20 (General laughter.)

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

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

25 MS. HARDY: And then dealers will bid on it.

1 MR. WALKER: So I guess is that really the best
2 way, just ask our employees what you want to drive, or
3 should the agency not make a determination that says --

4 MS. BREWSTER: May I address that, please?

5 MR. PALACIOS: Yes, please.

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

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

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

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

25 MR. WALKER: Okay, okay. Because she sounded

1 like the employees were picking what they wanted to buy.

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

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

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

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

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

18 (General laughter.)

19 MS. FLORES: Any other questions?

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

24 MR. WALKER: Yes.

25 MS. FLORES: We appreciate that.

1 MR. INGRAM: Very nice job.

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

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

8 MR. INGRAM: Really.

9 MS. FLORES: No, sir.

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

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

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

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

17 (General laughter.)

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

24 MS. FLORES: We are going to have an
25 exceptional year, Board Member Treviño, I guarantee it.

1 (General talking and laughter.)

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

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

19 MR. PALACIOS: Great. Okay. Please proceed.

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

23 MS. BANKHEAD: That concludes this
24 presentation, we'll move on to the next one. Operating
25 budget contracts, and this is a response to an inquiry at

1 the August Board meeting about contracts, so we put
2 together some information about contracts.

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

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

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

19 Please proceed.

20 MS. BANKHEAD: I'm going to go back and repeat
21 my last sentence. It not only looks at cost, but
22 contractor performance, quality, reliability and cost of
23 future maintenance. There's also additional criteria
24 listed on page 83, and that's related to automated
25 information systems which also considers rice but

1 compatibility with existing systems, capacity for
2 expansion, technical support requirements, and maintenance
3 and support. So the state already has these criteria set
4 out to make sure that their contracts that they bid on
5 overall for the state follow specific guidelines to make
6 sure that state dollars are spent efficiently and
7 effectively and in a cost-effective manner.

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

19 The prices for the commodities and the services
20 are set by the Texas Workforce Commission. So basically
21 what happens for statewide contracts is the oversight
22 agencies, they do all the legwork, they go out, they make
23 the bids, they come up with the list, they find the
24 prices, they use statewide economies of scale to be able
25 to determine that. The agencies, on the other hand, take

1 advantage of that by going to these lists and selecting
2 vendors from that list.

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

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

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

25 MR. PALACIOS: Are there any questions for Ms.

1 Bankhead?

2 MR. TREVIÑO: Ms. Bankhead, in recent memory
3 have we had any problems with contracts or any issues in
4 the contracting process -- in recent memory?

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

11 MR. TREVIÑO: Great. Thank you very much.

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

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

20 (No response.)

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

23 MS. FLORES: And joining me is Ms. Ann Pierce
24 and she's going to give you a very brief update on the
25 last move that we had. Our Bull Creek staff, Motor

1 Carrier staff, they are off of the Bull Creek campus and
2 they are now located on Camp Hubbard.

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

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

22 The move itself also involved building of the
23 modular. We had to meet with the Texas Correctional
24 Industries who we worked with to do the manufacturing of
25 all the product and the design of the layout for the

1 product to make sure it met employee needs, and then we
2 had that built.

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

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

24 And that concludes the update.

25 MS. FLORES: What about the salvage?

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

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

11 That concludes our presentation.

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

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

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

24 The board book contains information related to
25 the peer review engagement letter, our self-assessment

1 report that is required for peer review, as well as some
2 questions and answers related to peer review, but on a
3 high level, the peer review is a required activity that we
4 have to go through, so they are auditing us. The peer
5 review reviews our compliance with applicable auditing
6 standards, which those auditing standards are the
7 Generally Accepted Government Auditing Standards that are
8 promulgated by the Government Accountability Office, the
9 International Standards for the Professional Practice of
10 Auditing which are developed by the Institute of Internal
11 Auditors, and the Texas Government Code 2102 which is the
12 Internal Auditing Act. The Act has specific requirements
13 related to my position, as well as where we sit in
14 relation to the agency board and the executive director.

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

19 This year our peer review team is done from the
20 Texas Workforce Commission, his name is Harold Rogers, he
21 is the project lead on it, and then Patrick McKinney from
22 the Texas Department of Transportation is the peer review
23 member. Both of these members participate in a group
24 called SAIAF which is the State Agency of Internal Audit
25 Forum. The review is done through SAIAF which means that

1 it is a no charge fee to us, as well as other state
2 agencies.

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

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

17 Are there any questions?

18 (No response.)

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

23 There are six items on the internal audit
24 status. The first one is related to the fraud, waste and
25 abuse risk assessment. This is an advisory service to

1 identify and rank fraud, waste and abuse risks for the
2 department. We are in field work with that and we
3 anticipate finishing this in August 2018 and we are on
4 track for that one.

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

18 The next item is the travel and training audit.
19 This is an audit to determine if travel and training
20 requests have appropriate approvals and justifications, as
21 well as determining if requests are appropriate and meet
22 the need of the DMV. We're also evaluating board travel
23 policies and getting best practices from other agencies.
24 We're in field work on this and we anticipate releasing
25 this report in late April 2018.

1 The next item is a new item, it's a management
2 request. This is an advisory service requested by the
3 Enforcement Division. The advisory agreement should be on
4 page 135 of your board book. The Enforcement Division has
5 requested that Internal Audit review their Texas
6 Commission for Law Enforcement training compliance. For
7 our training to be used by law enforcement for their
8 credit certifications, it has to go through a TCOLE
9 training review and be in compliance with requirements,
10 and so we're reviewing that and providing potential
11 feedback to the Enforcement Division on how we can ensure
12 compliance going forward. It is not an audit and so there
13 won't be a rating, there may be recommendations but those
14 recommendations would be just suggestions to improve the
15 function. And we're in planning o that one and we do
16 anticipate ending that as well in late April.

17 The next two items are the completed items. The
18 first one is the TxDMV Fund audit. That is on page 113 of
19 your board book. The Internal Audit Division conducted an
20 audit to determine if appropriate revenues are being
21 deposited to the DMV Fund as well as correct amounts of
22 revenue being transferred to the county. We overall found
23 that there are processes in place to ensure that money is
24 being deposited correctly into the DMV Fund as well as
25 being distributed to the counties, however, those

1 processes are not being documented and so we asked Finance
2 and Administrative Services to actually document those
3 processes.

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

14 Are there any questions on the DMV Fund audit
15 report?

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

19 MS. MENJIVAR-SUDDEATH: No, we didn't. One
20 thing to note is we weren't able to do a complete
21 transaction review, the cradle to grave, because the
22 reporting wasn't there. It would have taken about 1,500
23 hours to actually get that report, and so we decided to
24 look at the processes that existed to kind of get the
25 validation. That is a similar result that the State

1 Auditors had when they looked at RTS in previous audits.

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

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

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

24 Any questions on that audit?

25 (No response.)

1 MS. MENJIVAR-SUDDEATH: Okay. Well, that
2 concludes my item. Thank you.

3 MR. PALACIOS: Thank you very much.

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

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

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

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

18 MS. MENJIVAR-SUDDEATH: In 2017 we actually
19 published an audit on the Driver Privacy Protection Act,
20 which the rules that were discussed earlier incorporated
21 some of that information. Generally what we found is the
22 department was doing everything they could related to
23 protecting the data, but because of the statute,
24 specifically the 730 that was mentioned, the Motor Vehicle
25 Act that was mentioned earlier, there really wasn't much

1 enforcement actions that they could take. The actual law
2 says if you self-certify, you are required to have the
3 information.

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

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

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

15 MR. TREVIÑO: Great. Thank you.

16 MS. MENJIVAR-SUDDEATH: Thank you.

17 MR. PALACIOS: Thank you, Sandra.

18 Let's move on to rules adoption, back to agenda
19 item number 9, and we'll bring Ms. Flores back. Hello
20 again.

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

24 This is a charge for public information. This
25 proposal was published on the *Texas Register* on November

1 10, 2017, the comment period closed on December 11, and no
2 comments were received. This modifies the agency's rules
3 to coincide and adopt the attorney General's rules
4 regarding charges for public information.

5 And I'm available to answer any questions.

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

8 MR. TREVIÑO: Second.

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

13 (A show of hands.)

14 MR. PALACIOS: Motion passes unanimously.

15 Thank you.

16 Move on to item number 10.

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

20 This is a cleanup. Again, this is to correct a
21 citation to the Comptroller of Public Accounts,
22 Historically Underutilized Businesses rules. We're
23 required to adopt the Comptroller's rules related to
24 administering Government Code Chapter 2161, and we had
25 this provision in our rules, however, the citation that we

1 had was technically in error because the Comptroller
2 changed their rules. So this is just, again, cleanup.
3 The item was published in the *Register* on November 10,
4 comment period closed on December 11, and no comments were
5 received.

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

11 MR. DUNCAN: I can do that.

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

15 Please proceed.

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

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

1 Comptroller does in implementing the program.

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

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

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

7 MR. DUNCAN: Absolutely. Every state agency
8 does.

9 MR. WALKER: Okay.

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

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

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

1 specific what you're incorporating.

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

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

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

9 (No response.)

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

12 MR. TREVIÑO: Mr. Chairman, I'd like to thank
13 general counsel for that very through explanation of this
14 rule. And with that, I would like to move that the Board
15 approve the adoption of amendments to Chapter 210, Section
16 210.22, as recommended by staff.

17 MR. PAINTER: Second.

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

23 (A show of hands.)

24 MR. PALACIOS: Motion carries unanimously.

25 Let's move on to agenda item number to be given

1 by Ms. Corrie Thompson.

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

5 I have for you agenda item 11 which can be
6 found on page 146 of your board books. It is a
7 recommendation to approve adoption of amendments to Rule
8 215.210 for publication in the *Texas Register*.

9 This rule relates to compliance with orders
10 granting relief for warranty performance obligations. We
11 proposed this for publication for public comment back at
12 the October Board meeting. The purpose of the amendment
13 is to make the rule consistent with statute under
14 2301.610, and it is also to replace the acronym OEM with
15 original equipment manufacturer, as OEM is not defined
16 currently in Chapter 215 of the Administrative Code.
17 There is no fiscal impact associated with the amendment,
18 and as I stated, it was published for public comment in
19 the *Register* from November 10 of 2017 through December 11
20 of 2017, and we received no comments on the proposal.
21 If the Board adopts the amendments during the meeting,
22 staff anticipates publication in the March 2 edition of
23 the *Register*, with a March 8 effective date.

24 If there are no comments, I would recommend
25 that the Board adopt the rule as written.

1 MR. PALACIOS: Are there any questions?

2 (No response.)

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

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

8 MR. PAINTER: Second.

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

13 (A show of hands.)

14 MR. PALACIOS: Motion passes unanimously.
15 Thank you, Ms. Thompson.

16 MS. THOMPSON: Thank you.

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

21 MS. AUCOIN: Good morning, Chairman.

22 MR. PALACIOS: Good morning.

23 MS. AUCOIN: Good morning, Board members. For
24 the record, my name is Aline Aucoin, associate general
25 counsel.

1 The department is requesting Board approval to
2 adopt amendments to Section 217.54 regarding the
3 registration of fleet vehicles. The materials begin on
4 page 290 of your board books.

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

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

22 The department published the proposed
23 amendments in the *Texas Register* and we received one
24 comments from Mr. Ruben Gonzalez, the county tax assessor-
25 collector for El Paso County, however, his comment does

1 not pertain to the proposed amendments to Section 217.54.

2 He made statements about the registration of commercial
3 fleets under the extended fleet registration program, he
4 requested a statutory change and he asked the department
5 questions. Because the comment does not pertain to the
6 proposed amendments, we will not respond to the substance
7 of his comment when we file the notice in the *Texas*
8 *Register*, however, we will respond directly to Mr.
9 Gonzalez.

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

19 Section 502.198 of the Transportation Code does
20 not apply to local fees, so each county will still receive
21 all of the applicable local fees for each year of the
22 multi-year registration program, they just get that money
23 at the initial registration and when they renew they get
24 the money up front at a renewal as well. There are 73
25 vehicles registered in the multi-year fleet program in El

1 Paso County, and of those 73 vehicles, 46 are registered
2 for one year, so it's as though like every other
3 registration of vehicles registered for one year, and 27
4 are registered for five years.

5 I would be happy to answer any questions.

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

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

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

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

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

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

25 MS. AUCOIN: That was the only comment.

1 MR. PALACIOS: If there are no other comments,
2 I will entertain a motion to adopt the amendment.

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

6 MR. WALKER: I second.

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

10 (A show of hands.)

11 MR. PALACIOS: Motion passes unanimously.
12 Thank you.

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

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

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

21 The amendments continue our progress in
22 modernizing our permitting process by deleting references
23 to faxes. The department currently accepts faxes but the
24 goal is to eventually eliminate faxes and our permitting
25 section will have a communication plan to implement this

1 if the Board approves the adoption of these amendments.
2 The amendments also clean up the rules. For example,
3 amendments improve terminology, correct errors and make
4 the rules consistent with current practice. The
5 department published the proposed amendments in the *Texas*
6 *Register* and we did not receive any comments.

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

20 I would be happy to answer any questions.

21 MR. WALKER: Who is the Texas Transportation
22 Commission?

23 MS. AUCOIN: It's the governing board for the
24 Texas Department of Transportation.

25 MR. WALKER: TxDOT?

1 MS. AUCOIN: TxDOT.

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

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

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

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

10 MR. WALKER: Okay.

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

13 (No response.)

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

16 MR. INGRAM: I move that the Board approve the
17 adoption of amendments to Chapter 219, Sections 219.11,
18 219.42 through 219.45, and 219.62 through 219.64, as
19 recommended by staff.

20 MR. PAINTER: Second.

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

25 (A show of hands.)

1 MR. PALACIOS: Motion passes unanimously.

2 Okay. We are making progress here.

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

6 MR. PALACIOS: What's that time?

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

8 MR. PALACIOS: All right. We're getting there.
9 Item number 19. Please proceed.

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

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

16 The proposed amendments require a sole
17 proprietor who is applying for operating authority to
18 provide the department with a copy of an identification
19 document from the list that's currently in our rules, the
20 list of available or acceptable identification documents.

21 We currently require the sole proprietor to provide us
22 with a number on one of those identification documents,
23 however, we want a copy of the actual identification
24 document to help us verify the identity of the individuals
25 who apply. This will help the department determine

1 whether the applicant is a potential chameleon carrier or
2 reincarnated carrier which is a carrier that is trying to
3 evade prior violations of the law by changing their name,
4 changing their business, or affiliating with another
5 company. Once the department processes the application to
6 verify the identity of the applicant, the department will
7 destroy the copy of the identification document.

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

19 I would be happy to answer any questions.

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

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

1 MR. TREVIÑO: Second.

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

5 (A show of hands.)

6 MR. PALACIOS: Motion passes unanimously.

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

10 MR. PALACIOS: I really couldn't tell.

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

14 (General laughter.)

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

18 All right. Last item, number 20.

19 MS. AUCOIN: For the record, Aline Aucoin,
20 associate general counsel.

21 The department is requesting Board approval to
22 publish proposed amendments to Chapter 219 regarding the
23 three new overweight permits which were authorized by the
24 85th Legislature. The materials begin on page 418 of your
25 board books.

1 The purpose of the amendments is to implement
2 House Bill 2319, Senate Bill 1383 and Senate Bill 1524 by
3 defining the terms "roll stability support safety system"
4 and "truck blind spot systems" and clarifying the terms
5 "approximately 612 inches" and "approximately 647 inches."
6 Industry needs clarification on these terms to obtain
7 equipment that complies with the permit requirements. The
8 three new permits are the North Texas Intermodal Permit,
9 the Fluid Milk Transport Permit, and the Intermodal
10 Shipping Container Port Permit.

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

18 We discussed the proposed definitions of the
19 terms "roll stability support safety system" and "truck
20 blind spot systems" with industry as well as the Texas
21 Department of Public Safety. The discussions focused on
22 safety. Our proposed definitions require the vehicle to
23 have an actual system versus just the manual actions or
24 perceptions of the driver because we feel that an actual
25 system might be more accurate than a human being.

1 The proposed amendments to Section 219.34 and
2 219.36 clarify the terms "approximately 612 inches" and
3 "approximately 647 inches." These are the authorized
4 distances between the front axle of the truck tractor and
5 the rear axle of the semi trailer in the combinations that
6 are authorized to get these permits. The discussion of
7 these terms focused on the availability of equipment that
8 is currently in production as well as TxDOT's concerns
9 about going below those numbers. TxDOT stated that the
10 distances below these numbers could have a significant
11 impact on their assessment of bridges and may result in
12 additional load postings.

13 So one example of a call that we got from a
14 motor carrier is a manufacturer told the motor carrier
15 that they have equipment in production that exceeds the
16 612 inch requirement by 46 inches. We then conferred with
17 TxDOT and DPS regarding the interpretation of both terms,
18 the 612 inches and the 645 inches, and we also discussed
19 this issue at TxDOT's oversize/overweight stakeholder
20 workshop in November of 2017 when an industry
21 representative asked for clarification on the meaning of
22 these terms.

23 The department, TxDOT and DPS are all in
24 agreement that the 612 inches and the 647 inches needs to
25 be the minimum distance, that they can't go below.

1 However, we all agree that the distance can go above those
2 numbers, the question is how high above should they go,
3 what's the correct maximum. TxDOT did not suggest a
4 maximum distance, however, they did state the longer the
5 distance, the better. DPS pointed out the benefit of
6 possibly not listing a maximum in case a manufacturer or a
7 designer designs equipment that exceeds whatever maximum
8 distance we decide to put in rule.

9 After the department drafted the proposed rule
10 package, we received a call from the Texas Trucking
11 Association requesting us to authorize up to 15 percent
12 above the 612 inch requirement. They stated that they
13 recently received a call from a manufacturer that designed
14 equipment, and the 612 inches is for the 100,000 pound
15 permit, and the manufacturer told them that they needed to
16 go up to 689 inches. And TXTA also stated that on the
17 100,000 permit there are three axles at issue versus the
18 93,000 permit where there's two axles, so on the 612 inch
19 they requested to go up to 15 percent above and on the 645
20 inch requirement they're only asking to go up to 10
21 percent above.

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

24 MS. AUCOIN: The length, it's just on the
25 length.

1 So the department's proposed amendments are
2 drafted in compliance with the Texas Code Construction Act
3 which says that a court may consider the objects sought to
4 be attained as well as the consequences of particular
5 construction of a statute. The proposed amendments
6 establish the maximum distance of 10 percent for both the
7 612 and the 647 inch requirement, so the department's
8 personnel and industry have an actual number, a clear
9 maximum distance, however, we also stated in our preamble
10 that we reserve the right to increase the maximum distance
11 prior to adoption depending on whatever comments we
12 receive.

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

16 I'll be happy to answer any questions.

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

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

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

24 MS. AUCOIN: Only to these.

25 MR. WALKER: It doesn't affect me hauling a 120

1 foot long load of conduit for somebody.

2 MS. AUCOIN: So these terms only affect the
3 three new permits, the roll stability and the truck blind
4 spot.

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

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

17 MS. AUCOIN: So the definition is found on page
18 438 of your board book, proposed new definition number 56
19 for roll stability support systems.

20 MR. WALKER: So the definition is an electronic
21 system.

22 MS. AUCOIN: That's the start of it.

23 MR. WALKER: So basically it's saying it can't
24 be man stability, it has to be an electronic device of any
25 kind on the truck.

1 MS. AUCOIN: But it also has to perform the
2 functions listed in our definition.

3 MR. WALKER: Right. But it doesn't say it has
4 to be an Omnitrac or an Eaton, just any kind of
5 electronic device that monitors those particular aspects.

6 MS. AUCOIN: Correct. We were very careful to
7 draft the definition that accomplished the purpose but
8 also did not give a monopoly to a particular manufacturer.

9 MR. WALKER: All that equipment that's doing
10 this stuff has already been purchased; a company out of
11 New Jersey got that whole contract.

12 MR. PALACIOS: Okay. Are there any other
13 questions? Any other comments on this matter?

14 (No response.)

15 MR. PALACIOS: Hearing none, I will entertain a
16 motion to approve the proposed amendments.

17 MR. WALKER: I so move that the Board approve
18 the proposed amendments to Chapter 219, Sections 219.2,
19 219.34, 219.38, 219.36 for publication in the *Texas*
20 *Register* for public comments.

21 MR. PALACIOS: Thank you, Board Member Walker.
22 Do I hear a second?

23 MR. PAINTER: Second.

24 MR. PALACIOS: Motion by Board Member Walker,
25 second by Board Member Painter to approve the proposed

1 amendments. All those in favor please signify by raising
2 your right hand. Mr. Aggie, okay.

3 (A show of hands.)

4 MR. PALACIOS: Motion carries unanimously.
5 Thank you, Ms. Aucoin.

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

9 All right. We are going to go into closed
10 session. It is now 10:50 a.m. on February 8, 2018. We'll
11 go into closed session under Texas Government Code
12 Sections 551.071, 551.074, and 551.089. For those of you
13 in attendance, I anticipate being in executive session for
14 approximately 30 minutes. We'll reconvene in open session
15 after that. With that, we're recessed from public meeting
16 and going into executive session.

17 (Whereupon, at 10:50 a.m., the meeting was
18 recessed, to reconvene this same day, Thursday, February
19 8, 2018, following conclusion of the executive session.)

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

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

1 to adjourn.

2 MR. TREVIÑO: So moved, Mr. Chairman.

3 MS. HARDY: So moved.

4 MR. PAINTER: Second.

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

6 There you go, 11:30.

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

C E R T I F I C A T E

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

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 132, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Nancy H. King before the
10 Texas Department of Motor Vehicles.

11
12 Date: 02/23/2018
13
14
15

16
17 /s/ Nancy H. King
18 (Transcriber)
19

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