TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

10:00 a.m. Thursday, December 3, 2009

Ric Williamson Hearing Room Dewitt Greer Building 125 East 11th Street Austin, Texas

BOARD MEMBERS:

Victor Vandergriff, Chair Cliff Butler Jim Campbell Ramsay Gillman Cheryl E. Johnson Janet Marzett Victor Rodriguez Marvin Rush Johnny Walker

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a. pending or contemplated litigation, a settlement offer, drug-testing, or b. any item on this agenda.

Section 551.074 - Personnel matters.

Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of the Department of Motor Vehicles Executive Director and other personnel.

4. RESOLUTIONS for INDIVIDUAL CONSIDERATION A. PROPOSED RULES UNDER TITLE 43, TEXAS ADMINISTRATIVE CODE

208.7, Transition of Vacant Positions

2. Chapter 217 - Vehicle Titles and 65
Registration
Subchapter A, Motor Vehicle Certification
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Motor Vehicles

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PROCEEDINGS

MR. VANDERGRIFF: Good morning. My name is
Victor Vandergriff and I'm pleased to welcome you here
today to the meeting of the board of the Department of
Motor Vehicles. I'm now calling the meeting for December
3, 2009 of the board of Texas Department of Motor Vehicles
to order and I want to note for the record that public
notice of this meeting, containing all items on the
agenda, was filed with the Office of Secretary of State on
November 24, 2009.

Before we begin today's meeting, please place all cell phones and other communication devices in a silent mode, and if you wish to address the board during today's meeting, please complete a speaker's card at the registration table I the lobby. To comment on an agenda item, please complete a yellow card and identify the agenda item, and if it is not an agenda item, we will take your comments during the public comment portion of today's agenda.

And now I'd like to have a roll call, please, of the board members. Board Member Butler?

MR. BUTLER: Here.

MR. VANDERGRIFF: Board Member Campbell?

MR. CAMPBELL: Here.

MR. VANDERGRIFF: Board member Gillman?

1	MR. GILLMAN: Present.
2	MR. VANDERGRIFF: Board Member Johnson?
3	MS. JOHNSON: Here.
4	MR. VANDERGRIFF: Board Member Marzett.
5	MS. MARZETT: Present.
6	MR. VANDERGRIFF: Board Member Rodriguez?
7	MR. RODRIGUEZ: Present.
8	MR. VANDERGRIFF: Board Member Rush?
9	MR. RUSH: Present.
10	MR. VANDERGRIFF: And Board Member Walker?
11	MR. WALKER: Present.
12	MR. VANDERGRIFF: And let the record reflect
13	that I'm Chairman Vandergriff, I'm also here, so we do
14	have a quorum.
15	Now, the next item on our agenda is the public
16	comment period, and I would invite anyone from the public
17	that wishes to address this board on a topic, particularly
18	anything that may not be on this agenda, to come forward.
19	Do we have anybody who is registered? We do not. So
20	with that, I will thank you all for attending and
21	listening for the rest of this meeting.
22	The next item is item 1.C. and it's the board
23	meeting schedule, proposed meeting schedule for 2010. The
24	board members have that schedule. That calls for a
25	meeting every month, we may not hold a meeting every month

but we wanted to make sure that we had that on everyone's agenda. I did not receive any indication from board members that they had a conflict with those dates, and I still see no indication, so let the record reflect that that will be our meeting schedule for 2010, and again, if we decide not to have a meeting one particular month, we will let you know that. If you do not have a copy of that schedule, we will make sure and get everyone here one of those posted on our website.

With that, we're going to apologize in advance to the audience for about to say this, but we're going to move into executive session, we have a couple of agenda items for executive session that we need to address and I want to make sure we have unanimous participation of our board at that. We'll have a couple of board members that have to leave at the noon hour.

In this executive session, we are going to move into executive session to discuss items 3-A and also to discuss item, I believe it is 3-B -- I'm sorry to be confused on this -- 3-A and 3-B.

MR. RODRIGUEZ: Mr. Chairman, may I ask a question with regard to your item 1-C?

MR. VANDERGRIFF: Yes, sir.

MR. RODRIGUEZ: Your schedule calls for board meetings on the given dates, and my question with this is

the pre-board workshop that you are reflecting on your schedule, is that a second meeting for that date and are you posting a notice for that meeting?

MR. VANDERGRIFF: We would be posting a notice of that meeting if it occurs. I wanted to make the board aware that if there is a need to have a pre-board workshop on a particular topic that we maybe need a briefing on, for example, when the Strategic Plan is stood up, we might want to have a separate briefing item on that or discussion on that, and so we would post that as a pre-board workshop which would allow you an extended period of time to work on a particular topic.

MR. RODRIGUEZ: Thank you.

MR. VANDERGRIFF: Again, I apologize, I'm getting notes here to make sure I get this right, but as I said, we will be going into executive session to discuss items 3-A and 3-B, and as I close this meeting, I want to make sure and note that the date is December 3 and the time of the day is approximately 10:05 in the morning.

And I would anticipate being in executive session perhaps for as long as an hour and a half so I want to make sure that you're aware of that And with that, we are adjourned from the public meeting and we are into executive session.

(Whereupon, at 10:05 a.m., the meeting was recessed, to reconvene following conclusion of the

executive session.)

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MR. VANDERGRIFF: It is 12:25 p.m. on December 3 and the board is now back in open session. We want to note that no official action was taken in the closed session. What we are doing in this meeting, in order to keep things moving along and take advantage of the lunch hour, and Gail had noted to me that a board of directors that do not have proper food intake have low blood sugar, and therefore, we have lots of problems. So in just a few minutes we're going to go back into closed session to consider a couple of other items, but before announcing those, I want to tell you what we're going to do with our agenda going forward. We will not be having any briefings today on items 2.A.3., that will not be briefed today and so George Ebert will not have to hang around for that. He's high-fiving in the back of the room.

And again, I apologize in advance, but 2.B.,
C., D. and E., we will not be having the extended
briefings on Motor Vehicle Operations and Motor Carrier
Operations today due to some time constraints that we
have, but those directors, if they have information that
they would like to present to the board, these are
standing briefing items and opportunities for them to
present, so we will keep those on the agenda and we will
do that but it will just be the five-to ten-minute

briefing that Vehicle Titles and Registration and Automobile Burglary and Theft were going to be available for.

And so with that, then the other items, we'll come back after we have this second executive session and deal with the briefings under 2.A.1., 2., 4., 5., and 6., and then we will also be dealing with the Resolutions A.

B. and C. that you see on your agenda. And making sure, I don't see any nods from our legal counsel that I've missed any of the actions that we need to do. And so with that, I will make sure at this point in time that we do have —

I guess we're going back into executive session and we're going to be considering items 3(a), 4.B. and 4.C.

And so at this time we will be moving back into executive session and closing the open meeting. Thank you. Again, I apologize to the public for doing this to you. An estimate for time for this would probably be approximately, my guess would be, an hour for this particular part of the meeting. Thank you.

(Whereupon, at 12:30 p.m., the meeting was recessed, to reconvene following the conclusion of the second executive session.)

MR. VANDERGRIFF: It is approximately two o'clock p.m. on December 3 and the Texas Department of Motor Vehicles Board is now in open session. I do want to

report to you that no action was taken during the closed session. We'll now go back to our agenda, and I think we can handle some of these briefing items in relatively short order, and just for the notation of the crowd, after we get through the briefing items, we're going to move item 4.C. ahead of 4.A. and 4.B.

So with that, I would look to 2.A. and number 1, the chair presentation. These are standing items really to make sure that we have an opportunity to let you know of things that have happened during the course of the last month between today and our previous board meeting. I do not know of any significant stakeholder meetings that are -- well, I take that back, I'm sorry, I want to make sure and first open that up to the other board members to make sure. I know that we've had a tax assessor-collector conference in which Board Member Johnson and I were at, and I know that Board Member Walker was at the TMTA, trucking association. I don't know if you'd like to say anything about what occurred at those meetings at all on behalf of our agency.

Okay, they said no, but we were in attendance, and I guess the purpose, obviously, is for us to get out as often as possible as individual board members to meet with anybody that wants to talk to us and talk with us.

And I think also Jim Campbell participated in at least

one, I know of, meeting with used vehicle operators, and I don't know if you have anything you'd like to add from that, any feedback at this point. So I just want to make sure and keep you apprized that we are out there listening and ready to do business with you.

The legislative hearings, I wanted to point out a couple of things there and the specific topics that were covered. I was asked to testify at both Senate Transportation and Homeland Security and House Transportation. Senate Transportation was on November 10 in El Paso, and the House Transportation was in Austin here on November 16. At both of those meetings a specific topic came up and that was what was the cost of standing up the new agency here, and there was a couple of reasons for asking that.

Obviously, one is they want to know how close to the budgets we were allocated in the last legislative session we were, and want to report to you that our final number there is approximately \$3.4 million which is what it costs to stand up a new agency versus what it would have cost if we'd stayed inside of TxDOT. Almost actually a little over \$3 million of that number is for computer seat licenses, so the big winners so far in the standing up of the Department of Motor Vehicles are companies such as Microsoft and a few others who, even for using the

exact same computers in the exact same location, they have the right to charge for an additional seat license because we're a new state agency.

House Transportation took issue with that and took after, a little bit, our colleagues at TxDOT for the way that they'd managed that. Again, that's really not their issue, that is the issue with the software companies. I think that we've been represented very ably in that regard by Judy Skaines and by Ed Serna from TxDOT. We are still actively working on that issue to hopefully limit it. There is some offsetting savings to TxDOT in that regard.

And then we also have insurance requirements

For example, we no longer have the benefit of being selfinsured under TxDOT, so there's approximately \$140,000

policy for that, so we have some few costs like that. So
it's bigger, but actually, if you take out the seat
licenses -- which nobody forecast -- we were actually
closer to what the legislature LBB board had said which
was about \$655,000 is what it would cost, and that's a far
cry under the \$39 million that TxDOT had estimated that a
new agency would cost to the legislature. That included
new facilities, we're not in new facilities, brand new
furniture, all sorts of things which, of course, we're not
doing that.

I want to make sure and report to you the other aspect of it which has caused some controversy, it's been reported in a couple of publications, a number of legislators have weighed in on it, and that is the issue of whether or not the Department of Motor Vehicles is a diversion. The Comptroller, I don't believe, has at this point officially ruled on that but paperwork was presented to her office that the Department of Motor Vehicles was a diversion because it was a new state agency.

That being a new state agency, coupled with the budget that we got, caused us to go over a cap, if you will, of diversions from Fund 6 for other purposes outside of the Department of Transportation which then effectively triggers a provision that keeps TxDOT from having to fund a rail relocation rider that is very important to a number of House members and Senate members.

That issue is of a great deal of dispute between the House and the Senate, it's not our fight, but the thing to note is for the purposes of this board and for the purposes of the public is that it was agreed that the true amount of expenditures of this new state agency above and beyond what it was allocated in the legislative session under its budget with TxDOT is approximately \$3.4 million. The issue is whether or not we are a new state agency and therefore that's the big number that causes us

to be a diversion.

So I don't know if that makes sense to our board members, I want to open it up, but also tell you that the testimony that I gave is on the website of both House Transportation and Senate Transportation, and I'm having those testimonies, as well as the questions and answers, transcribed in writing, and I will certainly, as soon as we have that done, forward those on to the board members for your review, and it certainly, as I said, available to the public as well. But that's the main thrust.

The second thrust that happened in these hearings that I think is important is that we received a great deal of support, praise and appreciation for getting stood up and the job we're going to do, and there's a high degree of expectation for us to move forward onward and upward as an agency. I was very pleased with that reception that we got and I want to thank Chairman Carona of Senate Transportation and Homeland Security, and Chairman Pickett from House Transportation for extending the invitation and making sure I got there on time. So thank you.

Any questions from any of the board members about that issue on the rail relocation dispute and us as a diversion?

(No response.)

MR. VANDERGRIFF: Seeing none, we do have reports that we have to file and that I'm required by the statute to file with the Governor's Office and the legislature and also out of those hearings. We will be getting those draft copies out to the board members and the public will certainly see those as they're filed, hopefully shortly after the first of the year, to just update on our progress.

On November 12, we had a joint event between the Department of Transportation and the Department of Motor Vehicles. It was at the Pickle Center, it was actually driven by the employees of the Department of Motor Vehicles, Amadeo Saenz as the executive director of TxDOT, and me as the chair of the Department of Motor Vehicles -- remember, we don't yet have an executive director -- participated in kind of a handoff. It was exceptionally well done.

I will be honest with you, I think both Amadeo and I wondered we kind of have had something like this, why are we doing it again -- because we had had a press opening a couple of weeks before -- but it turned out to be really well done by the employees. It was a privilege to be there as they acknowledged their past and gave deference and proper recognition to it but evidenced their

tremendous excitement about the possibilities of what the Department of Motor Vehicles can be.

I know we have a tape of kind of all the employees in their work environment that I want to make sure, as we can, that we get a copy of that so the board members would have it. It's not of the meeting itself, it's just of the employees. And then we'll have forwarded to you, the employees had a contest, a writing contest about what the DMV means, and some really clever, cute stuff and they read that at the session, so we need to have copies of that available to you as well.

And again, I'm going to stop for a breath if any of the members have a question on any of this or want to add.

(No response.)

MR. VANDERGRIFF: Part of what we did today obviously, as we noted, is to deal with the executive director search. We're actively going on that, I just want to report to you that we did, obviously -- as many of you, I'm sure, know -- post the job back on November 6 and closed the period of application on November 20, and we are in active and hot pursuit of that. I'm pleased to report that the board certainly understands our role in standing that position up as quickly as possible with the best possible talent, and I think we're moving at a very

good pace to do that, and we hope to have something more definitive to report to you certainly at our January meeting.

And with that, I'll ask if there's any questions on this number 1, and if not, I'll proceed to ask Dawn Heikkila to come up and talk about, from Central Administration, the operating budget and the like.

MS. HEIKKILA: Mr. Chairman, members, for the record, my name is Dawn Heikkila with the Motor Vehicle Division, and I've got just a few things that I wanted to cover with you today.

One of the handouts you received is the operating budget for 2010. The operating budget for the Department of Motor Vehicles was due to be submitted to the Legislative Budget Board on December 1, and with the assistance of TxDOT, it was submitted electronically. What you have is a paper copy in front of you. We'll be issuing and distributing the hard copies, according to the Legislative Budget Board's instructions, on or before December 8, and within five days of publishing the hard copies, we'll be posting it on the agency's website as well.

This is the first introduction you'll have, as you've heard the chair talk about the strategic planning process, this is kind of connected to it, and I can

certainly go through page by page if you'd like to do that, or we can just talk about it at a very high level, it's certainly up to you.

But you'll notice if you look at Schedule 3-A which is the strategy level detail, in the upper right-hand corner you'll see some coding blocks, and that's your first indication of what your strategic planning process is going to look like. That kind of ties the operating budget to the strategic planning process. You'll see that there's a statewide goal identified. The coding block indicates that it's the number 4 which identifies the Department of Motor Vehicles as an economic development agency. That's the category that the Legislative Budget Board has decided for purposes of our appropriation pattern that the agency best fits in.

The statewide benchmark, you'll notice there's a zero off to the right of the 4, and that's because there is a laundry list under the statewide goal number 4 of different benchmarks, and there isn't one specifically that addresses what we do, so for right now we're kind of undefined. And as we begin to stand up as an independent agency, I'm sure we'll become more defined and probably at some point will have a designation.

Underneath the statewide goal you'll see a category called service levels or service categories, and

then you'll have service, income and age, and those are categories in the strategic planning process that identify by strategy the function of that strategy. And for the first page that we're looking at, this happens to be the Registration and Titling strategy, and the primary function of this strategy is revenue production and collection, collection of the registration fees and titling fees. And then the income, the designation A-2 just means that the agency serves all of Texas, no matter what their income levels are.

And then the age designation, the B-3, indicates again that the agency is serving all of the population of Texas regardless of what their age is. Some of the agencies, like your health and human service agencies, will have strategies that serve a particular population, some of the juvenile agencies may deal only with kids, so that's what' that's all about.

You'll also notice that there are output measures on this particular strategy. Those are the performance measures that we have to report quarterly, and now that we are in December 1, we've actually satisfied the first quarter of the fiscal year which was September, October and November, and even though the DMV really has only been an agency since November 1, we'll still have one month of activity to report as the DMV on our quarterly

reports for the first quarter.

out by object of expense code. That's the different expense categories that we can charge our budget against, and you may notice that some of these numbers, if you've been following the budget in the MOU, these numbers may be a little bit higher than what you're used to seeing, and the reason for that is this budget includes regular appropriations, transfers in, transfers out, UB authority, all of the things that were provided for not only in the rider of the General Appropriations Act but also in our organic statute, House Bill 3097. There was a provision for bringing any remaining balances from the prior biennium in and then transferring forward anything from 2010-2011 that we had negotiated with TxDOT through the MOU.

Are there any questions?

MR. VANDERGRIFF: I would like you to note, if you would, please, on the expense, maybe some specifics about whether they're significantly higher than what they were in the previous >09 numbers and the >08 numbers.

MS. HEIKKILA: Okay. Again, for the
Registration and Titling, that's the one that has the
largest jump because there were UB associated with that.
Unexpended balances that were rolled forward from prior

periods, one of the biggest spikes you're going to see under professional fees and services, in prior years it was running about \$5 million, and then for 2010 you're going to notice that it's \$29 million, and the primary reason for that is that the legislature during the last legislative session awarded TxDOT -- which is now the DMV -- the ability to spend what we call Vision 21 money.

The House Bill 3019 money was actually appropriated as part of the capital budget, so that's appearing in some of this, and that's the primary reason that particular category is so much higher. That's actually a regular appropriation that came out of TxDOT's bill pattern.

MR. VANDERGRIFF: That's also a fund that has been filling up, so to speak, since 1999.

MS. HEIKKILA: Right, that's a dedicated fund.
MR. VANDERGRIFF: Right.

MS. HEIKKILA: The next big spike that you might see under other operating, you'll notice that it's tracked \$44 million, \$52 million, and then for 2010 it jumps to \$93- and a big significant part of that, 62 percent of that was actually regular appropriation amounts. And then again, there's some dedicated accounts that UB forward or rolled forward the balances from prior periods, like the Texas SURE money -- that's the vehicle

responsibility money. There was a transfer, also, from TxDOT to cover the Meyers settlement which I think you may be familiar with. There was a class action lawsuit that was settled and there wasn't enough money in prior periods to roll forward, so TxDOT provided a transfer of about \$16 million to help cover or offset the cost of that.

And then there was also just general money that was rolled forward from the provisions from the organic statute, House Bill 3097. Mr. Butler.

MR. BUTLER: I have a question, what is the other operating expense that's listed, a fairly large item on each, what does that usually consist of.

MS. HEIKKILA: That could be printing costs, mailing costs, it could be furniture purchases, it's just operating expenses associated with running an agency that aren't categorized specifically by object of expense code in the budget.

MR. BUTLER: Okay. It just seemed like a large item.

MS. HEIKKILA: It generally is, it generally is like a catchall item.

MR. BUTLER: Half the budget.

MS. HEIKKILA: Half the budget. On this particular item there are UB money rolled forward, and are you looking at the strategy, the Registration and Titling

one?

MR. BUTLER: Yes. \$151 million in 93 as other operating.

MS. HEIKKILA: Right, I was just going through that. \$62 million of that is from a regular appropriation, that's just what the legislature appropriated for that strategy, and this strategy, even though it says Registration and Titling, supports more than just the Vehicle Titles and Registration Division, it also supports a portion of the Motor Carrier Division. And then there are some related costs that will be associated with central admin like the RTS folks that are supporting it.

MR. VANDERGRIFF: Was Motor Carrier previously delineated separately, or has it been absorbed in now that we kind of have half of that, or has it always been a part of VTR?

MS. HEIKKILA: My understanding is that it was always part of the strategy. I think there were small pieces that were in some of the other areas in TxDOT's budget but those pieces stayed at TxDOT.

MR. VANDERGRIFF: I would note -- and I realize you're interpreting and putting the numbers on paper and we have the director of the VTR here, but I think that there was a firm understanding and belief in the

legislature that the time was right to move forward with Vision 21, the technology advance, and that's the significant bulk of the increase, in addition to the Meyers settlement.

MS. HEIKKILA: Right. 2010 represents the first year that the legislature actually gave them permission to spend that money that had been collected -- at least that's my understanding.

MR. VANDERGRIFF: And I think it's about \$70 million actually so far in the collection and we're spending not all of that but a significant chunk over the next two years.

MR. CAMPBELL: Dawn, in the area of the category of other operational expenses, when it jumps that large from \$46 million -- and I'm under 2-C, summary of budget -- when it jumps that much from \$46 million to \$54- and then expected of \$96-, could you break that down for us maybe in the future where we can go through that and maybe won't have to ask as many questions on this?

MS. HEIKKILA: You bet. I don't mind the questions at all. Also, what you're looking at on Schedule 2-C are all of the strategies rolled up together, so in order to get to the \$46 million or the \$96 million, you'd have to look at the Registration and Titling breakdown, you'd have to look at the Vehicle Dealer

Registration Regulation breakdown, and you'd have to look 1 at the Automobile Theft Prevention breakdown, as well as 2 the indirect strategies. So this is a summary where they 3 all roll up together. 4 5 MR. CAMPBELL: And I think just in the areas 6 where they were out of the norm, where they jump up or 7 spike up --MS. HEIKKILA: Where there's a significant 8 9 spike. 10 MR. CAMPBELL: -- if we could see those, I think that would help us a little bit. 11 12 MS. HEIKKILA: Okay. 13 MR. CAMPBELL: Thank you. 14 MS. HEIKKILA: Did you want to go strategy by 15 strategy and look at those numbers? 16 MR. CAMPBELL: (not on microphone) 17 MS. HEIKKILA: Right, for the Registration and 18 Titling strategy, if you're looking at page -- well, the 19 strategy 3-A-1 and under the coding block in the upper left corner, you'll see Strategy 1, Regulation and 20 Titling, under other operating, that \$93 million, if you'd 21 like, I can tell you exactly what's in that. \$62,700,000 22 23 and a little bit of change is a regular appropriation from the legislature; \$7.3 million is the vehicle 24

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responsibility transferred forward; \$16.1 million is a

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transfer from TxDOT to offset the Meyers settlement payment; and \$7.1-, roughly \$7.2 million is unexpended/unobligated balances rolled forward from a prior period, and again, part of that \$7 million went to offset the Meyers payment.

MR. VANDERGRIFF: Perhaps two things that would be helpful addressing -- I'm having a hard time saying Board Member Jim or whatever, but for any of us here, I apologize -- the \$62 million, probably that's a number that at the next board meeting we might have -- that's really the true other operating income, the other ones are kind of one-time things.

MS. HEIKKILA: Right.

MR. VANDERGRIFF: And there is a fairly -- from \$44 million to \$52- to \$62- over a two-year period of time, so to understand what's in there is probably good. And then the second is to understand what unexpended balances are, probably for the board to understand that and what you do with them and the like, just to understand how that occurs.

Director Campbell, would that work?

MS. HEIKKILA: And you want that for the January meeting?

MR. VANDERGRIFF: Right. If we can do it faster to send it out to them, fine, but at least we would

answer it publicly at the January meeting.

MS. HEIKKILA: Okay, certainly. I can certainly get an e-mail out and explain what that is to you.

Behind the initial Schedule 3-A are the remaining strategies broken out in the same manner. The service codes will change, the Vehicle Dealer Regulation strategy is obviously occupational regulation. Behind that is the Automobile Theft Prevention strategy, and you'll notice that's Category 35, Crime Prevention, and then on the very next page is the indirect strategy -- I'm sorry -- it's the page after that.

If you have any specific questions about any of these schedules, I'd be happy to answer any questions you have.

MR. VANDERGRIFF: Thank you.

MS. HEIKKILA: On the 2011 budget process, a couple of things that you may want to be aware of is that the strategic planning process will begin again in the spring, the formal instructions from the Governor's Office will come out probably in March, and then we'll have to take up that. The first item that happens is a review of your strategic structure, your bill pattern, the appropriation structure that we have that we're working with, and any of the performance measures that transferred

over from when the divisions were pulled out of TxDOT and incorporated into the Department of Motor Vehicles. So we'll want to be looking at whether or not you want to modify any of those performance measures or add measures or request that measures be taken out.

A couple of milestones that I think we all need to be very, very proud of is that the transfer that actually put the money into the DMV account happened on November 18 -- we're very pleased about that -- and December 1 was the first official payday of the Department of Motor Vehicles so we've made our first payroll, and as a result of that, we'll be having quarterly reports coming due, we have an FTE report to the auditor on how many employees we have, we have a binding encumbrance report that will be due to the Comptroller's Office. We will also be gearing up for W-2s during the month of December and getting those out because the employees that transferred from TxDOT to the Department of Motor Vehicles will receive two W-2s this year and we want to make sure that we get that information to our employees timely.

And let's see, I think that's really all I have unless there are any other questions.

MR. CAMPBELL: Dawn, I have two questions real quick. One is your grants are going up 20 percent projected from 2009 to 2010. What's the cause of the

increase?

MS. HEIKKILA: Those particular grants are discretionary grants received by the Vehicle Titles and Registration Division, and discretionary grants are competitive, you put an application in with the federal grantor agency, or whomever the grantor is, and if your application is successful, the grant is awarded, and I'm not exactly certain what the difference is. I do know that these are grants that were originally awarded in 2005 and that the grant period has been extended through the end of the federal fiscal year for 2010 which will be September 30, 2010.

And I don't believe that the actual level of funding was increased for these grants but the time period has been extended so that they'll have an opportunity to expend some of these grant funds. Does that answer your question?

MR. CAMPBELL: I don't think so. Does that mean it's carried forward some?

MS. HEIKKILA: Right.

MS. DAVIO: Good afternoon. For the record, my name is Rebecca Davio, I'm the director of the Vehicle
Titles and Registration Division. Dawn is right, we were able to carry forward several of our grants that we had received from the Federal Motor Carrier Safety

Administration. This year, however, the Department of Motor Vehicles was awarded approximately a \$300,000 grant from the Department of Justice. This is a new grant that we did competitively apply for through the Governor's Office, and we received this money for a number of different projects.

The requirements for this grant is to be able to improve the law enforcement process, so because the information in the Registration and Titling database is so critical to law enforcement, we were able to get this grant because we were improving the quality of the data and doing things to not only improve the quality of that data but provide more information for law enforcement in a more timely fashion. So that's new money, that's one of the reasons for the increases.

MR. CAMPBELL: And you said that's about \$300,000?

MS. DAVIO: Yes, sir.

MR. CAMPBELL: But it's gone up about \$3 million, or not quite \$3 million.

MR. VANDERGRIFF: I think you're probably looking at the Automotive Burglary and Theft Prevention increase. And you might want Charles Caldwell to explain that. Actually, if we could -- well, go ahead, Charles, and come up.

MS. HEIKKILA: Member Campbell, what page are 1 2 you looking at? 3 MR. CAMPBELL: It's page 4 of 7. MS. HEIKKILA: Okay, all right. If you look in 4 5 the upper right-hand corner, you're looking at Strategy 6 Number 3, Automobile Theft Prevention. 7 MR. VANDERGRIFF: Yes, he is. MS. HEIKKILA: And you're asking about the 8 9 grants, the increase in grants. 10 MR. CAMPBELL: The increase, yes. MR. CALDWELL: For the record, my name is 11 12 Charles Caldwell, I'm the director of the Automobile Burglary and Theft Prevention Authority. The increase in 13 14 grant funds is due to the increase in appropriation 15 amounts that we received. We received pretty much about 16 approximately close to \$2 million from the last fiscal 17 year to this fiscal year, and as you recall the last time 18 I came before you, about 94 percent of that money goes to 19 grant funds, so pretty much about almost \$2 million went to grant funds on that, and that's pretty much the 20 increase in those grant funds. 21 MR. CAMPBELL: And it will all be expended? 22 23 MR. CALDWELL: We're hoping. That's one of the conditions that we give it to them that we want them to 24

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spend all the money.

MR. CAMPBELL: Could you give me the definition 1 of method of financing, what's that definition? 2 The method of finance identifies MS. HEIKKILA: 3 the funding source for the money that's being appropriated 4 5 or transferred. The Department of Motor Vehicles has 6 three funding sources: the General Revenue Fund, or Fund 7 1, those are general receipts that the legislature appropriates out to agencies; the second one is the State 8 Highway fund, or Fund 6, that's the big discussion point 9 10 for a lot of budgets, that's where the road construction money is -- I think you've heard our chairman talk about 11 the road wars and that kind of thing, that's that pot of 12 money; the second one you'll notice is federal funds and 13 14 that's referring to the grants that we've received. 15 MR. CAMPBELL: Okay, thank you. MS. HEIKKILA: 16 Sure. 17 MR. VANDERGRIFF: Director Rodriguez, do you 18 have anything you might want to add on the Automotive 19 Burglary and Theft Prevention, anything with respect to the revenue? 20 MR. RODRIGUEZ: No, just that it's changed over 21 the years. It used to be a fund that was basically income 22 23 from insurance dollar assessments, and we've gone away 24 from that now. Right? 25 MR. CALDWELL: Well, yes, and a couple of

1	sessions ago they switched our fund from Fund 1 to Fund 6
2	and TxDOT was doing the funding for us. It used to be a
3	dedicated fund which all the money was dedicated to the
4	authority but we lost that dedication status years ago,
5	now we're being appropriated by the legislature.
6	MR. VANDERGRIFF: But the good news, I think,
7	was at least that you were kind of short about \$2 million
8	and you got it back going forward.
9	MR. CALDWELL: Yes.
10	MR. VANDERGRIFF: Got to protect it but got it
11	at least this time out.
12	MR. CALDWELL: Yes, we got a little bit
13	increase this time.
14	MR. VANDERGRIFF: And I want to note the good
15	work you did to do that, so it was a good compelling case.
16	MR. CALDWELL: Thank you. Any other questions?
17	MR. VANDERGRIFF: Any other questions of Dawn?
18	(No response.)
19	MR. VANDERGRIFF: One thing that we might
20	consider doing, and I'll certainly ask the board, is we've
21	reserved a pre-board workshop time and it might be
22	appropriate to use an hour of that time either January or
23	February to just kind of have an ABCs of the budget
24	process, I think it would be helpful.

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MS. HEIKKILA: Certainly, especially going into

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the strategic planning process.

MR. VANDERGRIFF: So we'll work on that and maybe plan for that for January. Thank you. And I also want to note for the board here what a tremendous job Dawn and several others have done. He may have left the room, but our interim chief financial officer, Brian Ragland, is here in the back and appreciate his effort on our behalf, and Linda Castro, and we've had a lot of people working for us, but particularly appreciate the bulldog effort that you've made, and we little know about the efforts on getting that first payroll, but those that do appreciate it. Thank you very much.

MS. HEIKKILA: Thank you.

MR. VANDERGRIFF: As we noted earlier, item

2.A.3. we were not going to cover that and we are here to

item 2.A.4. which is the listening tour that is being

discussed and potentially will be proposed coming at our

January meeting. Helen Hevelka, who is listed here, is

not going to be making the presentation here today, I

asked a Department of Motor Vehicles division director who

had worked on this hard, Rebecca Davio, to present this.

MS. DAVIO: Hi again. For the record, Rebecca Davio, the director of the Vehicle Titles and Registration Division.

I would like to give you a little bit of an

update on the listening tours. You got some introduction on them at your last meeting, and basically the concept here is that members of the board and DMV staff will go out into the state, leave our shelter of Austin, and go out and really listen to what our customers and our partners and our stakeholders, the feedback that those folks have for us really on three different issues.

First, we want to know what those people like about what we're doing so we make sure and keep that and don't make changes to that. We also want to know where we can do better, how we can improve. And then the third question really that we're seeking some input on is in a perfect world, if there were no constraints, what is it that we can do to make the customers and our partners interactions with us, the Department of Motor Vehicles, easy, something where you go: Wow, I can't believe that was a state agency.

And so that's really what we're trying to do is go out and listen and not just sit behind our desk and think what we think we want to do better or where we need to change but really listen. And this information will be very important as the board and the staff members start to work on our strategic plan, it will give us some ideas of where we can focus.

The very first listening tour is scheduled

quickly, next Tuesday. It will be here in Austin. We're using that as really a trial run, if you will, to see how does that work, how are our customers and partners responding to this opportunity to come and tell us firsthand what they think. And the session is scheduled for December 8, that's next Tuesday, it will be at 6:30 in the evening, it will actually be at the Department of Motor Vehicles building here in Austin. And we've sent invitations out to the stakeholders, there's press releases, we've used social media to get the word out, and so we're just trying to see what that feedback will be.

And so we're very excited about that, we have approximately 14 other locations around the state, we feel like we've really got good geographic coverage, small cities, big cities, so that we give our customers and partners an opportunity to talk to us.

Yes, sir?

MR. GILLMAN: Give us an example of who you're inviting.

MS. DAVIO: We are inviting the dealer community, the tax assessor-collectors, the specialty license plate organizations, lien holders, but we're also really reaching out -- trying to reach out to the motoring public to let them know that they can come and talk to us. For those people that cannot make -- that live here in

the Austin area and can't make that meeting, then we're also trying to provide them a mechanism so that they can provide feedback to us via the web and get that information to us.

It just feels like this is a perfect time -it's always good to listen to your customers but now is a
perfect time to really make a lot of effort to go out and
say what do you think. Because as we start up this new
agency, it can really help us decide where and how to
organize.

MS. JOHNSON: Are any of these dates at all flexible or are these pretty much set in stone?

MS. DAVIO: The dates that you have are very, very flexible. We had to start somewhere, and actually, I'd like to take this opportunity to thank our friends in TxDOT's Government and Public Affairs Division have helped us to this date. They have done something similar where they go out and have had town hall meetings where they give constituencies and opportunity to express their opinions so they've given us some pointers. But what we did was said, okay, here's a list of cities, here's some dates, here's our time frame. We're trying, as Dawn pointed out, the strategic planning effort will start again in March and so we wanted to try and get as much input as possible before that, that's why we have this

very, very aggressive schedule to try and do, but the dates are not set in stone.

What we did was we took the liberty of saying the board members that are close to that, you'd be a likely board member to be there. Again, we don't want to exceed the quorum so any of the board members would be invited to come, but we just took the liberty of saying, well, Cheryl, you live close to Houston, makes sense that you would at least go to that session.

MS. JOHNSON: And that's the one that I'm concerned about. That is the last day to pay taxes without penalty and interest and I'll have 6,000 people in my office and I can't make that date, but I would really love to be there.

MS. DAVIO: And so you can't make a 6:30 meeting?

MS. JOHNSON: We won't close until 7:00; we're open twelve hours that day.

(General laughter.)

MR. VANDERGRIFF: I think for the purposes of this, it was really a strawman proposal.

MS. DAVIO: It was a strawman. We'll be coming back to you and saying can you make that date; if you can't make that date, even though it's your home city, would you be willing to help us out. For example, we

don't have a board member in Amarillo, could you go to

Amarillo since there's already several other board members
in Houston -- is a possibility.

MS. JOHNSON: If it is possible to flip that one with another one, I'd greatly appreciate that. It just makes sense for us in that Houston area to definitely be there, and you're going to get a lot of input, probably.

MR. VANDERGRIFF: I think certainly for the individual cities where there is a clear person on our board living there, they'll make the accommodation.

MS. DAVIO: Absolutely.

MR. VANDERGRIFF: There's another part of this that we discussed that is not part of this setting here, but as we take the opportunity when we go to the individual communities, to get a chance to visit specifically with tax assessor-collectors, with legislators, with local officials that deal with our issues, and so I think that we'll have the opportunity to have some private meetings before the big public session in the evening. So I'd want the board to be apprized that that's part of the thought process is that you'll be front and center with the constituents we represent and the officials who oversee us.

MS. DAVIO: That's right. There may be

specific constituencies that have more detailed issues that maybe they don't want to bring up in a larger session. We are going to try and provide opportunities as much as possible in that. We're looking at trying to get there a little earlier in the day and take advantage of that opportunity to visit.

Are there any additional questions?
(No response.)

MS. DAVIO: We'll be getting with you to check and see what your availability is like. We appreciate that very much.

MR. VANDERGRIFF: Thank you very much.

The next item on the agenda is 2.A.5. which is the board committee structure. That's a structure that was proposed to the board back before this meeting. It is not a voting item, at least at this point, but I wanted to present that to the board to indicate that we would be standing up. We have three statutorily advisory committees that are for this board, and those will be covered briefly in a second, and then we have -- and I'm sorry I don't have that paper in front of me, Marvin spilled his water and I had to move everything quickly. He kept me on my toes fast.

(General laughter.)

MR. VANDERGRIFF: It's the committees

themselves. Do you have an extra copy, Gail? I appreciate it very much.

We had prepared and I had sent out to the board a proposed structure to understand those five committees. They are in the process of looking over this and we'll have discussion, I'm sure, to take some sort of formal action here in January. But we have previously announced four committees that would be out there that we would do out of board membership, the goal being, by the way, to do a lot of legwork that this board needs to do from a policy perspective in a committee basis so that you all do not have to sit here for an entire afternoon to come to where we can move things a little faster, you'll just have to come to more committee meetings.

One would be an Administrative Committee which their central focus at the moment is standing up the central administration staff and is looking to oversee the culture of the agency and the personnel from, again, the policy perspective.

A Finance and Audit Committee which would have the primary responsibility for the strategic plan budgeting and establishing the solid internal and external reporting, analysis of all revenue and expenditures.

And then we have a Projects and Operation committee which would be looking at some of the big ticket

items such as Vision 21, LACE or TexPro, and obviously we've got a separation from TxDOT. To the extent necessary on information technology needs, we're certainly tied at the hip for the next couple of years but we'll be transitioning. A permanent home, if it's appropriate, for the entire Department of Motor Vehicles will be on this committee's agenda, and really just a thorough of our ability to tackle the big projects in the future.

And then the fourth would be a Legislative and Public Affairs Committee which would be obviously marketing and media efforts for their effectiveness and our proper role in moving forward, and then the implementation and review of ongoing outreach efforts with stakeholders and customers of the agency to obtain their feedback and to provide information to them.

Again, at those legislative hearings I went to,
I was asked numerous questions about information, and I
promised open and transparent, just give us a little bit
of time because we don't have anybody to give you those
figures yet that aren't doing six jobs already, and we
want to be able to deal with that.

So again, the purpose is to, in effect, divide and conquer as a board that we don't have marathon sessions up here, they go fairly crisply, but we have detailed work sessions that the committee chairs would

establish, and we'd probably have three members, including a committee chair, on each one of those. But again, we will be taking that up as a real specific board action item in January.

And then we do have the three advisory committees which are primarily the core committees by statute that are designed for the industry to have direct participation and a voice, not in making decisions but in getting information to us. And it's unclear exactly how we will, as a board, interface, whether it's a chair or whether a member or whether it's as a facilitator, but we will be there along with the people within the division to facilitate that process so that you have an ongoing and established ability to have input at the ground level to what this department does.

Again, the goal, divide and conquer, but also a second goal -- I should have said it earlier -- is for the affected industries and the consumers to have a process where they feel like their voice can be heard in a timely manner before we take action, not after the fact.

So with that, I'd open it up, again, for any questions at this point with the board, and I'll repeat again, it's a briefing item today, they've gotten some information and paperwork on it, we'll move forward in January.

I'm used to at previous committees I looked for lights, and here I have to look for heads, so I apologize.

And the last is I kind of combined them as the advisory committee structure and you heard me briefly talk about that, but we will be coming back with those with action items in January.

We decided not to hold the more extended briefings on items 2.B. through E., but I would ask if any of the divisional directors, for example, if Motor Vehicle Operations, Bret Bray has anything he wishes to make sure the board is aware of. He indicates he does not.

Motor Carrier Operations, we have Carol Fallin and we asked Carol Davis to be here. I promise next time we will do this, I think it's important for you to understand, as a board, and certainly the public, the TxDOT half of this which is the permitting function. I admire so much what they do and appreciate you being here and sorry for taking your whole day, but we will ask you back and put you first.

And then, Carol, if there's anything you would like to update us on, if you have any items? Okay.

And with Vehicle Titles and Registration, Rebecca, do you have anything?

I should have asked if any director has a specific question of either of those operations, either

Motor Vehicle or Motor Carrier?

(No response.)

MR. VANDERGRIFF: Okay.

MS. DAVIO: For the record, my name is Rebecca Davio, director of the Vehicle Titles and Registration Division, and I would like to just take a couple of minutes to give you an update on some actions that have occurred since your last board meeting.

The first, the chairman already covered, we did have a very successful conference with the tax assessor-collectors. The chair and Ms. Johnson both participated in that. We used that as an opportunity to listen and to also share information. So that was one thing.

Another action that was very significant was the special license plate marketing company began their operations, they began selling plates November 19. And just to provide a little bit of background to you, the legislature directed TxDOT several years ago to enter into a contract with a private vendor to design and market speciality license plates. You're familiar with maybe the AShare the Road@ plate or the plate that has the Texas flag on it that's the Arts Commission plate. Well, those plates benefit particular charities or universities -- both A&M and UT both have plates.

This is a little bit different in that, as I

said, the legislature directed TxDOt, at that point in time, to enter into a contract with a private company, and this contract is really about making money for the state, let's generate some more designs, some different kinds of things

And so we've had a rough start with this, but the latest company began their operations, they began selling plates November 19, and since then -- which is really only about two weeks -- I'm happy to report that they have sold almost 1,200 plates. Yes, that's quite amazing. That compares to there was a company that started operations doing this same thing last year that actually operated for only 3-1/2 months and in that 3-1/2 month period that company sold 1,300 plates. So in a two-week period they sold almost as many plates as the previous company had sold in a 3-1/2 month period.

They did come back and lower the pricing for those plates just a little bit and we feel like that in this particular market that was probably very important on that sale. This particular company has the opportunity to sell plates for a one-year period, for a five-year and ten-year. The majority of those plates were one-year plates and they range from about \$95 to several hundred dollars a year, depending upon the particular pattern and message that's on the plate. So that was significant.

And you will have an opportunity in the future to make decisions on that. The board is charged with approving their fee schedule and that kind of thing. So I just wanted to give you a little bit of background on that.

And all the charity plates, just so you know, what we refer to as charity plates, the plates that I mentioned or the university plates, those are still in existence, this is a different array, another set of plates that are available for customers to choose.

And the third thing that I'm very excited to tell you about is -- this is brand new breaking news, just heard about it this week -- the National Highway

Transportation Safety Administration granted the

Department of Motor Vehicles tentative approval to change the way that we do the odometer readings. For those of you in the dealer business, you're aware that when a vehicle is sold, the odometer reading has to be in writing, and that we felt was a major impediment to be able to look at using electronic titles where the record is in the database but you don't have to keep up with that piece of paper.

And so NHTSA is the governor of this and we are only the second state in the country, to my knowledge, to be able to receive this, so we're very, very pleased about

that because that then removes one of the barriers for us to being able to use electronic titles, and we feel that's great for customer convenience, for the dealers, even for law enforcement because it would help reduce fraud.

So those are the significant accomplishments that we have logged since last meeting. Are there any questions?

(No response.)

MS. DAVIO: Thank you.

MR. VANDERGRIFF: Thank you very much. I'd ask, Charles, do you have any further updates from the Automobile Burglary and Theft Prevention Authority that you want to provide to us?

MR. CALDWELL: My whole staff is here with me, all three, four of us are here. Again, I am Charles Caldwell, director of the Automobile Burglary and Theft Prevention Authority.

Just a couple of things here. One is next month we are having our board of directors meeting along with our Insurance Fraud Advisory Committee meeting that we're having. The committee meeting is on the 13th of January that starts at one o'clock here in Austin, and the board of directors meeting is on the 14th which is at nine o'clock. Unfortunately, that's the same day as the next DMV meeting, but I think you're an hour later so I might

be running a little late but I'll make it over here.

We have some interesting topics in there and discussing insurance fraud information, insurance policies, homeowners policies, we're going to discuss some other funding sources, for our burglary initiative that we've been tasked with. So we have some interesting items on there to discuss. And also, we will be submitting an RFP for our grants and other agencies to start submitting their grant applications to us for the 2011 year that we start allocating in June. So it's kind of a tedious process and we try to give them as much time as possible to contact their different agencies and connecting agencies and get all their paperwork involved. So we'll start that process probably the first part of February or March.

The other thing -- and I think that's what they wanted me to talk to you guys about -- is during the holiday season we put out a public awareness campaign for the holiday season of watching your car. It's a heightened awareness that during the holiday season there's a lot of auto thefts and a lot of auto burglaries, and so we just put out a campaign across the state, and I hope some of you guys get to see some of the newspaper ads, radio spots, things of that nature, to heighten your awareness of being careful about your belongings as you're

going shopping during the holiday season and buying all the gifts that thieves are out there watching you. So just be careful and make sure you hide your things, lock your car and take your keys.

So that's it. Any questions?

MR. WALKER: I have a question for you. Is your board meeting an open board meeting so that if we wanted to attend, we could?

MR. CALDWELL: Yes, sir. And if you would like to attend, we will have that at the -- that's why I have staff.

MR. VANDERGRIFF: You might introduce your staff since they're all here, it's pretty easy.

MR. CALDWELL: This is Jan Gregg, my grant administrator; next to her is Jennifer Minor, grant assistant; and our public awareness person is Julia Bardnell, she's the one responsible for putting that whole campaign out for the holidays; and Barbara Matthys is the one who's holding down the office for us, and she's the only one left at home.

So that is at the Holiday Inn Town Lake, I believe. Both meetings will be held at the same location. The Insurance Fraud meeting is the day before the board meeting, that afternoon, and then the board of directors meeting starts at nine o'clock that morning, the same day

of this board meeting. They go pretty quick so if you 1 want 10-15 minutes, you get quite a bit in there. 2 MR. VANDERGRIFF: If the pleasure of any of the 3 board members would like to go to that, we might could 4 5 start our board meeting at 10:30, something like that, to get there if anybody would like to go there. 6 7 MR. CALDWELL: We'll definitely send you some information. 8 MR. VANDERGRIFF: And we'll just note that 9 we'll start our meeting -- you think it's comfortable to 10 11 say that they would have an opportunity if they go to the 12 board meeting for an hour to be there at the board meeting and then to come back here? 13 MR. CALDWELL: Oh, yes. 14 15 MR. VANDERGRIFF: And by the way, I got a 16 chance to go to a board meeting a couple of months ago and it's a great group of people, they do a lot of good work. 17 18 MR. CALDWELL: Thank you. MR. VANDERGRIFF: Well, we'll do that. 19 MR. CALDWELL: And we can send that information 20 out to you guys. Any other questions? 21 22 (No response.) 23 MR. CALDWELL: Thank you. 24 MR. VANDERGRIFF: Thank you very much. 25 Jennifer kind of jumped up there. Did you have

something for him? Send it to everybody, yes, that would 1 be great. Thank you very much. 2 Next item on the agenda, we've moved into the 3 resolution phase and we are at 4.C. which is the 4 5 director's and officer's liability insurance. 6 MS. SALDANO: We talked about this some at the 7 last meeting so I'm just going to give you a guick overview and then introduce our guests. 8 We have three choices as far as a director's 9 10 and officers's liability insurance premium, there's \$1 million, \$3 million and \$5 million -- that's an aggregate 11 for the coverage limit. The premiums for the \$1 million 12 are \$30,829; for the \$3 million, \$72,448; for the \$5 13 14 million, \$92, 486, and all those have a deductible of 15 \$50,000. 16 We have a guest from the State Office of Risk 17 Management, and also from Arthur Gallagher, the insurance company, if you would like to ask them questions. 18 19 MR. VANDERGRIFF: You might go ahead and introduce yourself just so we have it on the record that 20 21 you were here. 22 MS. BECKER: Good afternoon. I'm Sally Becker 23 and I'm a risk management specialist for the State Office

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MR. COMPTON: My name is Robert K. Compton, I

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of Risk Management.

am the president of Arthur J. Gallegher Risk Management Services in Dallas, Texas.

MS. BECKER: We'll be glad to answer any questions you might have about this insurance policy.

MR. WALKER: Sure seems high.

MS. SALDANO: I think our greatest concern is it is an exceedingly high premium.

MS. BECKER: Actually, we got this revised because we finally got some financial information so it has been decreased from the original quotes. Actually looking at this -- because I was kind of concerned when I first saw it myself -- but I went back and looked to see if I had any other state agencies -- it's based on your budget and your FTEs, so I tried to find another state agency to do a comparison to see how it appeared, and actually, it was right in line with some of the other state agencies that had about the same FTEs. But it's really hard because there's nothing that's exactly the same, none of the state agencies are exactly the same.

But the premium is quite in line with -- in fact, it's probably a little cheaper than if you tried to go out and buy it on your own because you're part of a bigger program. And our policy has a lot of things in it that we've asked for considerations of because it is a state agency. And particularly for an example, we know

that the Attorney General's Office provides you representation for lawsuits, and so we told the insurance company that since we don't need defense -- which is normally included in your policy -- because we have the AG's office to do that for us for relatively free, that we don't need that, so give us a discount in premiums for that. And that's probably saved maybe 10 or 15 percent because a lot of the cost is defense, so we don't have that in there.

And also then your million dollar limit or your

And also then your million dollar limit or your \$3 million limit or \$5 million is there for settlements rather than paying for defense. So the premiums are right in there. We do an RFP every five years to make sure we stay competitive and that we get what we need from the insurance companies.

MR. WALKER: Roger (sic), whose paper is this?

MR. COMPTON: Robert. The paper is Chartes

which is the former AIG.

MR. WALKER: So it's AIG's paper?

MR. COMPTON: Yes.

MR. WALKER: And they're broke?

MR. COMPTON: They're not broke, the holding company is broke.

MS. JOHNSON: And I'm not sure if this question is appropriate for Jennifer or maybe the two of you can

help me, it's my understanding that there's some immunity associated with the positions that we're in. Are we undermining our official immunity by insuring ourselves, are we saying the heck with the official immunity and we're just going to insure ourselves? I don't want to risk that.

MS. BECKER: That's kind of a legal question but I don't believe by buying insurance you have given up your immunities that would be available.

MR. COMPTON: Actually, Ms. Johnson, the aspect of your exposure that this type of policy really covers the most is your exposure that's related or known as employment practices liability, much more so than anyone's participation as a board member. You hear me saying clearly that suits against the board can happen, but it's just not very likely. The most likely thing that will occur is some type of employment practices liability suit which includes things that you've probably heard of like sexual harassment or wrongful termination, things of that matter.

MS. BECKER: Any other questions?

MR. VANDERGRIFF: I would note our general counsel like to say something.

MS. SECORD: For the record, I'm Linda Secord, the interim general counsel for the board, and Ms. Becker

did a wonderful job of moving me from total ignorance to partial understanding yesterday. She was very clear with me on the phone, but I have a few more questions for her if that's all right, and that might be things that would help the board members.

Ms. Becker, I heard you say that one of the things that you were doing that would result in a lowering of the premium would be to just go ahead and let the Attorney General's Office defend. I'm looking at a sample policy from Chartes, in clause 2(a) and (b) it says that the company shall appoint an attorney in clause (a), and then in (b) it says the insured -- which would be us -- shall not admit liability or settle any claim or incur a cost without the written consent of the company.

Are you saying that if the board chooses to go into a policy like this, those two clauses would not be in place, that the company would not appoint an attorney and would not require written consent of the company prior to the cost or expense?

MS. BECKER: There is a defense amendment that is put into the policy that I was just trying to look for.

MS. SECORD: I don't remember seeing one, but is there something like that?

MS. BECKER: Well, the way that we worked this with the insurance carrier was to make them fully aware

that the Attorney General has final say-so for defense and settlement. They fully understand that he has the last word, in other words. But the AG's Office that we've worked with has the understanding that if there's insurance in place, they need to allow the insurance carrier to be somewhat involved in claims. The agreement we have is that if the Attorney General's Office sees that the settlement is going to reach 50 percent of your retention, that then they are made more aware and allowed to maybe participate in mediation, but they will not appoint an attorney to represent them. If they do, they do it at their own cost to themselves.

The other thing that we also did when it came to defense was after putting the program into place a couple of years, we discovered that there were some agencies that had advisory boards that we may not have the defense by the attorney general or where they could be maybe indemnified because they're not really board members. So we got the insurance company to agree that if the AG does not provide your defense for any individual or for the agency itself for some particular reason, that the insurance company will provide the defense, and any cost to that defense, after your retention, is theirs.

MS. SECORD: I have another set of questions and that is clause 4, the extensions, the second

paragraph, and it's on my page 3 of the sample. It talks about looking to -- in the second paragraph -- substituting in a spouse and seeking damages recoverable from marital community property. When we spoke yesterday, you had said that this policy does not cover a judgment against one of the officers or employees in their individual capacity, but I don't understand how you would ever get to marital property unless it was a judgment in their individual capacity.

And the other thing that causes me to wonder about that is in the definition of employment practices -- and it's E-11 which my page 2 -- one of the employment practices violations is a violation of an individual's civil rights relating to any of the rest of the definition. And civil rights is a sort of catch phrase for what we call 1983 actions, and I think those can only be brought against individuals in their individual capacity.

So to help the board understand what the premium -- which sounds big to them and certainly to me -- would cover, does this cover individual capacity. Because that, coupled with the punitive damages endorsement is a lot.

MS. BECKER: They're covered for their actions as an individual as a part of the board, and my

understanding -- and since I'm not an attorney, I have to defer to you somewhat -- they can't take any action except as a board. Correct? I mean, Mr. Vandergriff couldn't say this is what DMV is going to do today, set up a policy or a procedure by himself, only as the board can do that. So being that that's a difficult thing to happen, if he's named in a lawsuit as an individual along with the rest of the board, then yes, he's covered for that as an individual.

MS. SECORD: I think we're mixing the concept of individual as in real person using their first and last name with capacity. It's very common to have the chief executive officer, the executive director, and sometimes even every single board member, named as defendants in a lawsuit.

MS. BECKER: Correct.

MS. SECORD: But then they can be Victor

Vandergriff in his official capacity and Victor

Vandergriff in his individual capacity, those are two

different things, and if this policy covers individual

capacity, then it is broader coverage than if it's just

official capacity. So as I try to help them understand

what they would be buying for 92-some thousand dollars a

year, those are the kinds of questions -- and we may not

know the answer today.

And one thing that I may need to advise you all as your counsel is that you don't necessarily need to vote to accept an individual policy today, you may want to vote to have more questions asked. You can make a yes, we want to be insured or we think we want to be insured; no, we've decided we're good with the indemnification that the state provides and we'll visit with Ms. Becker next year if we are sorry we made that decision. I mean, you can make that sort of preliminary vote if you like, I'm advising you as your counsel. You do not have to make a decision on the final policy today. If you know that you want to have insurance, then I can get some of these questions -- I know it's not Mr. Gallegher but I think of you as Mr. Gallegher -- unless you know the answer to those.

MR. VANDERGRIFF: I would suggest at this point

that we probably bow to the board but perhaps table this one and defer it for a little bit further research, as you've indicated.

MR. GILLMAN: So moved.

MR. VANDERGRIFF: We have a motion.

MS. BECKER: Can I just insert one thing?

MR. VANDERGRIFF: Sure.

MS. BECKER: One of our legislative mandates at the State Office of Risk Management was to review insurance lines one by one and determine whether or not

it's the type of coverage we thought state agencies should purchase or not, and if we decided that it was the type of coverage that was a good idea, was there enough agencies that would have that exposure to have this coverage.

When we did the director's and officer's liability program, we did a lot of research as to our immunities, our caps, and determined that really the director's and officer's -- which is really public official's coverage in this case -- there's not a lot of exposure for you because of your immunities and there's a lot of caps involved.

Where we thought that the state agencies had most of the exposure was in the employment practices liability area. The employment practices liability, and our policy covers everybody from the board down to including volunteers, so anyone who might be accused of discrimination or harassment will be covered under the policy. We determined that that was the area that all state agencies had that same exposure. They have employees just like Microsoft has or that GM has, and some of those employees do become unhappy, they might feel that they've been discriminated against or that they have been wrongfully terminated, and we felt that that's where the exposure was, that a lot of the discrimination type of cases are civil rights cases, most of them end up in

federal court where our immunities do not apply and where our caps do not apply.

So that's why we determined that the policy was a type of coverage that state agencies should seriously think about. We can't make you buy it, we can't really tell you if you should or not, it's a business decision for you to make. But let me tell you, we have a lot of EEOC complaints that come in that we file with the insurance carrier, some of them turn into lawsuits, these are very long-tail type of lawsuits so some of the remedies haven't even began from the ones that we first filed in 2003, but they're out there and everyone is subject to them.

So I just wanted to bring that up that we did do a lot of research before we went forward with spending the time to do the procurement.

MR. VANDERGRIFF: And we do appreciate the time you've spent on it. I would ask if any board members have any other questions. Did you have anything further, Linda, that you need to add? Thank you very much.

I think at this point we don't need to take action on it if we need to table it for the next meeting.

MS. SECORD: Correct.

MR. VANDERGRIFF: So we'll do that. Thank you very much.

1	I'd move to 4.A., if we could.
2	MS. JOHNSON: Mr. Chairman, could we go ahead
3	and take a vote on that today?
4	MR. VANDERGRIFF: Would you prefer to take a
5	vote on it today?
6	MS. JOHNSON: I think so.
7	MR. VANDERGRIFF: If you have a motion, then
8	I'll be pleased to entertain it.
9	MS. JOHNSON: Well, my motion would be to
10	utilize our official immunity and not avail ourselves of
11	the insurance.
12	MR. VANDERGRIFF: Do I have a second for that
13	motion?
14	MR. WALKER: I'd second that motion.
15	MR. VANDERGRIFF: Second from Director Walker.
16	Any discussion?
17	(No response.)
18	MR. VANDERGRIFF: Well, then I would call for
19	your vote. If you're in favor of the motion signify by
20	raising your right hand.
21	(A show of hands.)
22	MR. VANDERGRIFF: Motion carries four to three,
23	and I think we previously noted that Director Marzett left
24	at one o'clock after executive session. So the motion
25	carries and we'll move forward. 4.A.

MS. SALDANO: For the record, my name is

Jennifer Saldano, I'm legal counsel with the Vehicle

Titles and Registration Division, and I also introduced
the last topic, since I forgot to add my name. I'm going
to give you a very brief rule.

New Section 208.7 relates to the vacant positions transferred to the department during the establishment of the department. The Texas Department of Transportation transferred vacant full-time equivalent employee positions to the Department of Motor Vehicles through a memorandum of understanding executed on November 4, 2009. The purpose of the memorandum was to reach an agreement on how to efficiently and effectively transition the department into a self-sufficient agency. The transfer of the vacant positions was intended to provide positions that would be needed to fill the administrative functions of the new department.

In filling these positions in accordance with Section 6.03 of House Bill 3097 and the memorandum of understanding, the Department of Motor Vehicles will give first consideration to an applicant who, as of September 1, 2009, was a full-time employee of the Texas Department of Transportation and primarily supported one or more of the transferred divisions. Once these positions are filled, the first consideration procedure will no longer

apply. 1 2 MR. RODRIGUEZ: I move we post. MR. VANDERGRIFF: We have a motion from 3 Director Rodriguez. Do we have a second? 4 5 MS. JOHNSON: I second that. 6 MR. VANDERGRIFF: Direct Johnson seconded. 7 we have any discussion? 8 (No response.) MR. VANDERGRIFF: Seeing none, please raise 9 10 your right hand signifying approval. (A show of hands.) 11 MR. VANDERGRIFF: It passes unanimously. 12 directors are absent, Marzett and Butler. Thank you. 13 14 MS. DAVIO: Hi. I'm Rebecca Davio, and I know 15 I'm at the tail end of your agenda so I will try and keep this brief. 16 What you have before you for your consideration 17 today, last board meeting you heard the rules, basically 18 the movement of the rules for the Motor Vehicle Division, 19 the Motor Carrier Division to the new DMV from TxDOT. 20 am here before you today to basically request your 21 permission to post the rules that are doing the same 22 23 thing, they're moving the Vehicle Titles and Registration related rules for the Department of Motor Vehicles. 24

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VTR has five different subchapters. Two of

those will be moving without any changes at all, the other three chapters have some minor changes, most of those changes are required by legislative changes. I'm not going to hit every single change, but I would, with your agreement, like to go through and cover some of the highlights.

We have a title subchapter, a registration subchapter, a registration titling system subchapter, salvage motor vehicle, and salvage dealer licensing, and it's the registration and titling system and the salvage motor vehicles that are moving over as is without any changes.

In the title subchapter, there was a law passed that stopped us from collecting Social Security numbers at the time of title transfer, and so this is reflected in our proposed rules, that change. Another change relating to titles is the allowance of 45 days instead of the 20 working days for seller-financed title transactions

In the registration chapter there are more changes, one relating to the definition of construction machinery, that's a particular registration class and we're just trying to clarify. That was not a legislative change but it's to help us clarify and make it easier for our customers and for us to be able to have clear and consistent interpretation of that.

We are also clarifying the standards for how and when we will refuse to issue a personalized plate, the particular pattern that's on there. Sometimes people try and get very clever and spell out something nasty, and we need to have clear rules that express when we will not approve a plate, and we've made some clarifications to that.

MR. GILLMAN: Excuse me a second.

MS. DAVIO: Yes, sir.

MR. GILLMAN: I'm backing way up. Are you talking about lengthening the process of titling these vehicles?

MS. DAVIO: The change that I mentioned -- I'm sorry, Mr. Gillman, I wasn't very clear -- the normal process was 20 working days allowing for the time of transfer of titles. There was a bill passed last session that for seller-financed transactions that period of time is lengthened to 45 days, so we've clarified that distinction in the rules.

MR. GILLMAN: I understand.

MS. DAVIO: Okay. Another change in the registration subchapter relates to disabled placards. Thankfully, that was simplified by the legislature that the blue placards are now for permanent use -- these are the hang tags that signify disabled parking -- the red

tags are for temporary use. It used to be that there was temporary blue and permanent red, and it was just very, very confusing, so that's been simplified.

And then another significant change here is allowing registration for up to eight years for a fleet of commercial vehicles, and so we're working now to be able to do that in the system and we needed to have the rules modified to be able to allow that.

There is one change in the salvage dealer licensing chapter that clarifies that if you have had a felony conviction and you're trying to get a salvage dealer license that that will not be allowed -- I'm sorry -- within a three-year period prior to your application.

So those are the major changes to the rules.

Are there any questions?

MR. WALKER: I have one question. On page 14 of 39, we left the width length at 8 feet, and the State of Texas accepted the new standards of 102 inches wide, 8 foot 6 now. Why wouldn't we have changed that at the same time?

MS. DAVIO: I'm looking around for assistance and clarification. You said this was on page 14?

MR. WALKER: Well, you're stating that it has to have on a title on here, it says if a trailer exceeds 8

1	feet in width or 40 feet in length, a title must show a
2	brand to indicate that an oversize permit would be
3	required. That's not true anymore because the federal law
4	changed that to 102 inches wide, and most of your trailers
5	now are made at 102 inches wide.
6	MS. DAVIO: I appreciate your knowledge and
7	expertise.
8	Jennifer, how should we handle that?
9	MR. VANDERGRIFF: Remember, these would just be
10	proposed rules for publication.
11	MS. DAVIO: The proposed rules, we could
12	clarify that.
13	MS. SALDANO: When you make your motion,
14	propose that change.
15	MR. WALKER: Well, I would propose that you
16	correct the book because the state has already accepted
17	the federal standards.
18	MS. DAVIO: Thank you for that.
19	MR. VANDERGRIFF: Assuming there's no other
20	it's not that we're at that point yet because there may be
21	more questions you could make that motion.
22	MR. WALKER: I'd like to make a motion that
23	we
24	MR. VANDERGRIFF: There may be other questions
25	first.

1	MR. WALKER: Okay.
2	MR. VANDERGRIFF: Anybody else have any
3	questions?
4	(No response.)
5	MR. VANDERGRIFF: I don't see any. Now he can
6	make the motion.
7	MR. WALKER: I'd like to make a motion that we
8	correct the standard to what the federal standard is which
9	is 102 inches versus the 8 foot.
10	MR. VANDERGRIFF: Do you make the motion to
11	publish the rules with that correction?
12	MR. WALKER: The state has already accepted
13	that change.
14	MR. VANDERGRIFF: I understand, but they're
15	looking to post these for publication.
16	MR. WALKER: Can you not correct that for
17	posting?
18	MS. DAVIO: If you make the motion to post the
19	rules with that correction, we can do that.
20	MR. WALKER: I would like to make a motion that
21	to put the correction into the posting.
22	MR. RUSH: Second.
23	MR. VANDERGRIFF: We have a motion to post the
24	rules with the correction as noted, and a second from
25	several directors, actually, but I'll pick Director Rush
ı	

here to my right. Thank you very much. Any further 1 discussion on this? 2 3 (No response.) MR. VANDERGRIFF: Seeing none, I'd ask you to 4 5 raise your right hand in support of the motion. 6 (A show of hands.) 7 MR. VANDERGRIFF: The motion carries unanimously with two directors absent. Thank you. 8 And our last item on today's agenda, 4.B., the 9 10 handling of contested case process and final order 11 authority. MR. RODRIGUEZ: Mr. Chairman, I believe we've 12 discussed a resolution on this already and I move that we 13 14 approve or adopt, or whatever the appropriate action is at 15 this point. 16 MR. VANDERGRIFF: Probably for public purposes, I'm going to accept that motion. Do I have a second of 17 the motion? 18 MR. WALKER: What was the motion? I'm sorry, I 19 didn't hear. 20 MR. VANDERGRIFF: They're going to have to read 21 it, I think, so the public understands what it is we're 22 23 approving. So we do have a motion and a second. Well, I'm going to pull that back and you go ahead. 24 25 MS. SECORD: For the record, I'm Linda Secord,

your interim general counsel.

What you have before you is almost a housekeeping matter. We had a resolution on final order authority at your first meeting in November, and one very able lawyer on our staff discovered a savings clause in the bill creating the agency, and the result of that savings clause is now memorialized in the resolution that you have before you, and that is that for those cases filed with the Motor Vehicle Division prior to September 1 of 2009, final order authority over all of the cases filed remains with the director of that division as the statute read between 2005 and September 1 of 2009.

In my view, only after September 1 of this year does the narrow set of cases that we are requesting an opinion from the attorney general on that might be before you, if you get cases at all, you will only get new cases filed after September 1 of this year.

So let me walk through the resolution just for the record. It's item 1, that the board has order authority in contested cases filed on or after September 1, 2009 involving Texas Occupation Code Chapter 2301 with the exception of cases brought under Subchapter M.

Subchapter M is lemon law; you don't do lemon law even after September 1. Item 2, the executive director of the department -- you don't have one of those yet, but when

you do -- or the authorized delegate has order authority in cases involving the Vehicle Titles and Registration Division and the Motor Carrier Division.

Item 3, the director of the Motor Vehicle

Division, or his delegate, has order authority in

contested cases involving Occupations Code Subchapter M

and Transportation Code 503 -- those are all cases before

or after September 1.

Item 4, the director of the Motor Vehicle

Division or the delegate has order authority in all cases
involving the Motor Vehicle Division filed prior to

September 1, 2009.

Item 5, contested case processes established by the divisions continue under the new department.

So this, I think, will clarify both for the director of the Motor Vehicle Division, with the amount of work that's on his desk, what he should go ahead and process under his authority. It also clarifies for the public, for lawyers and parties out there who have cases on file, it will give them some clarification of what the process and procedure for them will be.

The resolution becomes part of the public record so that people can check it, and I ask, as your counsel, that you accept it.

MR. VANDERGRIFF: Director Rodriguez, you

1	accept this as your motion?
2	MR. RODRIGUEZ: That we accept the resolution.
3	MR. VANDERGRIFF: We have a motion and a
4	second. Any discussion?
5	(No response.)
6	MR. VANDERGRIFF: I don't see an indication,
7	and I'd ask you to raise your right hand in approval of
8	the motion.
9	(A show of hands.)
10	MR. VANDERGRIFF: The motion carries
11	unanimously; two directors, Marzett and Butler, are
12	absent.
13	And with that, I see no further items. Does
14	any director have anything they wish to discuss?
15	(No response.)
16	MR. VANDERGRIFF: Please let the record reflect
17	that as of 3:31 in the afternoon, the December 3 meeting
18	of the Department of Motor Vehicles board is adjourned.
19	(Whereupon, at 3:31 p.m., the meeting was
20	concluded.)

CERTIFICATE 1 2 Texas Department of Motor Vehicles Board 3 MEETING OF: 4 LOCATION: Austin, Texas 5 DATE: November 4, 2009 6 I do hereby certify that the foregoing pages, numbers 1 through 75, inclusive, are the true, accurate, 7 and complete transcript prepared from the verbal recording 8 made by electronic recording by Nancy King before the 9 Texas Department of Transportation. 10 11 12 13 14 15 16 12/11/09 (Transcriber) 17 (Date) 18 19

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