# TEXAS DEPARTMENT OF MOTOR VEHICLES BOARD MEETING

Thursday, January 10, 2013

Lone Star Room
Building 1
4000 Jackson Avenue
Austin, Texas

#### BOARD MEMBERS:

Victor Vandergriff, Chair Laura Ryan, Vice Chair Robert "Barney" Barnwell III Blake Ingram Cheryl E. Johnson Raymond Palacios Victor Rodriguez Marvin Rush (not present) John Walker III

#### I N D E X

AGE:	NDA IT	EM	PAGE
1.	A. B.	Public Comment	4 5 13
	C.	Comments and Announcements from Chairman and Board Members	13
2.	CONS	ENT AGENDA	13
	Α.	Consideration of Enforcement Agreed Orders under Occupations Code, Chapter 2301	
	В.	Consideration of Enforcement Notice of Violation Citation Agreed Orders under Occupations Code, Chapter 2301	
	С.	Consideration of Enforcement Dismissal Orders under Occupations Code, Chapter 2301	
	D.	Consideration of Settlement and Dismissal Orders under Occupations Code, Chapter 2301.204 (Warranty Performance Complaints)	
	Ε.	Consideration of Franchise Case Dismissal Orders under Occupations Code, Chapter 2301	
3.		LUTIONS for INDIVIDUAL CONSIDERATION - ESTED CASES	
	A.	Consideration of Enforcement Motions for Disposition Based on Default under Occupations Code, Chapter 2301	14
	В.	Warranty Performance Proposal for Decision under Occupations Code, Chapter 2301	
		1. 12-0192 CAF - Elizabeth Oualline v. General Motors LLC and Cummins, Inc. ALJ recommends dismissal (on remand)	16
4.	BRIE	FINGS AND ACTION ITEMS Board Committee Appointments and Work Assignments	43
	В.	TxDMV Automation Projects	44
5.	REPO!		
	A.	Monthly Financial Report  1. Annual Financial Report  2. Monthly Financial Report	80 85

	<ul><li>B. Executive Director Reports</li><li>FY 2013 TxDMV and TxDOT Memorandum of Understanding (MOU)</li></ul>	101
6.	EXECUTIVE SESSION (none required)	102
7.	ACTION ITEMS FROM EXECUTIVE SESSION (none)	102
8.	ADJOURNMENT	102

1	PROCEEDINGS
2	MR. VANDERGRIFF: Good morning. My name is
3	Victor Vandergriff, and I am pleased to welcome you here
4	today to the meeting of the Board of the Department of
5	Motor Vehicles.
6	I'm now calling the meeting for January 10,
7	2013 of the Board of the Texas Department of Motor
8	Vehicles to order, and I want to note for the record that
9	the public notice of this meeting, containing all items on
10	the agenda, was filed with the Office of Secretary of
11	State on December 28, 2012.
12	Before we begin today's meeting, please place
13	all cell phones and other communication devices in the
14	silent mode.
15	And if you wish to address the board during
16	today's meeting, please complete a speaker's card at the
17	registration table. To comment on an agenda item, please
18	complete a yellow card and identify the agenda item. If
19	it is not an agenda item, we will take your comments up
20	during the public comment portion of the meeting.
21	And now I'd like to have a roll call, please,
22	of the board members.
23	Vice Chair Ryan?
24	MS. RYAN: Present.
25	MR. VANDERGRIFF: Board Member Barnwell?

## ON THE RECORD REPORTING (512) 450-0342

1	MR. BARNWELL: Present.
2	MR. VANDERGRIFF: Board Member Ingram?
3	MR. INGRAM: Present.
4	MR. VANDERGRIFF: Board Member Johnson?
5	MS. JOHNSON: Present.
6	MR. VANDERGRIFF: Board Member Palacios?
7	MR. PALACIOS: Present.
8	MR. VANDERGRIFF: Board Member Rodriguez?
9	MR. RODRIGUEZ: Present.
10	MR. VANDERGRIFF: And Board Member Walker?
11	MR. WALKER: Present.
12	MR. VANDERGRIFF: And let the record reflect
13	that I, Victor Vandergriff, am here as well. Board Member
14	Rush is absent today from today's meeting, but we do have
15	a quorum.
16	The next item on our agenda, I do have a card
17	for public comment on an item that's not on our agenda, so
18	therefore, it's appropriate to bring him up now.
19	Lieutenant Tommy Hansen is here to speak to us.
20	MR. HANSEN: Good morning, Mr. Chair and
21	committee.
22	I'm Lieutenant Tommy Hansen, but I'm here
23	representing Galveston but I'm representing the Texas
24	Association of Vehicle Theft investigators which is a
25	statewide organization of law enforcement, insurance

investigators and the like. 1 2 We wanted to give you an update on the status 3 of the work that we're doing concerning the funding issues on the Automobile Burglary and Theft Prevention Authority. 4 5 For those of you that are not aware, our organization was 6 the group responsible for creating this program, starting 7 with a yellow pad of paper in 1989, and the success of this program is world known. We're mimicked and we've done 8 9 presentations in Canada and done presentations in Australia, Europe and all throughout North America. 10 the cat's meow on how to do this. But as you well know, 11 12 we've been fighting funding issues and funding battles in 13 Austin with our money since 1997 when we lost our 14 dedicated fund status.

15 House Bill 1541 which has come out of the last 16 session, there was a fee increase to \$2 from \$1 of which 17 we were, in theory, by the spirit of the law, to get a 18 dollar and the state was going to get a dollar. We all 19 know there was some controversy with that, but we got through all of that, but we have yet to see our whole 20 21 dollar. So our association, so you will know, we have 22 been relentless and we'll continue to be relentless in 23 working with our legislators, and we've also had meetings 24 recently with the State Comptroller's Office and the 25 Legislative Budget Board to try to resolve what's the gap

1	here, where's the problem, and we feel that we've
2	identified that problem and we think we know what we can
3	do to try to fix it. As I said, we have been meeting a
4	lot weekly with a number of key legislators and committee
5	members and we're going to continue that strategy.
6	So we wanted to let you know what we're doing
7	and that we're going to continue to address this problem
8	so that this program can continue. They've been
9	extraordinarily successful in the reduction of motor
10	vehicle theft, but as we well know, we're seeing spikes in
11	that now. The violent aspects of motor vehicle car theft,
12	carjackings and the like is increasing. Motor vehicle
13	burglaries are off the charts, and of course, in the 80th
14	Session we were given this responsibility with no money.
15	And then, of course, cargo theft and equipment theft is
16	number one and number two in the nation and we're number
17	three in marine theft.
18	So we still have a lot of very important
19	matters to address and we want to continue to provide this
20	service to the State of Texas but we have to have some
21	funding and we haven't really had a funding increase in
22	years, thanks to the appropriation process. So we wanted
23	to let you know what's going on.
24	There is a bill that's going to be pending
25	right now through Senator Watson's office to attempt to

- get the dedicated fund wording placed back on our bill as
- 2 it was originally. We all know in certain cases that may
- 3 be not worth the paper it's printed on, but we're surely
- 4 going to go make an effort to get it replaced to our bill.
- 5 And then there was a bill from Senator Lucio last session
- 6 which is going to come back up again, and I think the
- 7 timing is better now to actually address an assessment off
- 8 the equipment policies, marine policies and cargo type
- 9 policies which would give us some even additional
- 10 resources. So we're going to work on that.
- 11 We have a planned meeting with Ms. Brewster
- 12 here next week to give her what we feel the strategy is
- going to need to be based on what we have learned thanks
- 14 to the help of the Comptroller's Office and the
- 15 Legislative Budget Board. And believe it or not, the LBB
- 16 does talk to us.
- 17 So that's where we are right now. We just
- wanted to give you an update and we're going to continue
- 19 to pursue this because it's beneficial to every citizen in
- 20 the State of Texas that pays insurance and drives a car.
- 21 And I'm open to any questions and I'll leave
- 22 some cards on the end of the table for you.
- 23 MR. VANDERGRIFF: I have a couple for you, if I
- 24 could. One is that I'm assuming that when you do meet
- 25 with the executive director that in addition to sharing

- 1 strategy, that eventually you'll share drafts of these
- 2 bills so the department knows how that's going to affect
- 3 the department.
- 4 MR. HANSEN: Absolutely. We met with Senator
- 5 Watson's staff actually last week. There was some
- 6 miscommunication between him and legislative council, it
- 7 was on their part, not ours, and that's being addressed.
- 8 It was sent back to leg council and we're hopefully going
- 9 to get back something on that to review in the next couple
- of weeks. We had conversation with Charles that we were
- 11 going to provide everybody with that to critique as we get
- 12 it.
- 13 And of course, Senator Lucio's bill I think
- will probably be a mirror image of what we filed last
- 15 time, but we're waiting to hear from Mr. Sanchez in
- 16 Senator Lucio's office to determine if there's going to be
- any changes to that, and if there is, we'll know those, if
- not, we have a copy of the last bill.
- 19 MR. VANDERGRIFF: And right now the funding
- 20 comes out of Fund 1, General Revenue, so are you trying to
- 21 move to obviously a dedicated account but inside Fund 1?
- 22 MR. HANSEN: I think that's the plan that
- 23 they're talking about doing, yes, sir.
- MR. VANDERGRIFF: Any other board members have
- any questions?

1	MR. WALKER: Tommy, you said two years the
2	legislature doubled that fee so that you would still be
3	able to maintain the one dollar that you had. You're not
4	getting that granted to you?
5	MR. HANSEN: Starting in 1997 we've never got
6	the one dollar. We've always gotten anywhere from 65
7	percent to 75 percent of that dollar, so we've not been
8	getting the whole dollar from day one. The spirit of his
9	law, 1541, was, I think, when it was written to address a
10	I'll use the word deficit in the state budget, as well as
11	give us money because we've been operating basically under
12	the same allotment of money for a number of years, and
13	everybody knows that's impossible to do that. And the
14	local agencies have been forced to have to pick up the tab
15	on that when the money has been collected.
16	So to where we are today, under 1541, which we
17	all know the word "may" versus "shall" was in there, but
18	the spirit of the law was that we were to get a full
19	dollar and then the state would get a full dollar which
20	means that we should get, instead of \$19 million and some
21	change, or say right at \$20-, we should be now getting
22	\$19- and they should be getting \$19-, but we're still
23	getting \$14- and they're getting \$19-plus, still getting a
24	chunk of the dollar.

### ON THE RECORD REPORTING (512) 450-0342

MR. WALKER: And who does the split?

25

1	MR. HANSEN: Well, this has been the whole
2	focus of our call in investigation over the last couple of
3	months is there was a lot of finger pointing to where the
4	problem was, and I think we've identified it was probably
5	a conglomerate of issues which we've gotten answers from
6	the Comptroller's Office. I think we've got what we need
7	to do there. There were some questions and finger
8	pointing at the LBB, but we spoke with them and I think
9	we've got the answer to that. And then the other answers
10	I think we're going to be able to provide Ms. Brewster
11	next week to get that so that we can go after.
12	Whether we get the \$5 million that we should
13	have in our pockets this year, that's going to be hard to
14	say. There is a process to do that in mid-year budget.
15	We all know that process. But our big focus now is we
16	need to start September 1, 2013, with having \$19 million,
17	or whatever the half is, to work with. We understand
18	there's some things that we're going to have to do to
19	document that and get it, but that's not a problem. The
20	numbers are there. We can easily generate the numbers of
21	the increased costs to the local agencies, what the match
22	has been, all those things, plus the areas which we need
23	to address that these funds could be used for to get
24	support of the House Appropriations and Senate Finance
25	Committee.

MR. VANDERGRIFF: Do you remember when we were 1 2 created -- I can't remember the exact dollars that we had 3 in 2007 and then coming out of 2009, I believe we did see a bit of an increase there when it came over. 4 5 MR. HANSEN: We did see a little bit. Charles 6 can probably give the exact number, but I think it went up to like \$15 million and some, but then we're back down to 7 8 like \$14 million or something. 9 It was \$16 million when we first MR. WALKER: took this deal over, as I recall. 10 11 MR. HANSEN: It's down to \$14- and some change. 12 MR. WALKER: One of the reasons was through the 13 appropriation process we had to cut back on General Fund 14 expenses and that was all the General Fund money that we 15 had, but there shouldn't have been any holdup. MR. HANSEN: Well, I'll put this in a Cliff's 16 17 Notes version for you what we've learned and without going 18 into details that we don't need to bring out in this 19 meeting. If you don't ask for it, you don't get it, and I 20 think we've got the answer to that, and so that's why we're 21 going to get with Ms. Brewster next week to explain what 22 we've learned from LBB and the State Comptroller. 23 were all very appreciative of what we were trying to do 24 and very receptive to it. It was a matter of that's what

we needed to work on.

25

- 1 MR. VANDERGRIFF: Margaret.
- MS. WILSON: Mr. Chairman, I know that we've
- 3 got something on the agenda for public comment.
- 4 MR. VANDERGRIFF: We've gone too far. Okay.
- 5 We'll bring it back up as an agenda item at our next
- 6 meeting.
- 7 MS. WILSON: Excellent idea.
- 8 MR. VANDERGRIFF: Thank you, Mr. Hansen, thank
- 9 you very much.
- 10 MR. HANSEN: I'll leave some cards here if you
- 11 have any questions.
- 12 MR. VANDERGRIFF: The next item on our agenda
- is any comments or announcements from me, which I have
- 14 none at this point. Or any of the board members have
- 15 anything? I don't see anything.
- So Mr. Harbeson and Mr. Gladney are already on
- 17 the spot and ready to go.
- 18 MR. HARBESON: Good morning. My name is Bill
- 19 Harbeson. I'm the director of the Enforcement Division of
- the agency.
- In today's consent agenda are 31 enforcement
- agreed orders where the parties, the state and the
- 23 licensees reached an agreement to settle the case. There
- 24 are 14 enforcement notice of violation settlements, these
- 25 are minor violations issued by our investigators, and the

- 1 respondent licensee has agreed to enter an agreement to
- 2 settle those cases. There are six enforcement motions for
- 3 dismissal, one Lemon Law settlement and dismissal, and one
- 4 franchise case dismissal. And we're asking today that the
- 5 board approve these matters.
- MS. JOHNSON: I move we approve.
- 7 MR. VANDERGRIFF: We have a motion to approve.
- 8 May I have a second, please?
- 9 MR. BARNWELL: Second.
- 10 MR. VANDERGRIFF: We have a second from Mr.
- 11 Barnwell. A motion and a second. All those in favor
- 12 please raise your right hand in support of the motion.
- 13 (A show of hands.)
- 14 MR. VANDERGRIFF: The motion carries
- 15 unanimously.
- MR. HARBESON: May I continue?
- 17 MR. VANDERGRIFF: Please.
- 18 MR. HARBESON: On the contested case agenda
- 19 today there were three enforcement motions for
- 20 disposition. The staff is not moving forward today on the
- 21 first agenda item as it appears -- or at least we're
- 22 working toward hopefully getting a settlement between the
- 23 manufacturer and the dealer which was the underlying
- 24 problem in this case. So we're asking for approval of
- 25 items 2 and 3 of the enforcement motions for disposition

- 1 which, of course, are the default cases.
- 2 MR. BARNWELL: So moved.
- 3 MR. VANDERGRIFF: We have a motion from Mr.
- 4 Barnwell. Do I have a second?
- 5 MS. JOHNSON: I'll second.
- 6 MR. VANDERGRIFF: Second from Ms. Johnson.
- 7 MR. INGRAM: I'm a little bit confused on where
- 8 we're at on this.
- 9 MR. HARBESON: We're on 3.A.
- 10 MR. RODRIGUEZ: My question on this, what
- 11 happens to 3.A.1?
- 12 MR. HARBESON: 3.A.1 continues as an active
- 13 case. If we are not able to get the matter informally
- 14 resolved, it will be back before the board.
- 15 MR. RODRIGUEZ: From the board standpoint, my
- 16 question is, Mr. Chairman, do we pass it, do we table it,
- 17 since it's on our agenda for today?
- 18 MR. VANDERGRIFF: I think he requested that we
- 19 take that out, and I took the motion to mean that we were
- 20 removing that item and moving forward on all the remaining
- 21 items on the attached itemized list B.
- 22 MR. HARBESON: Yes, sir. We're asking approval
- for items 2 and 3 and we'll pass on item 1.
- 24 MR. RODRIGUEZ: So does that include the
- 25 removal of 3.A.1 is what I'm saying, from the agenda.

- 1 MR. VANDERGRIFF: That's the way I took the
- 2 motion, but I honestly did not ask that question to Mr.
- 3 Barnwell if that was his motion.
- 4 MR. BARNWELL: That's what we're doing. To
- 5 clarify the motion, we move that we table 3.A.1 and
- 6 consent to 2 and 3.
- 7 MR. RODRIGUEZ: Thank you, Mr. Chairman.
- 8 MR. VANDERGRIFF: We have a motion from Mr.
- 9 Barnwell and then we have a second from Mr. Rodriguez.
- 10 All those in favor please raise your right hand in support
- 11 of the motion.
- 12 (A show of hands.)
- 13 MR. VANDERGRIFF: The motion carries
- 14 unanimously.
- 15 MR. GLADNEY: Good morning. Mark Gladney for
- 16 staff.
- 17 I'm presenting today Oualline v. GM, Docket No.
- 18 12-0192. We have not received word from either party that
- 19 they wish to address the board or appear today.
- This is return of a case that was previously
- 21 remanded by this board back to SOAH in November for
- 22 rehearing due to an error made by the ALJ in the
- 23 adjudication of the matter. The ALJ adjudicated the
- 24 matter under the Lemon Law replacement relief statute
- 25 rather than the repair relief statute, as noticed by this

Τ	department when the case was sent over to SUAH. The case
2	was remanded back to SOAH to rehear the case.
3	On November 19, SOAH issued an order
4	respectfully declining to re-litigate the case because the
5	complainant, the consumer declined the only relief that
6	was available to her which would be repair relief under
7	the statute. Having done that, SOAH simply dismissed the
8	case, sent it back over to us, and in your packet today
9	you have an order as basically dismissing the docket
10	because there is no other relief that is available to this
11	consumer. If the consumer does not wish to go forward,
12	there's no other option, in staff's view, other than to
13	dismiss this matter.
14	It's not uncommon for us to dismiss cases in
15	this manner, we've done it before. A lot of times in a
16	situation where there's a settlement between a consumer
17	and a manufacturer, we would issue an order for your
18	approval for dismissal in that type of case, or in a Lemon
19	Law case if the 150-day deadline had been reached and the
20	consumer no longer wished to pursue under the Lemon Law
21	statute, you would commonly issue an order of dismissal.
22	Staff is recommending the approval of the order
23	of dismissal currently in your packet, and I'm here to
24	answer any questions you may have.
25	MR. WALKER: Without putting numbers to it, the

MR. WALKER: Without putting numbers to it, the

- 1 claimant doesn't meet the qualifications of a Lemon Law
- 2 case.
- 3 MR. GLADNEY: Yes.
- 4 MR. WALKER: We sent it back because it does
- 5 meet the qualifications of the warranty that she had on
- 6 the car. Correct?
- 7 MR. GLADNEY: Yes.
- 8 MR. WALKER: And she -- I assume it's a she,
- 9 yes -- she took the position that either I want a new car
- or I don't want my car fixed. Is that basically it?
- 11 MR. GLADNEY: That is correct.
- MR. WALKER: Have we talked to this lady?
- MR. GLADNEY: Yes, we have. When the case
- 14 first came in, it is our standard procedure -- which is in
- 15 our rules -- but it's our standard procedure to go through
- 16 the complaint with the complainant, to review that and
- determine whether or not they qualify for Lemon Law
- 18 replacement relief or they qualify for warranty repair
- 19 relief. We do that with every single person who files a
- 20 complaint with us. In this particular matter, the
- 21 assigned case advisor had informed her on no less than two
- 22 occasions that she did not qualify for Lemon Law relief
- 23 because she filed too late according to the Lemon Law
- 24 statute.
- 25 MR. WALKER: Did she understand that she could

- 1 have gotten relief potentially through the warranty?
- MR. GLADNEY: Yes, she was informed.
- 3 MR. WALKER: So she just wants to be a hard
- 4 head and say, I want a new car or nothing.
- 5 MR. GLADNEY: Well, I can't comment on her
- 6 being hard headed or not, but certainly that was her
- 7 position. She did not want repair relief because she felt
- 8 that the alleged defect had not been repaired five
- 9 previous times, so she felt that another repair attempt
- 10 would not be fruitful.
- MR. RODRIGUEZ: I have two questions. One is
- 12 this came to us previously.
- MR. GLADNEY: Yes.
- 14 MR. RODRIGUEZ: What was the recommendation the
- 15 first time?
- MR. GLADNEY: The recommendation the first time
- was dismissal by SOAH because she failed to establish
- 18 under 605, the Lemon Law relief state, she failed to
- 19 establish that there was a substantial impairment. She
- 20 alleged wind noise in the vehicle. The vehicle had gone
- 21 for repairs for that particular complaint on five previous
- 22 occasions. The vehicle was tested with a noise meter and
- 23 the noise within the vehicle fell within the factory
- 24 specs.
- MR. RODRIGUEZ: So your recommendation last

- 1 time was?
- 2 MR. GLADNEY: It was to remand it back to SOAH
- 3 because SOAH tried the case under the Lemon Law
- 4 replacement relief statute rather than what was noticed
- 5 which would have been the warranty repair relief statute.
- 6 MR. RODRIGUEZ: So your recommendation last
- 7 time was to remand back to SOAH.
- 8 MR. GLADNEY: Yes.
- 9 MR. RODRIGUEZ: Today you're recommending that
- 10 we do what SOAH did.
- MR. GLADNEY: Yes.
- MR. RODRIGUEZ: Why?
- MR. GLADNEY: Because the complainant does not
- 14 want the only relief that is available to her under the
- 15 statute for repair relief. We basically can't force a
- 16 consumer to go forward with their case if they don't want
- 17 the only relief that they can get.
- 18 MR. RODRIGUEZ: Someone wrote in this brief
- 19 summary for us that the theory that the complainant can
- 20 dictate the guidelines of the hearing ignores the
- 21 fundamental legal principles of notice and jurisdiction.
- 22 And I was wondering what the fundamental legal principles
- 23 of notice are and the fundamental legal principles of
- 24 jurisdiction are.
- MR. GLADNEY: The fundamental legal principles

- are simply this: under the Administrative Procedures Act 1 2 there are requirements of notice that have to go into the 3 notice of hearing, certainly one of which is you have to 4 give the opposing party notice of what it is that you're 5 actually complaining of, what type of affirmative relief 6 that the consumer or complainant is asking for, and you 7 also have to give a specific rendition of what statutes 8 you are claiming for affirmative relief. 9 In this particular case, the notice of hearing specifically added all of those statutory requirements in 10 and stated that this had to be considered under 2301.204, 11 12 the repair relief statute. So all of the requirements 13 were met that are required under the Administrative 14 Procedures Act and under SOAH's own rules. So SOAH should 15 have gone forward with this case under 2301.204, but 16 apparently this complainant had amazing powers of
- 18 forward under the Lemon Law relief statute.

17

19 MR. VANDERGRIFF: Which they're not entitled to 20 relief under that.

persuasion and was able to persuade the judge to go

- MR. GLADNEY: She's not entitled to relief because she filed far, far too late.
- MR. VANDERGRIFF: The underlying question for me, though, based on what you said here is that in effect are we letting the SOAH administrative law judge off the

- 1 hook because of the complainant's desire just not to
- 2 pursue what otherwise would perhaps be a legal remedy they
- 3 would have? And also, it appears that the SOAH
- 4 administrative law judge, from what I understand, has just
- 5 basically -- for lack of a better description -- thumbed
- 6 their nose at the request that we made of them in
- 7 remanding the case back to them.
- 8 MR. GLADNEY: Well, I don't know if I could
- 9 make a comment on what the ALJ was thinking.
- 10 MR. VANDERGRIFF: Well, but you're pretty harsh
- in the executive summary that their legally unjustifiable
- 12 position.
- MR. GLADNEY: It is unusual for a SOAH judge to
- 14 do what they did in this particular circumstance. In all
- 15 the years that I've been practicing before SOAH, I have
- 16 not seen something like this happen before. Usually when
- a notice of hearing is issued to SOAH, they are very
- 18 strict, even in their own rules which mirror the
- 19 Administrative Procedures Act, they're very strict in what
- 20 they want to see in that notice of hearing. And in this
- 21 particular case I can't say I understand why the ALJ
- 22 decided to go under the Lemon Law relief statute as
- 23 opposed to the repair relief statute.
- If the ALJ had simply opened up our statutes,
- 25 it would have been very clear, in questioning the consumer

- 1 and just simply looking at the complaint, that she would
- 2 not have qualified for replacement relief in this case.
- 3 She filed her original complaint back on June 8 of 2012.
- 4 She reached 24,000 miles, by her own admission, back in
- 5 March of 2011. Our own statutes state that the moment
- 6 that you reach 24,000 miles, you have six months after
- 7 that fact to file for replacement relief. She was more
- 8 than six months late after that. So she could not
- 9 possibly have qualified for replacement relief under any
- 10 stretch of the imagination.
- 11 MR. BARNWELL: Did the judge render an opinion,
- or did he give the reasons why?
- 13 MR. GLADNEY: The only thing that we have to go
- on was the order that came back from the SOAH judge on
- November 19, and basically, she had convinced the SOAH
- judge that she only wanted replacement relief, she did not
- 17 want repair relief. Now, in her original complaint, she
- 18 filed for replacement relief, however, that's not
- 19 uncommon. We get complaints all the time where people
- 20 want a new car.
- 21 MR. BARNWELL: I'm just wondering if the judge,
- 22 having elected to ignore the law, had some reason for it.
- 23 Does he think it's something to do with equity instead of
- 24 law?
- MR. GLADNEY: Well, you're asking me to get

- 1 into the head of the judge.
- 2 MR. BARNWELL: I'm just wondering if he wrote
- 3 an opinion that gave reasons.
- 4 MR. GLADNEY: The only opinion that was written
- 5 in this particular case was the order that, the response
- 6 to remand on the further proceedings which I think is in
- 7 your briefing.
- 8 MR. BARNWELL: So all he did was give an order.
- 9 MR. GLADNEY: Pardon?
- 10 MR. BARNWELL: All he did was issue an order.
- 11 MR. GLADNEY: Yes. And his order is basically
- 12 I was convinced to go forward on the replacement relief
- 13 since the complainant did not want repair relief.
- MR. BARNWELL: That's touching.
- 15 (General laughter.)
- MR. PALACIOS: Mr. Gladney, if this case is
- dismissed, will the complainant then have the option to
- 18 come back and file for relief under the warranty repair?
- 19 MR. GLADNEY: Yes. There's a current four-
- 20 year, 50,000-mile warranty on the vehicle, so if she has
- 21 this problem or any other problem, but she hasn't reached
- 22 50,000 miles yet or four years, she certainly can file for
- 23 204 relief. She also has the option of filing under some
- other legal theory, whether it's DTPA or something under
- 25 the Civil Remedies and Practice Code, so she has other

- 1 options if she wishes to have the car replaced, but under
- 2 the statutes that this department administers, the only
- 3 option that she has at this particular point is repair
- 4 relief.
- 5 MS. RYAN: Does this have to be closed or
- 6 dismissed before she can move forward with another avenue?
- 7 MR. GLADNEY: Yes.
- 8 MR. VANDERGRIFF: But let me make sure I
- 9 understand again. We remanded it saying that it should
- 10 have been considered for repair relief. The SOAH
- 11 administrative law judge said, With all due respect,
- declining to do that because I disagree with you. So
- we've given them, as the final decision-making authority,
- 14 a direction to re-look at this based on the incorrect
- 15 statute, and they basically -- and it's my words, not
- 16 yours -- thumbed their nose at us. But because the
- 17 complainant doesn't want that relief, you're asking it to
- be dismissed, but you've also noted that any further
- 19 efforts on our part to have SOAH address what we believe,
- 20 based on your review of it, was an incorrect application
- 21 of the law -- I guess I'm concerned we're buckling to a
- 22 SOAH administrative law judge and that's a bigger concern
- 23 or perception to me than the fact that the party doesn't
- 24 want to proceed forward.
- 25 If we give up on this one, what's the next

- 1 time, what happens to us the next time out? What
- 2 precedent are we setting?
- 3 MR. GLADNEY: I'm not entirely sure if we're
- 4 necessarily setting a precedent, and the thing that you
- 5 also have to remember is that in these types of
- 6 situations, the person who files the complaint is rather
- 7 driving the bus.
- 8 MR. VANDERGRIFF: I understand, and they can
- 9 non-suit, I get all those rights they have. But
- 10 fundamental to this is beyond the consumer engaged in the
- 11 case is that this agency, this board remanded the case
- back because of an incorrect application of law, or so we
- believed, and the ALJ is basically saying I'm not going to
- 14 consider this. And what rights or authority does this
- board actually have over the process?
- 16 It's one thing for the consumer to then tell
- 17 the ALJ: With all due respect, I don't want to go that
- 18 route; I want a replacement and if I don't have a
- 19 replacement, I don't want to pursue it. That's their right
- 20 to do that, that's their right to dismiss a lawsuit. But
- 21 we are dismissing this suit and ignoring the fundamental
- 22 question of what authority does this board have.
- 23 MR. GLADNEY: And certainly I understand your
- 24 concerns, and this has been a concern for staff, as well,
- 25 and we have had conversations with SOAH with regard to if

- 1 they were to receive a remand order from us, that it would
- 2 be very nice, and certainly, I think, something they
- 3 should be doing, is rehearing our cases that we remand
- 4 back there. And we are having ongoing conversations with
- 5 them because this certainly is a concern to staff as much
- 6 as it is a concern to you.
- 7 MR. HARBESON: We will go back to SOAH and
- 8 express your concerns regarding what happened in this
- 9 case.
- MR. VANDERGRIFF: Well, for me, personally, I
- 11 will not vote to dismiss this case simply for that reason.
- 12 But I've got other members that have questions.
- MS. RYAN: If we sent it back to them in order
- 14 for them to issue a new PFD, since it was heard under one
- 15 desired outcome and we're requesting different, would they
- 16 have to have a new hearing?
- 17 MR. GLADNEY: Yes. They heard it under an
- 18 incorrect statute.
- 19 MS. RYAN: So they would have to schedule a new
- 20 hearing and hear it under a completely different.
- MR. GLADNEY: Yes.
- 22 MR. VANDERGRIFF: And if the complainant
- 23 declined to pursue it, then that's one thing.
- MS. RYAN: And to Raymond's point, if we do
- 25 dismiss and then complainant wants to proceed, she can go

- 1 back and file which would, in essence, they'd have the
- 2 same rehearing under the same request that we had remanded
- 3 it back. Is that correct?
- 4 MR. GLADNEY: Well, if you dismiss, you dismiss
- 5 this docket, and it starts the process all over.
- 6 MS. RYAN: But what we want them to look at it
- 7 under is what she would refile it under.
- 8 MR. GLADNEY: Yes, assuming it was under the
- 9 repair relief statute.
- 10 MS. RYAN: But again, he couldn't do it -- or
- 11 she; I don't know who the ALJ is -- couldn't do it on the
- 12 testimony that she provided. Right?
- MR. GLADNEY: No.
- 14 MR. VANDERGRIFF: One at a time. Ms. Johnson.
- 15 MS. JOHNSON: But she filed this initially
- 16 under repair relief, so it was just the judge --
- 17 MR. GLADNEY: No. She filed it under the Lemon
- 18 Law replacement statute.
- 19 MR. HARBESON: We noticed it under repair
- 20 because that was the only viable way for us to get it over
- 21 to SOAH. Once at SOAH, she then returned to replacement.
- MS. JOHNSON: Then my concern for this agency
- 23 for the future, and especially as many cases as go to
- 24 SOAH, that if we basically cave to a judge saying no, I
- 25 don't want to -- respectfully, he said respectfully

- decline -- then they are going to be able to shut us down 1 2 again and again. So I could not support dismissal at this 3 point in time. 4 (General talking.) 5 MR. BARNWELL: In the timeline on this thing, 6 either the judge was ignoring the reality of the 7 situation, the law, the remand and then the procedures 8 that SOAH is obligated to follow -- I mean, they created 9 these procedures -- or something is screwy with the This complainant, did she go back to the SOAH 10 timeline. judge? Has she made it so clear to that judge that 11 12 there's no way in the world that she is going to consider 13 anything except Lemon Law relief? Is that the reason why 14 they said respectfully? There's no point in us taking 15 this up again. 16 MR. GLADNEY: From what I can gather from the 17 response, yes. And we did have a telephone conversation 18 with the head appeals judge just shortly after this order 19 came out, asking him questions about it, and he confirmed 20 the accounting from the trying judge in this case. So at 21 the time of the hearing there was a discussion, and
- There were some options for the judge. One of the easiest things he could have done is he could open up

case under 604 or 204.

22

23

apparently a rather lengthy one, about whether to try this

- our statutes and just simply looked at, having compared it 1 2 with her complaint form which he would have had in his 3 evidentiary packet, and simply said, I'm sorry, I cannot try this case under 604; 204 is the only relief that's 4 5 available to you. 6 Now, he could have possibly had a continuance 7 at that particular time and send it back over to us and have a discussion about it. Or if she was adamant about 8 9 not wanting 204 repair relief, then at that particular time he probably at that time could have just simply 10 dismissed the case right then and there. She's refusing 11 12 to present a case to show that she has a defect that 13 warrants repair, she is refusing to do this. 14 MR. BARNWELL: I think that given the 15 circumstances that SOAH didn't handle this particularly 16 well, the failure to fill in answers to provide enough 17 background information as to why you're making what 18 appears to be a capricious decision, or maybe even
- is not very smart. And so in the future I would hope -and I hope you conveyed this to them -- that look, if you
  just give us some reasons why you're doing a few things,

disrespectful to this board and to perhaps other boards,

- then we're smart enough to understand why you're doing
- things the way you're doing them.

19

I don't know what happened with poor Ms.

- 1 Oualline, but obviously this is a train wreck; this is one
- 2 of those deals that everything has gone wrong with from
- 3 the get-go.
- 4 MR. PALACIOS: I see this a different way. I
- 5 don't see this as the ALJ making an overt attempt to
- 6 disregard our request, it appears to me the complainant is
- 7 the one that directed this whole case, it's the
- 8 complainant that sought relief under the Lemon Law, and
- 9 for us to remand this back to an ALJ and insist that they,
- 10 I guess, rehear it under the repair warranty relief when
- 11 that's not what the complainant wants, I mean, I don't know
- 12 how we can get in the middle of this. In my judgment, I
- 13 think it would be best for us to step back and follow the
- 14 recommendation and dismiss this.
- 15 I don't see this as a battle between the ALJ
- 16 and this board. The complainant still has relief if we
- dismiss this and for that reason, I'm going to move that
- 18 we dismiss this case.
- 19 MR. GLADNEY: I might note that we do have two
- 20 separate issues here. We do have the issue of SOAH not
- 21 necessarily complying with an order from this board,
- 22 that's one issue. And we do have the other issue that we
- 23 have a complainant, we have a consumer who clearly does
- 24 not want the only type of relief that the board can give
- 25 her. And as the person who has the burden of going

- 1 forward in this case and the burden of proof in this case
- 2 to establish the existence of a defect by a preponderance
- 3 of the evidence, I just don't see how we have any other
- 4 remedy at this particular point other than to simply
- 5 dismiss the case and address the other possibly larger
- 6 issue in another type of manner.
- 7 MR. VANDERGRIFF: Mr. Walker and then Ms. Ryan.
- 8 MR. WALKER: I have two questions. What civil
- 9 remedy does she have? Because this board was set up to
- 10 avoid the civil courthouse, I think, to solve motor
- 11 carrier problems, vehicle issues, so if we were to dismiss
- 12 this, does she have a DTP where she could take it to civil
- 13 court, or is it still going to be sent back to DMV?
- 14 MR. GLADNEY: She may have a cause of action
- 15 under DTPA; she may have a contract action that may be
- 16 addressed under the Civil Practice and Remedies Code.
- 17 Those would be probably two other remedies that she may be
- able to use which if there was contract action, maybe she
- 19 might be able to get either monetary damages or specific
- 20 performance. We're kind of getting into some sort of
- 21 different legal strategies here, but she's not totally
- 22 without other means by doing things.
- 23 MR. WALKER: So there are some civil remedies
- 24 here.
- 25 MR. GLADNEY: There are some other avenues that

- 1 she can take, and certainly she'd be well advised to
- 2 retain her own private counsel, which she has done before
- 3 in the past.
- 4 MR. WALKER: Okay. My next question is since
- 5 this board knows that there is an error in the filing of
- 6 204 versus 2301, can we not take without hearing the
- 7 case -- which we didn't do -- can we not overrule the SOAH
- 8 judge's decision and send this back as a 2301 decision
- 9 that we give her relief under the warranty?
- 10 MR. GLADNEY: Well, I think the problem here is
- 11 whether or not there's sufficient evidence in order to
- make a finding under the repair relief statute. That was
- the whole reason for remanding it back, that upon review
- 14 of the record that there was insufficient evidence to
- determine whether or not she qualified for 204.
- 16 Now, where we could have avoided this in its
- 17 entirety, had the judge asked a few extra questions to
- 18 basically try it as a 204 and a 604, then we simply just
- 19 could have modified the original PFD with the existing
- 20 evidence to show whether or not repair relief was
- 21 warranted. Unfortunately, the review showed that there
- 22 was insufficient evidence to even establish that fact, so
- 23 that's why it had to be remanded back for repair relief
- 24 consideration.
- 25 MR. WALKER: So we don't have enough evidence

to grant repair relief. Is that what you're saying? 1 2 MR. GLADNEY: That's correct. 3 MR. WALKER: So our option here today is to 4 either send it back to SOAH again and say hey, look at this case and rehear it and find the correct evidence for 5 6 us, or to just dismiss it in its entirety. 7 MR. GLADNEY: Yes, but also remember --8 MS. RYAN: The third option might be that we 9 table it and before we dismiss it, go back and talk to SOAH about maybe the things that could have been done to 10 fix it, get some additional input from them, and bring 11 12 that back to us next month with a little better 13 understanding of how it got to this point, from their 14 perspective, to begin with, and then possibly dismiss it 15 or with new information move to do something else. 16 MR. VANDERGRIFF: Mr. Ingram. 17 MR. INGRAM: Earlier in Raymond's conversation 18 he actually said he would move to dismiss, so is there a 19 motion on the floor? 20 MR. VANDERGRIFF: I did not notice his motion. 21 MR. PALACIOS: There's no second. 22 MR. INGRAM: Well, I'd like to second that. 23 MR. GLADNEY: Before you vote, one other thing 24 I'd like to say is that we did have a telephone conversation with SOAH last month about this situation. 25

1	MR. VANDERGRIFF: And you note that.
2	MR. GLADNEY: Yes. And I can tell you that
3	their position, or at least what I gleaned from that
4	conversation with them, was that they did not have a great
5	interest in litigating this case.
6	MR. VANDERGRIFF: I know we have discussed this
7	pretty thoroughly and we do have a motion on the floor
8	from Board Member Palacios and a second from Board Member
9	Ingram.
10	MR. RODRIGUEZ: Can I get just one more
11	question?
12	MR. VANDERGRIFF: Absolutely.
13	MR. RODRIGUEZ: Just for my clarity, the
14	complainant filed under 604?
15	MR. GLADNEY: Yes.
16	MR. RODRIGUEZ: But we gave 204 notice of
17	hearing to the respondent
18	MR. GLADNEY: Yes, because after review of the
19	materials and the information that she gave and the
20	information that we received from the manufacturer, she
21	did not qualify for 604 or replacement relief.
22	MR. RODRIGUEZ: Thank you.
23	MR. VANDERGRIFF: So this is what I understood,

we properly -- and by we, I meant the agency properly set

this case up in referring it over, and then SOAH, that

24

25

- 1 administrative law judge decided to take the position of
- 2 the complainant which was I want a replacement, I'm not
- 3 looking to get it repaired, and heard the case under that
- 4 format, and obviously, she lost. It comes back to us and
- 5 we say you failed to apply the proper law, and then we
- 6 send it back to them, and they, in turn, say we're not
- 7 going to hear it again. And of course, that fits with she
- 8 didn't want that relief in the first place, but it still
- 9 does not address the fundamental question of they didn't
- apply the proper law the first time, and then they have
- 11 rejected the direction of the final authority body to look
- 12 at this appropriately.
- So we're in effect, by dismissing, letting them
- off the hook. That's what we're doing, we're letting them
- off the hook and setting a precedent that I think could
- 16 come back to bite this authority.
- MS. RYAN: We're also not applying the law
- 18 correctly.
- 19 MR. VANDERGRIFF: Right. But anyway, we do
- 20 have a motion and a second on the floor. Any further
- 21 discussion?
- 22 MR. BARNWELL: We're not an appellate body to
- 23 SOAH, so at some point here who has final jurisdiction
- over this thing? You go to SOAH, then you go appeal.
- 25 Right. Let's say the Lemon Law was applied, this board

- did nothing, ruled against it, and General Motors says
- we're not going to go for that, we're going to do something
- 3 else. They can appeal that. Is that not correct?
- 4 MR. GLADNEY: Well, if a final order is issued
- 5 from the board and there's a motion for rehearing that
- 6 either party could file, and then you would make a ruling
- 7 on that. Once that becomes final and unappealable, they
- 8 could appeal it to the district court.
- 9 MR. BARNWELL: Sure. So there are further
- 10 remedies here. I mean, the real problem is the way that
- 11 SOAH has handled the remand. that's the real problem
- 12 here, because the board is wondering just exactly what our
- position really is in this matter and it is a little
- 14 murky.
- Now, maybe this one should be dismissed, or
- 16 maybe not, but the fact of the matter is our role and our
- 17 responsibilities are less than being clearly defined to me
- right now. If they can just say no, we're not going to
- 19 hear it, I think that's a problem.
- 20 MR. GLADNEY: It is, and those are certainly
- 21 discussions that have been ongoing with SOAH senior staff
- 22 to determine how we can bridge this apparent gap that is
- between us right now on a situation like this.
- 24 MR. VANDERGRIFF: Further discussion? Ms.
- 25 Johnson.

1	MS. JOHNSON: My only other comment that I
2	would like the board to consider because I'm not going
3	to support this motion is that if this was to be
4	remanded back to SOAH for adjudication, it could possibly
5	be that the complainant will not just show up and abandon
6	and it would be dismissed.
7	MR. GLADNEY: And we have tried contacting the
8	complainant subsequent to all this, and we have not heard
9	anything back from the complainant. And routinely, we
LO	will send a written notice to the complainant that this
11	case is scheduled for consideration on a particular board
12	meeting, and that was sent out to her, and again, we have
13	not heard anything back.
L 4	MR. HARBESON: Ms. Johnson, if I could, going
L5	back to what Mr. Palacios brought up and said, we noticed
L 6	this as a repair case, she appeared there, she did not
L7	proceed with the repair case, so she, in essence, didn't
L 8	show up to the notice of hearing on that date at SOAH.
L 9	MR. PALACIOS: And that's my concern with this.
20	I think by inserting ourselves in this, we are now not
21	really remanding this back to SOAH but we're telling
22	complainant we want you to file under repair relief, and
23	the complainant clearly doesn't want to do that. They
24	chose to go Lemon Law, and again, by not accepting this
2.5	motion to dismiss, we are now siding with the complainant

- 1 and saying no, this is what you should do, and since
- 2 you're not doing it, we won't dismiss it until you do. It
- 3 doesn't make sense to me.
- 4 MS. RYAN: I think what we're trying to do,
- 5 though, is apply the law that's applicable to the
- 6 situation.
- 7 MR. PALACIOS: But the complainant chose not to
- 8 follow it, it's the complainant's decision.
- 9 MS. RYAN: So when we filed it under warranty
- 10 repair, and she said no, I don't want to proceed, then
- 11 SOAH probably should have said then we're done.
- MR. PALACIOS: That's what we're doing by
- dismissing the case.
- MS. RYAN: No. It should have been we have to
- 15 proceed this way, it's the only remedy under the law, or
- 16 you'll need to decide not to move forward, versus trying
- it under the law that's not applicable and making a
- 18 decision on it. That's the way I see it.
- 19 MR. BARNWELL: I'm concerned that the fact that
- 20 SOAH didn't apply it correctly, the lady doesn't want the
- 21 relief that's available, I don't see how anybody on the
- 22 board is saying she's entitled to Lemon Law relief, based
- 23 on the facts as you've represented them, therefore, she is
- 24 only entitled to repair relief. If this is dismissed, she
- 25 still has several different avenues for redress of her

- 1 grievance, and at this point in time, it's a waste of
- 2 everybody's time to continue beating a dead horse. She
- 3 doesn't want the relief that's available, and I don't know
- 4 why we're trying to make this a federal case.
- 5 MR. RODRIGUEZ: Call the question, Mr.
- 6 Chairman.
- 7 MR. VANDERGRIFF: I'll call for just a couple
- 8 of more comments, the hands that were up, and then I'd
- 9 like to ask for the question to be called. Ms. Johnson.
- 10 MS. JOHNSON: And my only comment is in
- 11 response to Mr. Barnwell's comment is that I'm not sure --
- we're trying to get SOAH to follow the law properly and we
- 13 can't let go of that, but I do understand that it's not a
- 14 running debate, quite honestly, but we work with SOAH on
- 15 an awful lot of cases and this isn't the first problem
- 16 we've had. And so I think it's a mistake. It's not that
- it's a federal case, but this needs to be done properly
- and we will not stand for anything less than proper.
- 19 MR. GLADNEY: I understand, but I would note
- 20 one other thing. In the non-administrative settings, in
- 21 standard civil courts, it's usually the practice that when
- 22 you have a complainant or a plaintiff that does not go
- 23 forward with their case, a judge has the authority, under
- 24 Texas Rules of Civil Procedure, to simply dismiss for want
- of prosecution. It's commonly called by lawyers DWOPing

- 1 the case. It's certainly not uncommon.
- 2 SOAH is required to follow the Texas Rules of
- 3 Evidence and they're also required to follow the Texas
- 4 Rules of Civil Procedure in accordance with the
- 5 Administrative Procedures Act, as well. So if you were to
- 6 dismiss this case, it's not really different from that
- 7 particular situation where you would be DWOPing the case.
- 8 Again, you do have the larger issue with regard
- 9 to the department and SOAH relations with regard to how
- 10 they hear our cases. That may be another issue that we
- 11 need to address.
- 12 MR. VANDERGRIFF: With that, I think we've
- exhausted discussion on this, so we do have a motion to
- 14 dismiss, with a second.
- MR. WALKER: Who seconded?
- MR. VANDERGRIFF: Mr. Ingram seconded the
- 17 motion from Mr. Palacios.
- 18 All those in favor of the motion please raise
- 19 your right hand.
- 20 (A show of hands: Barnwell, Ingram, Palacios
- 21 and Rodriguez.)
- 22 MR. VANDERGRIFF: All those opposed to the
- 23 motion please raise your right hand.
- 24 (A show of hands: Johnson, Ryan, Vandergriff
- and Walker.)

1	MR. VANDERGRIFF: The motion at this point
2	ties, four-four, so therefore, the motion fails. The
3	members voting for that were Board Members Palacios,
4	Barnwell, Ingram and Rodriguez, and Board Members
5	Vandergriff, Johnson, Walker and Ryan voted against the
6	motion.
7	MR. RODRIGUEZ: Mr. Chairman, so we don't DWOP.
8	What is the legal significance of no action?
9	MS. WILSON: Of no action? I suppose that the
10	wise action might be that we table it and have a further
11	conversation, both on legal grounds and on the obvious, I
12	suppose, policy ground of wanting a good relationship with
13	SOAH.
14	MR. VANDERGRIFF: And I think that is
15	appropriate under the circumstances, because a motion, for
16	example, to do precisely the opposite of what we did would
17	appear to fail as well on a four-four vote.
18	MR. INGRAM: I motion we table.
19	MR. WALKER: Second.
20	MR. VANDERGRIFF: We have a motion to table
21	from Board Member Ingram, second from Board Member Walker.
22	Please raise your right hand in support of the motion.
23	(A show of hands.)
24	

1	MR. VANDERGRIFF: The motion carries
2	unanimously.
3	The next item, just very briefly, under
4	briefings and action items, we have board member committee
5	appointments and work assignments. We have had a standing
6	committee that has handled dealer and manufacturer
7	interests as a part of our work, and that will perhaps
8	morph into a new work assignment that may be overseen by
9	two members from outside the agency, Ken Roche from Gulf
LO	States Toyota and Karen Phillips from the Texas Automobile
11	Dealers Association, and I'm going to ask Board Member
L2	Palacios and Vice Chair Ryan to be a part of that board
13	committee if it does indeed form.
L 4	The purpose is to review and discuss the
L5	details of the potential proposal that this department has
L 6	that this board approved regarding the administrative law
L7	procedures being handled at SOAH and perhaps the possible
L 8	transfer of that function back to this agency, kind of an
L9	appropriate point to discuss that. But anyway, they will
20	certainly report back as the meetings do occur and move
21	forward. That's just forming up right now.
22	And then in addition to that, we've had
23	significant discussion over the last few weeks, from the
24	end of the year to present day, with the tax assessor-
2.5	collectors relative to the ongoing discussion with respect

- to standards and performance objectives with the tax 1 2 assessor-collectors and the Department of Motor Vehicles. 3 We had a committee that was chaired during this last year by Board Member Johnson, and that group will reconvene at 4 5 some point, and I'm sure she will keep us posted on that, 6 perhaps at our next board meeting, as to activity they've 7 had. So I just wanted to alert the board of those 8 9 two functions from an advisory perspective that would be proceeding forward in January. 10 11 Oh, that's right. I'm sorry. The executive 12 director did note that Mr. Palacios will be rather busy 13 because he's also a member of that standards committee that's with the tax assessor-collectors. So he's pulling 14 15 double duty. 16 And with that, I don't have any further 17 announcements about any work this board will be doing in 18 committee functions going forward. They perhaps will 19 have, but those are the two we know of at the moment. 20 And with that, I'm happy to turn it over to, I 21 quess, the executive director and Mr. Jonathan Taylor with 22 respect to the automation projects which is 4.B on our
- MR. TAYLOR: Good morning, folks. My name is

  Jonathan Taylor. I'm the director of the EPMO, the

23

agenda.

- 1 Enterprise Project Management Office of the Texas
- 2 Department of Motor Vehicles. My goal in my career is to
- 3 make my title as lengthy and obscure as possible. I think
- 4 I'm doing good.
- 5 So what I'll be talking about today is the
- 6 current active projects that we have. Those are projects
- 7 that we are either spending money on right now or that we
- 8 intend to spend money on during this legislative cycle.
- 9 I'll be going over some changes in the format of the last
- 10 couple of months, based on the feedback that I've received
- 11 from some of the members. Those who have provided
- 12 feedback, I very much appreciate that. Unfortunately,
- some of you have asked for detail and some of you have
- 14 asked for remedy, so no one is going to get exactly what
- 15 they want today.
- Now, what you'll see first, actually, is a
- spreadsheet. For those most interested in remedy, this is
- 18 the spreadsheet that you've been asking for that just goes
- 19 through the projects, estimated start, completion, total
- 20 budget, and lets you know of any big hiccups. Now, when I
- 21 say total budget, I do mean total budget for the project,
- 22 so it's backwards looking, as well as forward looking. So
- 23 if we started a project in 2011, we spent money in 2011 or
- 24 in fiscal year 2012, I'm going to include those in the
- 25 budget. Now, where appropriate, I'll also show you this

is this year's fiscal budget as well. For almost every 1 2 project they're the same; there are some that are not. 3 So what I intend to do this morning -- oh, and 4 by the way, my numbers are as of yesterday. I can be 5 fairly up-to-date because the way we came up with how much 6 we spent isn't by looking at the financial system which 7 sometimes takes a couple of days or a week to catch up, my 8 project managers go through individual purchase orders and 9 just add them up. It's a simple way to do it. 10 So I'd like to go through the projects in detail, but also, I know you know what these are. I'll go 11 12 a little over what they are, but also why they're 13 important and what we intend to do with the agency. 14 the big one that everybody is really concerned with, and 15 should be, both inside and outside of this agency looking 16 in, is the RTS Refactoring. Now, this is the bread and 17 butter of this agency, this is the big one for us. 18 have to change it for a couple of reasons. I've really 19 tried to come up with a car analogy for every one of the things that we do. This one is pretty hard for that. 20 closest thing I could get to is it's not like we're fixing 21 22 a used car, it's not even like we're buying a new car, it's 23 like going from a 1970 Chevrolet Pickup to a 1971: the 24 difference is unleaded gas. We can do a whole lot more 25 once we change this.

1	The problem with this, and the reason why we
2	can't change anything with the current RTS and why it's so
3	expensive is it was written twenty years ago, over and
4	over, change after change after change. It's expensive
5	because the people that we need are super specialized now;
6	nobody writes in this language anymore. This agency is
7	blessed in the fact that some of the original people who
8	wrote the first RTS system still work here. That's
9	awesome 26 years later still work here, that's great.
10	There aren't very many of those people. So we need a
11	system that runs on much more modern platform, that's less
12	costly to upkeep and to maintain, and that we don't need a
13	very super-specialized skill.
14	Once we do that, we'll be able to create a lot
15	more functionality on top of this. Now, I say that to
16	manage expectations. What we're really trying to do
17	it's kind of in the name but how many people know what
18	refactoring really is outside of the IT world? This isn't
19	all the bells and whistles of a brand new RTS program,
20	this is the core functionality of it, that's it, the
21	refactoring of the data itself. And the reason that's
22	important is because if we look through history at other
23	states who have tried to do both, to refactor an old
24	system to a new system and add a bunch of functionality at
2.5	the same time, they've failed. And of course, this agency

- 1 is familiar with this.
- 2 The model of building the airplane while you
- 3 fly it is not ideal, so we're not going to do that for
- 4 this. We're going to run our system and we're also going
- 5 to build a new system at the same time and then switch
- 6 over when appropriate and well tested. Well tested is
- 7 also included in this. You'll see the second paragraph
- 8 there is about something called IV&V, Independent
- 9 Verification and Validation. This is a third party that
- 10 we would pay to come in and basically say: Did you
- 11 build -- whoever the vendor that we eventually choose --
- did you build what they said to build and did you build it
- 13 correctly. That's it, that's what IV&V really does. And
- 14 the benefit of hiring a third party to do that, someone
- who has a great deal of technical expertise, is that you
- tend to get what you said you wanted built and you tend to
- 17 get it built right, and you're not spending all of those
- 18 resources that are supposed to be running your RTS to do
- 19 it.
- This program is still running; it's still on
- 21 time, still on budget. Behind that you'll see two other
- things, and these are organized in dependencies and like,
- 23 like programs and dependencies.
- MR. RODRIGUEZ: Jonathan, could you go back?
- 25 The proposals are under review now still.

1	MR. TAYLOR: Yes, sir.
2	MR. RODRIGUEZ: Do we expect to arrive at a
3	recommendation?
4	MR. TAYLOR: Absolutely.
5	MR. RODRIGUEZ: And if so, when, on the RFP?
6	MR. TAYLOR: The RFP process and if I have a
7	purchaser that thinks I should stop, let me know the
8	RFP process and the review process will go on for a couple
9	more months. The review will take time, it's incredibly
10	technical, and we have a lot of back and forth with the
11	respondents.
12	MR. RODRIGUEZ: We talked about acquiring legal
13	assistance.
14	MR. TAYLOR: Outside counsel.
15	MR. RODRIGUEZ: Is that pre-, during or post
16	RFP review?
17	MR. TAYLOR: We are seeking outside counsel at
18	the same time that we are doing this review, during.
19	MS. BREWSTER: Member Rodriguez, if I might
20	just interject. We are in the process of evaluating
21	outside counsel in anticipation of having that onboard
22	prior to contract negotiation.
23	MR. RODRIGUEZ: So it's possible we'll arrive at
24	a recommendation about the proposal we have in hand, and

then legal would help us simply make sure that we

- 1 understand what we are signing, basically.
- 2 MR. TAYLOR: And any edits in the contract.
- 3 MR. WALKER: Where are we in the process of
- 4 oral review?
- 5 MR. TAYLOR: We are not in the process of oral
- 6 reviews yet.
- 7 MR. WALKER: But I thought that was the
- 8 instructions we left at the last meeting.
- 9 MR. TAYLOR: If we come to that appropriate
- 10 time, we'll let you know whatever we're legally allowed to
- 11 let you know, but we're not there yet.
- 12 MR. INGRAM: Suffice it to say, the holidays
- 13 threw you off a few weeks.
- MR. TAYLOR: There's a little less work, there's
- 15 not a lot done during the holidays. It's been about a
- 16 month.
- MS. BREWSTER: Mr. Chairman, if I might add, as
- 18 well.
- MR. VANDERGRIFF: Please.
- MS. BREWSTER: There continues to be
- 21 interaction with the respondents and that did continue
- over the holiday, as well, and so I don't want to give the
- 23 idea that nothing occurred over the holiday or for that
- 24 duration, there was quite a bit of background work.
- 25 MR. INGRAM: That wasn't my intent. The point

- 1 was that there probably wasn't an intense amount of work.
- 2 MR. TAYLOR: The next two projects I'm going to
- 3 really sum these up for you: garbage in/garbage out.
- 4 This is the data that is in RTS. At the time we are
- 5 building this new structure with refactoring all the data,
- 6 we ought to go in and make sure that the data that we are
- 7 refactoring is correct, that it is standardized, and so
- 8 that once that it is all done, we know what we're getting
- 9 out. This is appropriate, both RTS name parsing,
- 10 clarification and data only, that's appropriate with any
- 11 large-scale project of this nature. Really, the best way
- 12 to describe it is garbage in/garbage out. That is, are
- 13 all the name fields the same, are all the address fields
- 14 the same, can we butt up against the United States Postal
- 15 Service?
- 16 Yes, ma'am.
- MS. JOHNSON: Any possibility that while this
- is going on this will be live in RTS and we'll actually be
- 19 able to look up a license by last name? That would really
- 20 make a lot of TACs happy, and you know that's important to
- 21 the customers. The customers do not understand why we
- 22 cannot look them up. And that's good, but I just had to
- 23 ask.
- MR. TAYLOR: That will be done before the
- 25 entire RTS.

1 MS. JOHNSON: So there might be some hope. 2 MR. TAYLOR: Oh, there will be. It's a phased 3 approach. 4 MS. JOHNSON: Okay, good, perfect. 5 MR. TAYLOR: So we may not have to wait three 6 years, but we're going to have to wait a little while. 7 MS. JOHNSON: That's wonderful. 8 MR. INGRAM: Jonathan, let me ask just for 9 clarification, on the proposals that we're reviewing now, do they include these two sub projects, the data 10 purification and --11 12 MR. TAYLOR: No. These are separate projects 13 entirely. 14 MR. INGRAM: So it's going to require another 15 entire -- I guess they're small enough that it won't 16 require necessarily a full --17 MR. TAYLOR: That's right. These are much, 18 much smaller projects, with no expenditure to date. 19 The next two projects, headquarters -- so you'll actually see a few of these in a row -- the 20 21 headquarters and communications infrastructure and 22 regional office communications infrastructure, these are 23 going to seem a little weird, these are multiple-phase, 24 very complex projects. It's kind of what it sounds like.

This is Welcome to 2013, voice over internet protocol,

- 1 this is a new physical phone and server infrastructure for
- 2 the agency. At the end of it, it's yours now, it's not any
- 3 other agency's, you control it and it's brand new.
- 4 This particular one, headquarters
- 5 communications infrastructure, is kind of what it sounds
- 6 like. This is new telephones, and they will run voice
- 7 over internet protocol inside this campus. We got thrown
- 8 for a little loop. The original planning of this didn't
- 9 have the idea that we were also going to be moving
- 10 buildings at the same time. But we've used that,
- 11 actually, both for this and the regional office. The end
- 12 result has actually been really positive.
- We have quite a few projects that we're not
- 14 going to fund right now. Those are the moves projects
- 15 that are in concept. One of the goals of this office and
- this agency was to look beyond the now in incorporating
- 17 what those projects will be. Well, since we're moving
- 18 buildings and since we have to rewire them anyway, we
- 19 decided let's rewire them how they're going to have to be
- one day, not rewire everything twice.
- 21 So that's part of this project right here, that
- is the reason why at the end I say a change request is
- 23 forthcoming because if you look here, phases one through
- three, this pretty much looks like what we thought it was
- 25 going to look like, one through three. But four, five and

- six, it's more than we originally intended to do because 1 2 it actually aligns us with the moves projects a lot better 3 and aligns us with what we intend to do in the future a 4 lot better. 5 So although it has been a bit of a logistical 6 nightmare for us to try to figure out how to do all that, 7 in the end, we get to do some of the parts of the moves 8 project, the dependencies of the moves projects a lot 9 sooner. 10 So that's there. Regional office is the same 11 thing except for it's in the regional offices. Now, the 12 reason why it's flagged in that little spreadsheet as 13 indeterminate is because of that estimated completion to 14 be determined. We have to do some things that we weren't intending to do there, but that will support MPLS 15 16 circuitry, will support the WAN separation, again will 17 support being your own regional network. 18 If you'll look at the projected budget, it's 19 giant, and the current fiscal year budget for 2013 is really small. I'll give you an explanation of that. 20 is where I said when I say project budget, I mean 21 22 everything in the past but also give you this fiscal year.
- So in early fiscal year 2012, that is September of 2011, the agency had the forethought to buy the equipment that we would eventually need to make the

- 1 infrastructure improvements that we are making in 2013.
- 2 Those were on a previous budget and those were already
- 3 expended, so that the entirety of that expenditure,
- 4 \$236,000, were all made in fiscal year 2012, they were
- 5 accounted for on previous budgets. This year we have a
- 6 budget of \$98,400, we haven't spent a dime of it yet, but
- 7 we will.
- 8 The next one, the WAN infrastructure, this is,
- 9 again, the best way I can describe it is you own your own
- 10 network now, it doesn't belong to any other agency, at the
- 11 end of this, it's yours, you own it and control it. We're
- 12 responsible for it and we can't blame anybody else for it
- 13 at the end of this project.
- 14 One of the things, the reason why you see that
- 15 asterisk there is because at some of the locations we are
- 16 going to have to just do some plain old ditch digging that
- 17 we didn't intend to do before. The type of cable that is
- in some of our regions just does not support the new forms
- 19 of connectivity that we eventually have to have, and so
- 20 we've got to dig some trenches and lay some fiber, and
- 21 that's all there is to that. We think that's going to cost
- 22 about \$36,000. When the time is appropriate to come to
- you for an approval for that, we'll do that.
- Next the Office 365 transition. So we've done
- 25 this, this is a project we say it's in execution, it's in

- execution, all we're doing now is remediation. We have 1 2 our own email system now, it's ours, and it's Office, it's 3 not the old Group Wise. That was rolled out. thing that is still ongoing with that is since -- for 4 5 those of you familiar with Outlook and other programs, you 6 had to have rules that you may never see what happens to your email, it just happens in the background -- we're 7 still discovering some of those, so some individual work 8 9 stations, some individual rules that those run are still being routed. It's pretty much done, like I said, on 10 time, on budget, it's just that remediation is continuing. 11 12 Now, as a nerd, this is the one that's fun. 13 Active directory, as I kind of described last time, this 14 is telling everyone else: You, this is me. This is the
- is telling everyone else: You, this is me. This is the core of any information system that provides security, provides connectivity because it lets the system know who you are and what you have rights to. Well, since we've been running off TxDOT's servers and their rules in the past, we have to come up with new rules for us, new You, this is me. So that's what this project is.
- It is, again, a multiple-phase project. I'll tell you it's hard to see here but everything this agency does, from LACE to Web/Dealer/e-Titles to RTS, this is dependent on this.
- MR. WALKER: So this is more of a security

- 1 system deal right here?
- 2 MR. TAYLOR: This is the basis -- it's beyond
- 3 security system, it's the basis of what are your rights,
- 4 what are you allowed access to, when you log on what you
- 5 see, for everything we do agency-wide. This is the DNA of
- 6 IT.
- 7 MR. WALKER: But that wouldn't be part of the
- 8 refactoring process?
- 9 MR. TAYLOR: No, it wouldn't. This is to even
- 10 let you see that refactoring data. If you want to look at
- it at all, you've got to have credentials, and this gives
- 12 you those credentials. And then what do you want to do in
- 13 it? Well, that depends on your credentials, and that's
- 14 what this is about, as well.
- MR. WALKER: And who is doing this project?
- 16 This is just an internal project?
- MR. TAYLOR: We are, although we'll be paying
- some vendors to do some stuff, as well, but right now it's
- an internal project and the project manager is a DMV
- 20 employee.
- MR. WALKER: So it says here we've only
- 22 expended \$400.
- MR. TAYLOR: You just started.
- MR. WALKER: But we have a completion date
- 25 seven months from now.

1	MR. TAYLOR: That's correct.
2	MR. WALKER: And we're going to spend \$465,000.
3	MR. TAYLOR: That is correct.
4	MR. WALKER: Who is going to get the \$465-, do
5	we know that?
6	MR. TAYLOR: I don't know all of that so far,
7	but Data Center Services have to manage a lot of that, so
8	since Xerox has the contract with Data Center Services,
9	I'm sure we're going to be paying them a lot of money.
10	MR. WALKER: So we don't have to take and
11	determine who the vendor is going to be, that is
12	determined by DIR?
13	MR. TAYLOR: Well, some of that, yes. We can't
14	determine who DIR's contracts are with. But some of that
15	also, instead of having to do an entire RFP process, if
16	it's appropriate which I believe it is we can just
17	look on the vendor list for who's appropriate to pay to do
18	that.
19	MR. WALKER: So we just go to the list of
20	approved vendors.
21	MR. TAYLOR: That's right.
22	MR. WALKER: So if we want to use Jonathan
23	Taylor Computing.

## ON THE RECORD REPORTING (512) 450-0342

and say: Hey, can you do this and what's your cost? You

MR. TAYLOR: We go to Jonathan Taylor Computing

24

- 1 told us you can do this, you told us this would be your
- 2 cost, let's make sure.
- 3 MR. WALKER: But what if Victor Rodriguez is
- 4 cheaper, can we take that into consideration?
- 5 MR. TAYLOR: We can.
- 6 MR. WALKER: Do what?
- 7 MR. TAYLOR: Yes, sir, we can.
- 8 MR. WALKER: So we would call Victor and say:
- 9 Can you Do this?
- MR. TAYLOR: We can do that, yes.
- And everything you've seen that's been titled
- 12 Infrastructure Separation and Consolidation, we're
- actually going to change this, just the naming structure
- 14 agency-wide, so from now on after this you'll see this as
- 15 Server Infrastructure Separation and Consolidation.
- 16 Again, this is the physical infrastructure of your
- 17 servers -- that is, buying new servers, putting them in
- 18 places that we control, and plugging everything we have
- 19 into them. Until now we co-locate, our data and TxDOT's
- 20 data sits on the same place. This is splitting that up
- and putting them on new machines.
- This is, again, something we have to go through
- 23 Data Center Services with, we don't have any choice on
- 24 that, but as you can see here, this is everything: LACE,
- 25 titles, registration, everything we do. This is the

- 1 physical servers that those sit on, us owning them and us
- 2 running them.
- MR. WALKER: Would you go back to the list?
- 4 MR. TAYLOR: Yes, sir.
- 5 MR. RODRIGUEZ: On the backup, we've got be
- 6 part of the DIR-DCS.
- 7 MR. TAYLOR: Absolutely. We don't have a
- 8 choice.
- 9 MR. RODRIGUEZ: I mean, I don't know whether
- 10 it's in Lubbock or wherever, the DIR center, but I think
- 11 it used to be in West Texas somewhere. That's not
- 12 important. I'm asking does this expenditure cover that as
- 13 well, or not?
- MR. TAYLOR: You mean where it's physically
- 15 housed.
- MR. RODRIGUEZ: The requisite that DIR will
- 17 have.
- 18 MR. TAYLOR: Well, there are some fairly
- 19 complex rules and exceptions -- actually, the rules are
- 20 not complex, the exceptions can be complex about where
- 21 your data center actually sits. Usually it sits at the
- 22 data center and of these costs would be associated with
- 23 that, the physical buying of it, where it sits, DIR
- 24 controls, a lot of that. But sometimes DIR doesn't have
- 25 all the space that they would like to have, sometimes we

- 1 can't physically put those servers there, and sometimes we
- 2 want to control them in a location of our own, say in
- 3 Building 5, for example. Then we would have to put in a
- 4 request, basically an exception request to say: DIR, you
- 5 don't have the space, we'd like the space and we don't want
- 6 to wait a year for you to have the space, can we have it
- 7 now? Those types of requests have been made.
- 8 If we were to house it somewhere else -- and
- 9 Gary, if I'm talking out of line, let me know --
- 10 MS. BREWSTER: Mr. Chairman, can I just
- interrupt for just a moment?
- MR. VANDERGRIFF: Sure.
- MS. BREWSTER: I think what Member Rodriguez is
- 14 asking is will this project include the cost of housing
- 15 these new servers in the DIR facility, and I just might
- point out that the board did authorize me to execute a
- 17 contract with DIR for services, and in that amount we did
- 18 include the cost of additional servers as a result of
- 19 separation. Does that answer your question, Member
- 20 Rodriguez?
- 21 MR. RODRIGUEZ: Well, the question I was going
- 22 to, there has been, I think, a memo on behalf of DIR to
- 23 basically standardize Texas data, and I'm wondering if
- 24 we're marching along that path with this.
- MR. GORDIER: For the record, this is Gary

1	Gordier, chief information officer for DMV.
2	We're working very closely with Data Center
3	Services, DIR as we move forward. This is a very complex
4	process of separating because we're running on the same
5	physical boxes with TxDOT right now and they're running
6	on, in some cases, older technology and non-standard. And
7	we've identified 66 physical boxes so far that are
8	exclusively DMV data, and we're now looking at remediation
9	of those and seeing where we can consolidate. And when we
10	do that, there are three programs that we have with Data
11	Center Services, one is called Triage. That's where you're
12	in crisis mode, something is really old, it's got to get
13	fixed, but they basically update and replicate what you
14	currently have on a new box.
15	We're looking at where we can do what's called
16	transformation, actually moving them from a physical box
17	that's sitting over in Building 6 right now or over at
18	Riverside and moving those onto boxes in the Data Center
19	Services area as virtual boxes. In some cases those boxes
20	may physically be located in our data center in Building
21	5, but for the most part we want to go to the virtual
22	environment because it is about a fifth the cost of buying
23	physical boxes.
24	The other part of the 600 servers that we're
25	analyzing right now, in conjunction with Capgemini and

- 1 Data Center Services and DIR, we're in shared services and
- 2 maybe in some cases they're running on virtual servers,
- 3 some of them they're just running dual applications on the
- 4 same box, but again, where we can separate those and move
- 5 those in a similar vein.
- 6 MR. TAYLOR: I think I have a better handle on
- 7 your question now. This price doesn't include housing.
- 8 That's our Data Center Services contract for the housing.
- 9 MR. RODRIGUEZ: I guess at the end of this are
- 10 we buying one box or are we buying two boxes in order to
- 11 comply with DIR.
- 12 MR. GORDIER: We will probably be buying
- 13 multiple boxes.
- 14 MR. RODRIGUEZ: I'm not saying only one, but I'm
- 15 just saying are you going to have one box here or are you
- 16 going to go to the virtual box and locate your box over at
- 17 DIRs disaster recovery facility, wherever that might be.
- 18 MR. GORDIER: When you go into Data Center
- 19 Services, they are obligated, as part of the contract, to
- 20 provide for disaster recovery services, and so we will not
- 21 only have our physical box which we pay for, but they then
- 22 accommodate the DR capability.
- 23 MR. RODRIGUEZ: I think I'm getting my answer.
- MS. JOHNSON: But I'm also hearing that we're
- 25 getting in a cloud. That's your hope is to be in a cloud

- 1 because it doesn't require space. It just requires money
- 2 and buying space in somebody else's cloud.
- MR. GORDIER: To the extent possible, as much
- 4 as we can.
- 5 MS. JOHNSON: Thank you.
- 6 MR. WALKER: Gary, are we doing a mirrored
- 7 system somewhere so if we were to have a catastrophe in
- 8 Austin, Texas, we don't lose all of this data?
- 9 MR. GORDIER: That's part of the disaster
- 10 recovery process, and that's why Data Center Services,
- 11 they actually operate two data centers, one in San Angelo
- 12 and one in Austin, and for example, our RTS mainframe is
- in San Angelo, a lot of other infrastructure is here and
- 14 they backup in the opposite data centers then.
- 15 MR. WALKER: But this equipment that we're
- having to buy, the equipment is already there.
- MR. GORDIER: Right, it's theirs, the backup.
- 18 MR. TAYLOR: This is a project near and dear to
- 19 my particular heart because it is going to be one of the
- 20 first -- it's going to be the next project that is really
- 21 visible to our customers. I don't think I have to go into
- 22 too much detail about what this project does, but one of
- 23 the things I'd like to talk about is why we decided --
- originally these were two different projects, Web/Dealer
- 25 was a project, e-Titles was a project. So back in May of

- 1 2012 when these projects really started, in going through
- 2 the initiatives, everybody realized that since the dealer
- 3 process really was the majority of what we all wanted that
- 4 to be part of the web process, it really made sense to
- 5 combine these projects. In doing so, it actually lowered
- 6 the combined cost of both of those projects which brought
- 7 us down to about a \$7 million projected budget from the
- 8 original \$10 million that we thought both of them would
- 9 cost.
- This project so far is on time and on budget.
- 11 You'll see in all of these I've gone through and included
- 12 kind of what the next steps are. These may be over-
- 13 technical. If this is what you like to see, let me know;
- 14 if this is what you don't want to see, let me know. But
- 15 also, that pilot, like I said during the last meeting,
- that pilot is still scheduled to be released by the end of
- 17 this fiscal year, it's on time and on budget.
- 18 MR. PALACIOS: I have a question. Can you just
- 19 give me a quick synopsis? How is this e-Titling going to
- 20 work -- just give me a quick flow -- between the
- 21 dealerships, the TACs and the DMV? Because right now it
- 22 says you can eliminate the need to physically transport
- 23 data which would be data to TACs. How does this all occur
- 24 now under this new system?
- 25 MR. TAYLOR: So I'll give you as much detail as

- 1 I can, and if I need more detail than that -- do I have
- 2 the project manager here -- I might ping Jeff Clawson to
- 3 go into any greater detail.
- 4 The general flow is that we provide access for
- 5 information, so instead of taking a USB port and bringing
- 6 it and plugging it into a laptop to have to take any of
- 7 that information from the dealers to the TACs or to DMV or
- 8 anything like that, instead of physically having to do
- 9 that, the DMV, instead of somebody else providing a laptop
- 10 and a key fob, or however else they do it, we provide a
- 11 portal online for the dealer to directly upload that
- information. Then it's viewable by the TAC or by the DMV.
- 13 So that's the work flow there. If we're requiring someone
- 14 to submit that information, we're requiring them a way to
- 15 submit it to us.
- Does that answer your question?
- MR. PALACIOS: Yes. So is the TAC somehow
- bypassed, or are they still the intermediaries?
- 19 MR. TAYLOR: We're just providing the portal,
- 20 that's all.
- MS. JOHNSON: So the answer, Mr. Palacios, is
- 22 you won't be in line but you'll still be waiting for the
- 23 TAC to process the work.
- MR. INGRAM: I'm not understanding that.
- 25 MS. JOHNSON: I think he was asking whether it

was going to facilitate things, and it's not necessarily 1 2 going to change him waiting in line -- he doesn't wait in 3 line, he uses different resources -- but I think he's trying to eliminate the middleman process. It's faster, 4 5 what's going to happen. But it sounds like to me that 6 could be wrong. It will be transferred electronically to 7 us, we'll get a message that we have work to do, and we 8 work that electronically rather than waiting for somebody 9 to come in with a jump drive for us to perform the work. 10 Is that correct? MR. TAYLOR: 11 That is correct. 12 MS. JOHNSON: So we still have a role. 13 And then my question is where are MR. INGRAM: 14 we at now on the work, on getting the work done. If we're 15 going to try to have a pilot release in basically eight 16 months, where are we now? MR. TAYLOR: Work has continued. We're still 17 18 actually in the planning phase of this. That said, in the 19 project management world we're always talking about planning and then initiating, actually, you can plan one 20 21 phase while you initiate another. That's just reality, 22 especially in a multiple-phase project. 23 But yes, we're reviewing all the business 24 requirements -- that is, what does the business need to eventually have this done, and at the end of this business 25

- 1 requirements, we'll actually pay to write the code.
- 2 MR. INGRAM: Pay to write the code, meaning
- 3 that we would go out and get RFPs.
- 4 MR. TAYLOR: I don't know that it will be an
- 5 RFP, but someone will have to write that code.
- 6 MR. INGRAM: I don't want to be --
- 7 MR. TAYLOR: Well, maybe I should manage some
- 8 expectations.
- 9 MS. RYAN: What is the pilot, what's in the
- 10 pilot?
- 11 MR. TAYLOR: There you go. So what a pilot
- really is, is a couple of things in this specific
- instance. One, it's not a complete rollout, every TAC
- 14 won't see this -- some will, two, three, I don't know how
- 15 many yet. So it's a limited number of people, but it's
- 16 also limited functionality, it's not everything that
- 17 Web/Dealer/e-Title is going to do, but it's some of the
- 18 things that it's going to do.
- 19 The other thing to remember about the pilot,
- 20 one of the most important things about that pilot isn't
- 21 just the functionality of it, it's when we roll it out,
- 22 how do we roll it out, how do we roll this functionality
- 23 out, and how is it accepted by the user. That will be
- done by the end of this fiscal year.
- 25 If you'll see, the total project won't be

- 1 completed for a couple of years. All the functionality
- 2 and all the locations, it will be 2015 before it's
- 3 completed.
- 4 MS. RYAN: What might be helpful on this one,
- 5 especially since it's a \$7 million project, to break out
- 6 the phases, as you've done on some of the other ones, to
- 7 help us understand how that money is going to get spent
- 8 and what the phases will cover, and that may help us
- 9 understand.
- 10 MR. INGRAM: Thank you, Laura.
- 11 And then I'm just a little bit concerned about
- the realism of even the pilot, and I just hate to put that
- date out there and then blow it, from a legislative
- 14 perspective, or anyone who's looking, and going: Well,
- 15 they said they were going to have a pilot by August 31,
- and it's six months later and they're not even close.
- 17 MR. TAYLOR: I don't foresee that happening.
- 18 If the project manager or any of the business folks come
- 19 up to me and tell me they see that happening, I'll make
- 20 that change and let everybody know, but so far nobody is
- 21 telling me that.
- MR. INGRAM: Okay.
- 23 MS. BREWSTER: Mr. Chairman, if I might.
- MR. VANDERGRIFF: Please.
- 25 MS. BREWSTER: Just a suggestion, perhaps in a

- 1 subsequent board meeting, whenever the next one is, we can
- 2 go into a deeper level of detail on Web/Dealer.
- 3 MR. VANDERGRIFF: I might even make a
- 4 suggestion that you might have a separate workshop on
- 5 that. I think that there's sufficient interest by a
- 6 number of board members in that that perhaps a pre-board
- 7 meeting or post-board meeting, the next one, just have a
- 8 separate workshop that board members can attend or not.
- 9 MR. INGRAM: I'd welcome that. That would be
- 10 great.
- 11 MR. VANDERGRIFF: In fact, that might be a
- 12 really good suggestion on this in the future is that this
- whole item could be a separate workshop attendance.
- MS. BREWSTER: I agree.
- 15 MR. TAYLOR: Public-facing website. So we
- 16 talked about this some last time, this is something the
- agency has been looking forward to and has been diligently
- 18 working on. I think I told you folks the last time that
- 19 although we've always said the estimated completion is by
- 20 the end of this month, I was hoping that it would be done
- 21 by the end of this week. Unfortunately, that's not the
- 22 case. We had a little problem -- when I say little, I'm
- 23 going to tell you about it and you're going to think it's
- 24 not worth mentioning but we'll mention it -- the graphics
- of the new website, when looked at from the RTS terminals

- of this agency, looked weird, so it delayed us about a
- 2 week, that's it.
- 3 We're still looking at a project rollout -- it's
- 4 a very, very small subset of people, basically, the
- 5 hypertext markup language on those machines just didn't
- 6 read the same. So that's being changed. We still expect
- 7 to hit the 31st date, and in fact, we expect, after we've
- 8 resolved this graphics problem, we still expect the
- 9 project launch date of the 21st of this month.
- 10 NMVTIS, this is a project long overdue for
- 11 Texas. And actually, one of the other important parts of
- 12 this project is that e-Titles is, in fact, dependent on
- 13 this project. Like I said, I've grouped these by project
- dependency. And really, I don't think I have to go too
- 15 far into what this project really does. In some sense, it
- 16 makes us legal, and the other sense, it helps prevent
- 17 stolen vehicles to be put back into the system. And so
- 18 far, it's on time and on budget.
- 19 Next, another project that I'm sure you're all
- 20 very, very familiar with, the Licensing, Administration,
- 21 Consumer Affairs and Enforcement project. Again, this
- 22 project is another one that's on time and on budget. We
- 23 have made one small change to this project that I should
- 24 make you aware of, just the same as we had in the RTS
- 25 refactoring when I talked about garbage in/garbage out,

- 1 LACE is the same way. So we've created another project
- 2 inside of this one that is the data purification for the
- 3 LACE project. That's ongoing and right now is not adding
- 4 cost to this particular project.
- 5 IRP, long story short, apportioned
- 6 registration. This is actually two projects, and I have
- 7 kind of a ding on this one that is in your spreadsheet,
- 8 this is apportioned registration, this project, the IRP
- 9 infrastructure upgrade is just that. We literally mean
- 10 the physical infrastructure, the server and the software
- 11 support for this particular project.
- Now, I put on your spreadsheet that there's an
- issue here with the timing, and that is because the vendor
- 14 we really want to use -- and this is a very short-term
- project because, like I said, it's just the physical
- 16 buying of the box and the software to run the box -- the
- vendor that helped us with that software, that's written a
- 18 lot of that software, is not on the DIR approved vendor
- 19 list and we've had to go back and request an exemption for
- 20 that. That's going to take about another 35 days. I put
- in your spreadsheet this project is not on time. It's
- 22 going to be a month, month and a half late. We are
- 23 already in the process of that exception. This is not
- something we're waiting on.
- 25 MR. BARNWELL: So your estimated completion

1	date is?
2	MR. TAYLOR: A month later.
3	MR. BARNWELL: It's not 1/31.
4	MR. TAYLOR: That's correct, it's 2/31, maybe
5	3/15.
6	MR. BARNWELL: It does say 1/31/2012.
7	MR. TAYLOR: I'm sorry. That's a typo.
8	MR. BARNWELL: So the end of February?
9	MR. TAYLOR: That's correct, the end of
10	February.
11	But the real advantage and what is dependent on
12	this project is this one, Fleet Plus, match registration.
13	That's exactly what it is well, I guess there's a few
14	other things tied to it, but the biggest thing, the thing
15	that is most interesting is that registration of entire
16	fleets. That is absolutely dependent. Fleet Plus can't
17	be done on the current infrastructure we have, so that's
18	got to be changed before we can do Fleet Plus.
19	We're really not intending to start this
20	project in earnest until well, we're not going to be
21	spending a whole lot of money, the rest of that money
22	really until March or April. That's the reason I'm not too
23	terribly concerned about the delay in the IRP
24	infrastructure project; even with the delay, we should be
25	there before this really begins.

1	We're already dealing with a vendor, this will
2	continue to go on. This is a fairly short-term project,
3	it's been going on for some time now, we've already spent
4	about \$115,000 on it. Once we're ready to pull the plug
5	on this, we still estimate to be in budget and on time
6	this spring.
7	And then the last three, and I'm going to
8	continue to include these. There's been some question
9	about whether I should even bring these up to you. These
10	are changes, and in this case to RTS. We have to do
11	regular changes to all of these programs. My office
12	continues to track those. They are internal costs only
13	for these, so we do them in-house, and if one of them was
14	a problem, if it was not on time, not on budget, I bring
15	that up. Until then I'll just let you know these are the
16	ones we're working on, they are on time and they are on
17	budget.
18	MS. JOHNSON: Can I ask a question?
19	MR. TAYLOR: Yes, ma'am.
20	MS. JOHNSON: There's still a lot of we've
21	seen changes going through and there was a recent update
22	that caused a problem on our new printers in our office.
23	Are you hearing that statewide?
24	MR. TAYLOR: I have not heard that yet, no.
25	MS. JOHNSON: Yes. Well, we were working

- 1 through our regional office and it might be it's just my
- 2 county. I was just curious. Thank you.
- 3 MS. BREWSTER: Member Johnson, we'll follow up
- 4 on that just to make sure that it's not a bigger issue.
- 5 MS. JOHNSON: Good. Thank you.
- MR. WALKER: Jonathan, there was one other
- 7 project, and maybe it's totally closed out now but it was
- 8 still open about four or five months ago, the TxPROS,
- 9 there was a little bit left to finish up on the TxPROS
- 10 system. Has that been closed out now?
- 11 MR. TAYLOR: I am not tracking that project.
- 12 It's closed out, that's why I'm not tracking it.
- MR. WALKER: We finished it out.
- 14 MR. TAYLOR: Must have been before I came on.
- MR. WALKER: It's been about four months ago.
- MR. TAYLOR: There you go.
- 17 So that said, things are going pretty well for
- the office, pretty well for the agency as far as project
- 19 management. I brought up the complexities and the
- 20 changes. I'm actually very pleased. The move to a
- 21 different building caused us to replan some things, and I
- 22 think the end result was an opportunity to replan some
- things, and that made it happen.
- That said, I'm going to bring up some risks
- 25 that I find agency-wide, program-wide that have continued

to concern me. One of those is kind of simple and we're 1 2 working on a lot, and that is the EPMO infrastructure. 3 our teams -- do teams working on one project sit near each 4 other; do they regularly contact each other? I know that 5 doesn't seem like a big deal but that's a culture change 6 that we didn't have that we need. As people are making really detailed, really complex changes and I can put them 7 basically next to each other, I'm going to do it. 8 9 Fortunately, the move has allowed us to do that. 10 Another issue in that same EPMO infrastructure 11 is that this agency has never had a project management 12 software, project management program -- that is, a way to 13 track all of this in one program so that the business 14 owners and the division directors can look in and say: 15 Okay, this is the project I'm concerned with, how much 16 money has been spent, what it's been spent on, how much 17 time has been spent on this, both internal and external. 18 That doesn't exist. That was a major concern of mine. 19 That led to a lack of transparency down from not only you 20 guys but business owners. 21 So we have been in the process of reviewing 22 different programs to allow us to do that and different 23 processes to allow us to do that. We've identified those,

we've identified a particular program we want, and in

fairly short order -- how long do we think it's going to

24

25

- 1 be?
- 2 MS. HOUSTON: (Speaking from audience.) We
- 3 have the kickoff meeting next Tuesday.
- 4 MR. TAYLOR: So it won't be long before we have
- 5 those particular programs.
- We've moved to fix a lot of those, and that's
- 7 making me happy. There's a lot of cooperation from
- 8 business owners, from the EPMO, from the executive
- 9 leadership to change this.
- 10 But there's actually a problem that we have
- 11 that's bigger, and that is -- and many of my PMs have
- 12 brought it up, lots of people have brought it up -- we
- have a lack of infrastructure for testing, quality testing
- of these projects. The agency has bitten off a lot as far
- as program changes we're trying to make. All of those
- have an IT component, if they're not primarily IT. Right?
- Well, you've got to test that stuff, you've got to test it
- 18 somewhere.
- 19 Well, we're an agency that doesn't have all that
- 20 test environment -- that is, we don't have the people to
- 21 run those tests and we don't have the physical space to
- 22 run those tests and we don't have the actual box -- the
- 23 sandbox is what it's called in the industry -- to run
- those tests.
- Now, this physical space we're getting taken

- 1 care of because there's a little more space remaining, but
- 2 we have a challenge to hire those people that are really
- 3 good at it. It's a challenge because you think about it,
- 4 these are the people who are testing what you're already
- 5 doing and what you want to do, they're really subject
- 6 matter experts, so they ain't cheap. They're hard to find
- 7 and they're the people that everybody wants, right,
- 8 because they walk the walk.
- 9 So the agency has moved forward to hire someone
- 10 to be the chief QAT expert for this agency. Wise, wise
- 11 move. That person is going to be hard to find. And once
- 12 that person gets here -- and Gary, I think, Gary, if I'm
- wrong, but there's more than one person we need to hire
- 14 for that. Right? There's a manager and a supervisor. So
- 15 that's great. This is going to be extremely important for
- 16 this agency.
- But we also have another problem, we
- 18 physically, like I said, don't have the sandbox space. So
- 19 whoever that is that's in charge of that, as well as our
- information technology director, Gary, who's right on top
- of this, what's going to be a challenge for them is to
- 22 find new ways -- since we're not going to go buy another
- 23 mainframe, it's just out of the question, even when we
- 24 have multiple things to test on mainframe at one time --
- so they're going to have to come up with some pretty

- 1 creative solutions. We're all going to have to be pretty
- 2 creative about how we get those environments.
- I don't have a solution for all that yet. I
- 4 can tell you we're working on it, but if I'm giving you my
- 5 honest assessment of where we are and where I think we
- 6 need to be -- and I'm going to continue to do that --
- 7 that's one that still scares me a little, and you'll hear
- 8 more about that, hopefully, every time we meet.
- 9 Yes, ma'am.
- 10 MS. JOHNSON: I've never heard the sandbox
- analogy, but you don't have any evaluations as to our test
- 12 environment.
- MR. TAYLOR: We do have a test environment, we
- just don't have enough.
- 15 MS. JOHNSON: Okay. Because you've got so much
- 16 going on.
- 17 MR. TAYLOR: That's it. We're trying to
- 18 radically change and we don't have enough space to test
- 19 that change.
- MS. JOHNSON: Perfect. Thank you.
- 21 MR. TAYLOR: Well, that's all I've got for
- 22 today. I think I've gone on for quite some time. Are
- there any other questions?
- 24 (No response.)
- MR. TAYLOR: Thank you very much.

## ON THE RECORD REPORTING (512) 450-0342

1	MS. BREWSTER: Mr. Chairman, if I just might
2	add one thing. It's our intent to have an update like
3	this quarterly. We'll give updates in every board meeting
4	in terms of what has occurred since the last meeting, but
5	as new projects come on, and at least quarterly, we'll
6	have a more in-depth discussion of the automation
7	projects, if that's acceptable to the board.
8	MR. VANDERGRIFF: That's good.
9	MR. TAYLOR: And of course, I continue to
10	welcome any of you that would like format changes to these
11	reports or want anything else, let me know. It's very
12	much appreciated. Thank you.
13	MR. VANDERGRIFF: Thanks, Jonathan. Great
14	report. Appreciate you coming.
15	And I will note, I think the heavy emphasis on
16	the part of the executive director and Mr. Taylor on
17	getting a handle on all these projects and organized, and
18	so we're very appreciative of that.
19	With that, we have the 5.A which is the Finance
20	reports, and our chief financial officer, Linda Flores.
21	MS. FLORES: Good morning. For the record, I'm
22	Linda Flores, I'm the chief financial officer for the
23	agency. And with me today is Sergio Rey, he's the
24	accounting director, and Phyllis Dawson, who is our
25	financial reporting lead. And these two individuals were

- 1 very involved in putting the end-of-year financial
- 2 statements together for the agency.
- And we're going to keep it very brief. The
- 4 financial statements were compiled according to the
- 5 requirements provided by the Comptroller of the State of
- 6 Texas. They are not audited as stand-alone statements, so
- 7 there is no opinion expressed on these statements. They
- 8 will be considered for audit when the Comptroller compiles
- 9 the comprehensive annual financial report, and that will
- 10 be completed in February. But all the statements were
- 11 compiled, as I said, according to the requirements on a
- 12 timely basis. We met our deadline of November 20.
- And there's only two to three things I want to
- 14 mention about the statements. Number one, the balance
- 15 sheet, which is Exhibit 1 on page 2, identified some
- 16 growth in our accounts receivable, primarily due to money
- 17 that we had collected from the TACs that was still kind of
- in flux, and the rest of the asset increase was due to
- 19 additional cash received from Motor Carrier fees.
- In the statement of revenues, expenditures and
- 21 changes in fund balance, which you might consider to be
- 22 the income statement -- yes, sir.
- 23 MR. BARNWELL: Could you just tell me where you
- are, please?
- MS. FLORES: Yes, sir. Page 2 of the report.

1	(General discussion regarding documents.)
2	MS. FLORES: Page 2 is the balance sheet and
3	then page 4 is what you all would consider an income
4	statement. But page 2, you'll see and I'm comparing
5	from year to year we have had a growth in net assets of
6	approximately \$13.3 million from last year, and that
7	growth was associated with cash that we had actually
8	collected but not moved into the appropriate fund, and
9	some additional revenue that we had received, accounts
L 0	receivable from the TACs. And you kind of heard me talk
11	about we're receiving additional money, we're seeing it,
12	this is just a snapshot in time as to how our books looked
13	at August 31.
L 4	The income statement, which is on page 4,
L5	you'll also see those additional revenues and the change
L 6	in fund balance, but of particular attention is the amount
L7	that we transferred to Fund 6. On page 4, under other
18	financing sources, towards the latter part of the page,
L 9	you'll see it's a negative, but it's really a transfer of a
20	billion three to Fund 6.
21	So those are the funds that we collect on
22	behalf of the state associated with registration fees, and
23	we had been reporting all along that we were seeing
24	additional money. That is where you actually see that
2.5	transaction, and it's composed of two things: about \$100

- 1 million is registration, and another \$100 million was
- 2 associated with the Motor Carrier fees that we are now
- 3 responsible for, and they came over effective last
- 4 January. So we anticipate that we'll continue to see that
- 5 growth, maybe not as significant as this time, but we will
- 6 see some steady growth in our revenues collected.
- 7 The one thing that you don't see here in the
- 8 balance sheet under accounts receivable --
- 9 MR. VANDERGRIFF: We have a question. I'm
- 10 sorry.
- 11 MR. WALKER: It's a correction. You said it
- was in the Motor Carrier registration fees.
- MS. FLORES: I'm sorry. It's the permits, the
- Oversize/Overweight. Yes, sir, you're correct.
- MR. WALKER: Okay.
- MS. FLORES: The one thing you will not see
- 17 until next year is a booking -- I'm sorry -- a journal
- 18 entry, a posting under accounts receivable for the default
- 19 orders that Bill Harbeson reports on a continuous basis,
- 20 and it was a timing thing. We closed our books. We're
- 21 still working with the division and the Attorney General's
- 22 Office to identify what are the true defaults that we need
- 23 to book. So the estimate that I saw at the beginning of
- October was about \$2 million, but that's before we
- 25 actually identified things that are not collectable and

- 1 that's a process you have to work on through the Attorney
- 2 General's Office.
- 3 So our accounts receivable will have that
- 4 posting the next go-round, but we just didn't feel
- 5 comfortable that could measure it and report it in an
- 6 accurate manner. So that's just kind of a note for you
- 7 all.
- 8 And I'm available to answer any questions you
- 9 might have.
- MR. PALACIOS: Linda, a question on the \$12.7
- 11 million increase in accounts receivable from TAC, what is
- 12 that?
- MS. FLORES: It was just timing. It was in the
- 14 bank account. The state government records anything that
- 15 has to be measurable and available within 60 days and we
- 16 accrue it, so we just accrued it as an accounts receivable
- MR. PALACIOS: But wouldn't that account be
- 18 rising anyway, just as a result of the licensing fees and
- 19 so forth?
- 20 MS. FLORES: Yes, sir. The amount was a couple
- of days worth -- let's see, how many days worth, was it 30
- 22 days' worth of cash that was sitting out there? Maybe two
- 23 weeks? So we knew it was there. We accrued it.
- MR. PALACIOS: The \$12.7- is two weeks' worth
- 25 of revenues.

1	MS. FLORES: Roughly.
2	And if I could ask for your indulgence, I would
3	like for you to, with me, acknowledge the staff that
4	process these transactions on a day-to-day basis. These
5	are the leads that run payroll every month, pay the bills,
6	and also help us when we're compiling all of these end-of-
7	year reports. And if I could ask them to stand and raise
8	your hand as I call out your name:
9	Irasema Hernandez, affectionately known as
10	Chema; Elizabeth Garcia, Payroll; Lisa Selvera, she's the
11	payments processor, she helps with your travel
12	reimbursements; Edward Weissbeck, he's financial
13	historian, he helps compile the financial statements.
14	Thank you very much.
15	And that concludes my presentation on the
16	financial statements. So if you're ready, I can move on
17	to the monthly financial reports.
18	MR. VANDERGRIFF: Please do.
19	MS. FLORES: We're going to switch gears to
20	expenditures and the monthly financial report, and with me
21	to assist on that is Michael Endlich. He is our financial
22	revenue estimator.
23	Continuing on in that same section of your
24	binder is the executive summary for the month ending
25	November 2012. We're trying to provide more meaningful

- 1 information and we're grouping our expended and actuals in
- 2 a quarterly manner. November is the first quarter for the
- 3 fiscal year, September, October, November, so we've
- 4 identified our actuals for the quarter, \$19.7 million. We
- 5 had a budget for the quarter of approximately \$42-, so
- 6 we're significantly under, and you're going to see that in
- 7 the expenditure side, as well.
- 8 The major difference is we thought we would
- 9 have spent more dollars associated with our capital
- 10 project. Last year we were in the middle of a rollout on
- 11 the county, so there was more spent for that during the
- same time period. But we do expect those expenditures to
- increase now that we have a director for the Project
- 14 Management Office and get some of those projects rolling
- and get those expenditures in place. So you'll see those
- 16 expenditures increase significantly.
- Because of some of the suggestions we got back
- 18 from the board last time, we decided just to show the
- 19 snapshot in time on the currently registered vehicles. We
- 20 really can't see the difference from month to month, we
- 21 can just tell you on this day this is how many registered
- 22 items we have in our system, registered vehicles. So at
- the end of November we had 22.3 million vehicles
- 24 registered.
- 25 MR. RODRIGUEZ: You're showing 50,000 a month.

1	MS. FLORES: Some of those could be that people
2	are turning over vehicles. We really can't identify where
3	the growth is associated with: Is it new vehicles on the
4	road, is it people coming in? I'm sure it's several
5	factors associated with that number.
6	MR. ENDLICH: For the record, Mike Endlich,
7	revenue estimator for the agency.
8	One thing that also happens, too, is when you
9	do have the new vehicle sales, if they're turning in a
10	vehicle, really there's two vehicles registered at the
11	same time. It's a hard report. We wish we had better
12	data to actually capture this information from, but what
13	we're given is just in the system how many vehicles have
14	an expiration up for the next twelve months, and that's as
15	of November 30.
16	So to judge why it goes up every month or what
17	justifies a number every month, we don't have a breakdown.
18	Hopefully with the new RTS system, that will be something
19	we can provide in the future.
20	MR. RODRIGUEZ: What I was leading to, is it a
21	reliable trend, is basically what I was going towards.
22	MS. FLORES: We see growth and I know that
23	we're projecting roughly a less than 2 percent, 1.7
24	percent, growth in the number of registered vehicles, but
25	that's just kind of variable. It's normal growth, it's

- 1 people coming in. I know I still have cars for my kids,
- 2 so I'm buying multiple vehicles under my name.
- 3 MR. VANDERGRIFF: But still, there's some
- 4 outside data that indicates the trend goes up, whether
- 5 it's monthly vehicle sales, new vehicle sales has trended
- 6 upward.
- 7 MS. FLORES: And we do have that breakout.
- 8 MR. VANDERGRIFF: And then you have an influx
- 9 versus an outgo of people moving in, so you theorize they
- 10 bring cars with them or buy cars.
- MS. FLORES: Correct.
- MS. JOHNSON: How are you counting multiple-
- year registration? We're trying to shorten our lines,
- 14 we're trying to encourage multiple-year registration, and
- 15 people are starting to really embrace that in our
- 16 community, so are we counting as one-year, two-years,
- 17 could this be two years? Because I fear next year or in
- another year we're going to see a drop because we've
- 19 already counted the two-year at some point.
- 20 MR. ENDLICH: The way the system works that I
- 21 understand it -- and have talked to somebody who does
- 22 RTS -- is it looks at any vehicle that has an expiration
- 23 past twelve months, I quess. So how can I explain it?
- 24 It's not just cut off after twelve months or it's not
- counting two or three years, I believe it's any registered

- 1 vehicle that's twelve months or longer.
- MS. JOHNSON: So the car is one regardless of
- 3 the sum of money you receive, but seeing one car with an
- 4 increase because there is more money coming in with
- 5 multiple-year registrations.
- 6 MR. ENDLICH: So I can find out.
- 7 MR. INGRAM: Can I just kind of tack onto that?
- 8 So a car that has an expiration of two months from now,
- 9 it's not going to be counted in the number?
- 10 MR. ENDLICH: No. It is.
- 11 MR. INGRAM: So anything, basically, that's
- 12 current.
- 13 MR. ENDLICH: Current within the next twelve
- 14 months, I should say. Correct. So I'm not sure if it
- 15 actually does fall under it.
- MR. INGRAM: If you get a longer span of time,
- 17 you might see if there's actually fluxes.
- 18 MS. FLORES: And I believe we do have a
- 19 scenario where we do have data like 50 years or more.
- 20 MR. INGRAM: Probably 25 years is sufficient.
- MS. FLORES: I know that I have seen
- 22 information back from the early '20s on registration.
- 23 MR. INGRAM: It would be nice if we saw maybe
- an annual, a twelve-month graph, that would be fine.
- 25 MS. FLORES: We can do that; we do have that

- 1 information, so I'm happy to provide that.
- 2 MR. RODRIGUEZ: I was just trying to figure out
- 3 if it's a reliable trend that we're going to be looking at.
- 4 MS. FLORES: The following page is the trend on
- 5 Fund 6 which is the State Highway Fund -- I'm sorry --
- 6 registration revenue to Fund 6, and as you can see, we are
- 7 actually coming in slightly higher than we had forecasted
- 8 for the quarter. The forecast was \$322 million and we're
- 9 at \$326 million.
- 10 MR. VANDERGRIFF: Another to look at and
- 11 compare it to -- it's not in this chart, though -- would
- be, for example, if you looked at fiscal year '11. Twelve
- had a sharp spike from '11 which was positive for us, and
- we're holding that is what I'm gathering from this.
- MS. FLORES: Yes, we are.
- MR. VANDERGRIFF: So that positive gain that we
- 17 had based on a lot of improvements in the industry is
- 18 continuing to hold.
- 19 MS. FLORES: And the additional revenue that we
- 20 had been reporting all along, yes, we are seeing that
- 21 continuing on.
- 22 MR. VANDERGRIFF: That's now about, I quess, a
- 23 16-month trend, really, since the beginning of fiscal year
- 24 '12.
- MS. FLORES: Yes, sir. We can actually report

- 1 to you what it was in fiscal year '12, if you were so
- 2 inclined.
- 3 MR. VANDERGRIFF: Fiscal year '11.
- 4 MS. FLORES: This is '13.
- 5 MR. VANDERGRIFF: I understand, but fiscal year
- 6 '11, the big jump was in '12 and we're holding that number
- 7 in '13. Correct?
- 8 MS. FLORES: Yes, sir.
- 9 MR. VANDERGRIFF: That's what I was really
- interested in, so I guess '12 would be a good idea to have
- 11 that so we know we're holding it.
- 12 MR. ENDLICH: Chairman, just for your
- information, at the end of November, I believe we were
- 14 still up 7 percent over fiscal year '12, so we're
- definitely holding it and we're actually exceeding it.
- 16 MR. VANDERGRIFF: That's great.
- 17 MR. WALKER: Linda, do you know the breakdown
- 18 on that number as to commercial motor vehicles?
- 19 MS. FLORES: Yes, sir. In your material if you
- 20 will look at the detail on page 1, we have a further
- 21 breakout of that number.
- MR. WALKER: Are you talking about the next
- 23 report?
- MS. FLORES: Were you asking about
- 25 registration?

1	MR. WALKER: Yes.
2	MS. FLORES: I'm sorry. No, we don't have the
3	detail for registration.
4	MR. WALKER: So if I were to ask you how much
5	commercial motor vehicles from the State of Illinois are
6	bringing to the State of Texas, we don't know that?
7	MS. FLORES: I'd have to go back and double
8	check to see if that's something that we capture in the
9	registration system.
LO	MR. WALKER: Well, the trucking industry across
11	the nation, if a truck comes into our state we charge them
12	a registration fee to use our roads, that's covered under
13	the IRP. So if I were to ask you how much does the
L 4	trucking industry nationwide pay into Texas for the use of
15	our roads, can I get that?
L 6	MS. FLORES: I believe so. I believe there is
L7	information or data that is captured through the Texas IRE
L8	system that would provide that information to us. So I
L 9	can go back and work with the program to come back to you
20	next time with some idea, or provide it to you separately.
21	MR. ENDLICH: Mr. Walker, we can actually run
22	that report from the IRP system and give you a printout.
23	MR. WALKER: I was just curious how much
24	nationwide the trucking industry is paying in registration
25	fees into the state.

1	MR. ENDLICH: The problem we have is where we
2	get our reports from don't always match up with deposits,
3	for whatever reason. When we see it hit the accounting
4	system, it's a big pile of money, lump sum. We depend on
5	our reports that we run individually from our different
6	systems to help justify exactly what this breakdown is,
7	but like I said, totals don't always match up so it's hard
8	to give you exactly a dollar amount which related to the
9	motor carrier part of this. We can give you a ballpark.
LO	MR. WALKER: That would be important because
11	people always think that the trucks tear up the roads, and
12	in reality, the trucks probably pay their fair share.
13	MS. FLORES: The next slide is deposits to Fund
L 4	1 and to Fund 6, and we have do have the detail for this
L5	further into your material, but again, in both of these
L 6	two areas we are actually exceeding what we anticipated to
L7	bring in. For Fund 1 we're actually bringing in \$23- for
L 8	the quarter, \$23.9 million for the quarter, and our
L 9	forecast was approximately \$20.3 million. In Fund 6 the
20	forecast was \$354.9 million and we're actually at \$366.3
21	million.
22	And the final item in your summary is, again
23	and you saw this at the last board meeting our revenue
24	forecast for the My Plates program, and we are still
25	holding at the forecast is expected to be \$28 million. In

- 1 the month of November there were \$13.8 million to the
- 2 State of Texas GR, and that was roughly 3,700 new orders.
- I do have more up-to-date information on the My
- 4 Plates for the month of December that were provided to us
- 5 by the program. As of December, the amount generated to
- 6 General Revenue is approximately \$14.2 million, and My
- 7 Plates received \$19.5 million.
- 8 MR. PALACIOS: I'm sorry. Can you go over that
- 9 again. My Plates received?
- 10 MS. FLORES: That's cumulative.
- 11 MR. PALACIOS: And of that, DMV received?
- 12 MS. FLORES: The December number? \$14.2- went
- 13 to the State of Texas, and My Plates has received a total
- 14 of \$19.5 million.
- 15 MR. PALACIOS: Are they in a commission
- 16 structure?
- MS. FLORES: There's items in their contract
- 18 where there are certain percentages that they receive.
- 19 They do pay us for the cost of graphic design of the plate
- 20 which is \$8, and then there are some percentages after
- 21 that as to what the state receives and what they receive.
- 22 MR. VANDERGRIFF: Basically, the program to
- date generated about \$34 million, \$33-, \$34 million.
- MS. FLORES: Correct.
- MR. VANDERGRIFF: Which My Plates has received

- 1 close to \$20 million and the state has received roughly
- 2 \$14 million, if you round it out.
- 3 MS. FLORES: Correct.
- 4 MR. RODRIGUEZ: Linda, the contract expires
- 5 when?
- 6 MS. FLORES: October 2014.
- 7 MR. RODRIGUEZ: So in the next 22 months
- 8 they've got to generate -- they don't have to, but it's
- 9 expected they will generate \$11 million?
- 10 MS. FLORES: Yes, sir.
- 11 MR. RODRIGUEZ: In order to meet the proposed
- 12 obligation.
- MS. FLORES: Yes, sir.
- MR. RODRIGUEZ: How many months have they been
- 15 in service now?
- MR. ENDLICH: As of December, 38 months.
- MR. RODRIGUEZ: As of December, 30 months?
- 18 MR. ENDLICH: Thirty-eight months.
- 19 MR. RODRIGUEZ: Thirty-eight months. So on the
- 20 whole they're doing less than a million a month.
- MR. ENDLICH: Way less than a million.
- MR. RODRIGUEZ: So not likely they'll meet the
- 23 \$25 million to the state.
- MR. ENDLICH: Say again, sir.
- MR. RODRIGUEZ: Based upon that pattern, it's

- 1 not likely they'll meet their obligation.
- 2 MR. VANDERGRIFF: It's because they've been
- 3 ramping up. You can't look at the 38 months.
- 4 MR. WALKER: But you've got to look at the
- 5 renewals, Victor, it has to do with the renewals.
- 6 MR. ENDLICH: That's correct, so renewals with
- 7 continued sales, as well. We still have them projected at
- 8 \$28 million towards the end of the contract. As of today,
- 9 I think they are going to meet their obligation.
- MR. RODRIGUEZ: You're showing \$28 million.
- 11 MR. ENDLICH: That's our forecast at the end of
- 12 the contract.
- MR. RODRIGUEZ: So you're saying they'll meet
- the \$25 million May of '14?
- 15 MR. ENDLICH: Roughly July of '14. That's
- 16 correct, sometime in July.
- MR. RODRIGUEZ: But their contract expires?
- 18 MS. FLORES: October. If all the factors that
- we see continue, and as long as the program, the company
- 20 continues on whatever business model that they've created,
- 21 and they continuously adjust their model when they see
- 22 some of these same fluctuations.
- 23 MR. RODRIGUEZ: So rate of payment to the State
- of Texas for renewals, what is it?
- MR. ENDLICH: Percentage of renewals, is that

- 1 what you're asking? As of this month it just jumped up to
- 2 65 percent.
- 3 MR. RODRIGUEZ: Sixty-five percent.
- 4 MR. ENDLICH: It was at 64.3 last month and it
- 5 just went to 64.6.
- 6 MR. RODRIGUEZ: For renewals. In other words,
- 7 on renewals we'll get 64 percent.
- MS. FLORES: People will renew their plate.
- 9 MR. ENDLICH: I think one of the misconceptions
- on this is a lot of the revenue that they receive that
- 11 gets deposited each month is from sale of five- and ten-
- 12 year plates, so not everything you see deposited every
- month is going to be 65 percent based on that amount, it's
- 14 only the one-year plate sales, so we have to break down
- 15 that amount, which is what we do in our forecast to give
- 16 you a true what's actually coming in for renewal income
- 17 each month.
- 18 MR. RODRIGUEZ: I'm just asking that because I'm
- 19 told that the spike upwards is going to be based on
- 20 renewals, and therefore, that's why they'll meet the \$25
- 21 million.
- 22 MR. ENDLICH: Cumulative. If sales stay the
- 23 way they are now and renewals continue to build -- and we
- 24 do have sales growing at a higher rate than renewals
- 25 are -- that's what we are forecasting right now. And it's

- 1 always subject to change as we get more information in the
- 2 next two months and see where they're kind of headed. I
- 3 know they're kind of changing their marketing program a
- 4 little bit.
- 5 MR. RODRIGUEZ: Do you have a chart showing
- 6 their sales orders, the pattern of their sales orders?
- 7 MR. ENDLICH: We don't, but we have the data so
- 8 we could actually get you one.
- 9 MR. RODRIGUEZ: New orders for, I'm guessing,
- November were 3,766? This indicates that new orders in
- 11 November 2012 we had 3,766.
- MR. ENDLICH: Correct.
- MS. FLORES: Dollars.
- 14 MR. ENDLICH: No. Those are plates.
- 15 MS. FLORES: Those were plates. I'm sorry.
- There's a dollar sign and that's wrong, it's plates.
- MR. RODRIGUEZ: So my question is is that
- 18 higher than the average or lower than the average. If you
- 19 don't know, it's fine. I think you get the guestion.
- 20 MR. ENDLICH: I do. For November, I think
- 21 that's probably a little low, but this is following a
- 22 special event they had last month. I'd have to run it
- 23 taking out the special events.
- MR. PALACIOS: Ms. Flores, I have a question.
- 25 Based on the figures that were given, the vendor keeps 60

- 1 percent of the revenues. How are the hard costs and other
- 2 expenditures allocated? Does the vendor assume their
- 3 share, or how is that structured?
- 4 MS. FLORES: I'm sorry?
- 5 MR. PALACIOS: The overall cost of the program.
- 6 We can see how the revenues are divided, but what about
- 7 the costs?
- 8 MS. FLORES: I don't see the costs associated
- 9 from the vendor's side. I'm not really sure what it takes
- 10 for them to run the program. We have staff in place that
- 11 monitor that contract. What I do know is that it costs
- 12 roughly \$8 a plate to -- we receive \$8 for every new plate
- that's designed so that we can turn around and place an
- 14 order with TDCJ. The actual cost for that is roughly --
- 15 and I'm looking at Randy.
- MR. ENDLICH: It's \$8 per order.
- MR. WALKER: I can answer some of your
- 18 questions, Raymond. We charge, there's a setup fee for
- 19 every license plate that is set up, it's \$4,800 for every
- 20 plate. They pay that fee. There's no increased costs to
- 21 the State of Texas or this agency to make a My Plates
- 22 plate than it does any of the others. They sell those
- 23 plates at a higher dollar and we make a percentage of that
- 24 and they make a percentage of that.
- MR. ELLISTON: For the record, my name is Randy

- 1 Elliston, the director of the Vehicle Titles and
- 2 Registration Division.
- 3 Mr. Palacios, I think to answer your question,
- 4 the question that you have is, you know, who bears the
- 5 cost of the program? Basically, My Plates pays us a fee
- 6 for every new plate that they generate, and it's
- 7 somewhere, I think, over \$4,000 that comes in on those
- 8 plates. The agency ourselves, we actually keep about \$8
- 9 of that, and that's to pay for the license plate.
- Now, the cost, there is no other cost to us in
- 11 regards to any marketing, the call center that handles the
- ordering of the plates, if they do ads, that sort of
- thing, all that is borne by the vendor in that regard, so
- 14 we don't bear any costs in regards to that.
- 15 MR. PALACIOS: Well, wouldn't we have the cost
- of producing the plate itself and whatever goes into that
- 17 and delivering the plate? I'm just trying to get an
- 18 overall assessment what this generates. I mean, we only
- 19 see the revenue side, there has to be an expense out there
- 20 somewhere.
- MR. WALKER: It's the same as a regular plate.
- 22 MR. ELLISTON: Right. There is no additional
- 23 cost to us in producing that plate than it is any other
- 24 plate that we produce, and we are reimbursed for that
- 25 cost. The \$8 per plate we receive does reimburse us for

1	that cost, so there is no cost to us for that.
2	MR. PALACIOS: Okay. Thank you.
3	MR. VANDERGRIFF: Further questions?
4	MS. FLORES: That concludes our presentation.
5	MR. VANDERGRIFF: I will note for the board
6	record, I think that probably sometime this summer we'll
7	have Mr. Walker and his committee start an analysis
8	process moving forward with respect to renewal on the
9	contract, so they'll be gathering data, things like that.
L O	Ms. Brewster, I think we've come to your
11	portion of the agenda, solely your portion, on the
12	director reports.
13	MS. BREWSTER: Thank you, Mr. Chairman.
L 4	Really, the only thing that I wanted to report
15	and I'm happy to report, is that we've executed an
L 6	agreement with TxDOT for services provided by that agency
L7	This new agreement is an improvement over the previous
18	agreement. It very clearly lays out the process for the
L 9	agency, TxDMV, to request services from TxDOT, how we are
20	to be invoiced, how we will remit payments, and the time
21	frame in which we will do that. And so I'm just very
22	pleased to announce that that's been executed. It is in
23	your board binders.
24	Just a bit of history. This board did give me
25	authorization in a previous hoard meeting to execute the

- 1 contract up to \$5 million with TxDOT, and that the
- 2 verbiage of that agreement would be in consultation with
- 3 the chairman. I did consult the chairman, and we now have
- 4 an executed contract.
- 5 That is all I have to report at this time.
- 6 MR. VANDERGRIFF: We do not have any items for
- 7 executive session today at this board meeting that we
- 8 have. So with that, we come to the end of this portion of
- 9 our day, and I would be pleased to entertain a motion to
- 10 adjourn.
- MR. BARNWELL: So moved.
- MR. RODRIGUEZ: Second.
- 13 MR. VANDERGRIFF: We have a motion from Mr.
- 14 Barnwell, second from Mr. Walker. All those in favor
- 15 please raise your right hand.
- 16 (A show of hands.)
- MR. VANDERGRIFF: We are adjourned.
- 18 (Whereupon, at 11:20 a.m., the meeting was
- 19 concluded.)

1	<u>C E R T I F I C A T E</u>
2	
3	MEETING OF: Texas Department of Motor Vehicles Board
4	LOCATION: Austin, Texas
5	DATE: January 10, 2013
6	I do hereby certify that the foregoing pages,
7	numbers 1 through 103, inclusive, are the true, accurate,
8	and complete transcript prepared from the verbal recording
9	made by electronic recording by Nancy King before the
10 11 12 13 14 15 16 17	Texas Department of Motor Vehicles.  (Transcriber) (Date)
19 20 21 22 23	On the Record Reporting 3636 Executive Ctr Dr., G-22 Austin, Texas 78731