TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

10:06 a.m.
Thursday,
February 11, 2010

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

BOARD MEMBERS:

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

STAFF MEMBERS:

Ed Serna, TxDMV Executive Director

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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. I'm now calling the meeting for February
6	11, 2010, of the Board of the Texas Department of Motor
7	Vehicles to order, and I want to note for the record that
8	the public notice of this meeting contained all items on
9	the agenda and was filed with the Office of Secretary of
10	State on February 1, 2010.
11	Before we begin today's meeting, please place
12	all cell phones and other communication devices in silent
13	mode. And if you wish to address the board during today's
14	meeting, please complete a speaker's card at the
15	registration table in the lobby. To comment on an agenda
16	item, please complete a yellow card and identify the
17	agenda item; if it is not an agenda item, we will take
18	your comments during the public comment portion of the
19	meeting.
20	And now I'd like to have a roll call, please,
21	of the board members. Board Member Butler?
22	MR. BUTLER: Here.
23	MR. VANDERGRIFF: Board Member Campbell?
24	MR. CAMPBELL: Here.
25	MR. VANDERGRIFF: Board Member Gillman?

1	MR.	GILLMAN:	Here.

- 2 MR. VANDERGRIFF: Vice Chairman Johnson?
- 3 MS. JOHNSON: Here.
- 4 MR. VANDERGRIFF: Board Member Marzett.
- 5 MS. MARZETT: Here.
- 6 MR. VANDERGRIFF: Board Member Rodriguez?
- 7 MR. RODRIGUEZ: Here.
- 8 MR. VANDERGRIFF: Board Member Rush?
- 9 MR. RUSH: Here.
- 10 MR. VANDERGRIFF: Board Member Walker?
- MR. WALKER: Present.
- 12 MR. VANDERGRIFF: And let the record reflect
- 13 that I am Chairman Vandergriff and I am here and we have a
- 14 quorum.
- And with that, I would open item number 1.B and
- 16 that is the public comment. I'm not sure if we have
- anybody from the public wishing to comment. Don't see
- anyone, no hands going up, so thank you.
- We will, by the way, when we get to any of the
- 20 proposed rules, allow public comment on those
- 21 specifically. I think we do have at least one or two
- 22 people who asked to speak there.
- 23 With that, I would want to introduce -- he
- really needs no introduction, we've talked before, but at
- 25 the same time, it's my privilege to officially welcome Ed

- 1 Serna as the executive director of the Texas Department of
- 2 Motor Vehicles. I've had the pleasure and privilege of
- 3 working with Ed and knowing him for about the last year
- 4 and a half. He's a man of great character, wisdom, and
- 5 leadership -- talk about laying it on thick there, but
- 6 it's all true.
- 7 (General laughter.)
- 8 MR. VANDERGRIFF: And with that, I will stop my
- 9 rambling here for a moment and cede the floor to Ed.
- 10 MR. SERNA: Good morning. Just because I'm
- used to sitting out there, for the record, my name is Ed
- 12 Serna and I'm the executive director for the Texas
- 13 Department of Motor Vehicles. I am excited about joining
- 14 the department and working with the staff. The
- introduction that the chairman gave me, I believe, is much
- 16 more than I deserve; the staff that have worked with me
- 17 before and the other people that are in the audience also
- 18 know that it maybe was a little bit thick.
- 19 But I am excited about it, we've got a lot of
- things that we've got to work on, I'm looking forward to
- 21 working with the staff, the directors, the staff, and with
- our partners in the industry and in the private sector to
- 23 kind of get a whole bunch of stuff done that I believe the
- 24 board and the legislature and the public expect of us.
- So with that, I'll let the meeting get started

- 1 again. Thank you, sir.
- 2 MR. VANDERGRIFF: Thank you, Mr. Serna.
- I will say we look a little different than
- 4 Chairman Pickett and Chairman Carona and the members of
- 5 the Senate and House in questioning.
- 6 We're now moving into the briefings, and the
- 7 first one I want to note is 3.A.1.a which is the
- 8 stakeholder meetings and information. We didn't have too
- 9 many of those in this last month with the listening tour.
- 10 I did have a nice session with the trucking Association
- last night and appreciated being invited to that along
- 12 with Mr. Walker.
- 13 And I also want to note that Vice Chairman
- Johnson participated and held a forum in her home county
- 15 this last week and I think did an excellent job, we'll
- 16 circulate that. Through her committee, she'll be helping
- 17 with the staff to work on materials that the board can use
- 18 when you go out and meet with the public, and I think that
- 19 the workings that she has in starting that off are great
- and look forward to that. I don't know if you want to add
- 21 anything at all? All right.
- We did have a legislative hearing by two
- 23 committees, we had a joint meeting of House and Senate
- 24 Transportation on February 1, and I was invited to testify
- at that along with Rebecca Davio, and unfortunately,

- 1 Rebecca had a death in the family, her father-in-law had
- 2 passed away, and she had to cede the duties to her deputy,
- 3 Mike Craig, who did an outstanding job and I'd like to ask
- 4 him to come up and talk about the meat of it which was the
- 5 Vehicle Titles and Registration portion.
- The purpose of the hearing, for the most part,
- 7 was to talk about transportation funding. I do want to
- 8 note for the board that I presented a quarterly report to
- 9 them and there wasn't a lot of detail since the quarter
- 10 was the first quarter and it only included November. And
- then Ed Serna was with us, obviously, and we talked.
- 12 There's continued discussion about the \$3.2 million that
- is the excess above what we would have had if we had been
- 14 still inside of TxDOT, and that's the computer seat
- 15 license, predominantly, as we've talked about. I'll let
- 16 Ed fill in any more detail he wants to after Mike is
- 17 through.
- 18 And in addition, they were very complimentary
- 19 of the agency and how it was starting off which was much
- 20 appreciated, so we enjoyed that conversation. And then
- 21 they got to the meat of what they really wanted to talk
- 22 about was Vehicle Titles and Registration, and with that,
- 23 I'll turn it over to Mike.
- MR. CRAIG: Thank you very much, Chairman.
- I'm going to take you on a fast tour of

- 1 basically what the revenue sources are that we collect
- 2 through Vehicle Titles and Registration. It's not only
- 3 Vehicle Titles and Registration fees but there's
- 4 associated sales tax. And you've got a handout there and
- 5 it might be helpful for you as we go through this, if
- 6 you'll look on the first page under the cover there's some
- 7 pages noted by some of the topics that we had listed in
- 8 bold, and I think it's kind of helpful because I'll be
- 9 addressing some of the information, but actually there's
- 10 more information as noted by that and we can kind of
- 11 compare them side by side and give you a better idea of
- 12 exactly what we're talking about.
- To start out, though the registration fees are
- 14 collected for all vehicles that are operated in Texas' if
- 15 you're going to run your vehicle on the road, you're going
- 16 to get a plate, you're going to pay a fee. And so these
- are constitutionally dedicated for Fund 6, they are for
- 18 the maintenance and construction of the highways so they
- 19 go to Fund 6. In FY '09, state and county registration
- totaled \$1.5 billion. That's state and county
- 21 registration meaning that that's total amount that was
- 22 collected and that amount of revenue was actually shared
- 23 between the state and the counties. There were 21.4
- 24 million vehicles registered in Texas in FY '09, and this
- 25 number of registered vehicles is second only to California

1 with 27 million.

2	And	just	to	give	you	some	perspective	as	well,

- one of the issues we'll be touching on as we go through
- 4 here is fee simplification, and the point we're making
- 5 with this last bullet under the general category is that
- 6 prior to the 81st Session, the last session of the
- 7 legislature, there had been not one change to a
- 8 registration fee since 1985, and there's also, because
- 9 these are kind of patch-worked together over the years as
- 10 they built these fees, created the fees for the vehicle
- 11 types, there's a level of complexity and confusion
- associated with it which I'll touch on as well.
- So now we're at the total registration and
- title revenue, and as I mentioned, you might want to pull
- 15 page 3 out and kind of take a look at that as I go through
- 16 the points. This one is fairly simple, it just basically
- tells you that we collect through our processing and
- through the counties, \$3.9 billion, that was last year,
- 19 which is a significant amount of money obviously, but as
- 20 Chairman Vandergriff pointed out as we made our testimony
- 21 to the joint hearing last week, while this is a lot of
- 22 money, it is actually a reduction from the previous year.
- 23 In sales tax we went down almost \$700 million or \$800
- 24 million on collections. Registrations have gone up but
- 25 title sales and associated sales tax has gone down over

- 1 the last year. Hopefully with the economy, we will see
- 2 that improve over the next year or so.
- But the points that we've got here is that the
- 4 General Revenue is Fund 1 and so out of the revenue that
- 5 we collect through the registration and titling system,
- for General Revenue primarily what you're going to see
- 7 going into General Revenue is sales tax. That's the
- 8 revenue generated primarily through the registration and
- 9 titling, titling primarily because it's associated with
- 10 the title application itself.
- 11 The next point we're touching on the Texas DMV-
- 12 county split. As I mentioned earlier, the \$1.5 billion
- registration revenue that's collected, of that the county
- gets a share, and basically they get a third of that \$1.5
- 15 billion. So if you're looking at \$1.5 billion, they
- 16 retain about \$500 million through the 254 counties for the
- 17 processing and through statutory distribution of these
- 18 fees.
- 19 The state registration fee, we get about a
- 20 billion dollars, or out of the last collections, anyway,
- 21 we got about a billion dollars. That goes into Fund 6 and
- 22 I've broken out down on the second bullet what the split
- 23 is with the counties. You can see that \$2.3 billion goes
- to Fund 1, \$1 billion goes to Fund 6, and \$500 million to
- 25 the counties. The \$75 million that I've noted there is

- 1 actually a receipt commission. Not only do the counties
- 2 get a part of the registration fee itself but they also
- 3 get a commission fee, if you will, for issuing receipts,
- 4 and that's \$1.90 per registration transaction.
- 5 On the next point, registration fee
- 6 simplification, this is a very important point that we
- 7 want to kind of touch on and show you what was done last
- 8 session to improve the process. During the session, one
- 9 of the things that we had looked at as our division was
- 10 preparing for the session was there's a huge amount of
- 11 complexity associated with the calculation of the fees and
- 12 what the counties have to do.
- 13 We automated that to some level, but during the
- 14 session the legislature decided that fee simplification
- 15 would be a good thing. They passed House Bill 7553, and
- 16 basically what it did -- and I brought something to kind
- of give you some perspective as to what we're talking
- 18 about -- these are the current, if you will, fees that the
- 19 county calculates from. We have that automated at this
- 20 point which made it more efficient for the counties, but
- 21 this is for trucks -- if you'll look at these fee charts,
- this is what they had to use prior to automation.
- 23 And these fee charts break these things out in
- 24 100-pound increments and each one of these is calculated
- 25 based on, in this case, if you have a vehicle that weighs

- 1 10,000 to 17,000 pounds, you pay \$25 plus 71 cents per
- 2 100-pound increment and then that's calculated and that's
- 3 what's assessed for that vehicle. So very 100 pounds,
- 4 that programming that had to be done was based on this
- 5 type of thing. I don't know how many pages it is but it's
- 6 backed up and it's about five-point type, it's really
- 7 inefficient. And so as we looked at this, and the
- 8 legislature agreed, there's got to be a better way to do
- 9 this.
- 10 And so in passing this bill which becomes
- effective September 1, 2011, what it did was, and if you
- look at page 4, if you will pull that from your handout,
- if you look at page 4, I was referencing trucks, heavy
- vehicles if you will, if you look at the middle category
- 15 where it says weight classifications and it starts at
- 16 6,000 pounds to 9,999, if you look at that same weight
- 17 category for this calculation over here but you look at it
- 18 here, you don't have multiple calculations, a base fee
- 19 plus 100-pound fee times every 100 pounds you have in that
- vehicle, you've got one fee, you have one fee, that's all
- 21 we're going to have to calculate on in our future
- 22 programming. That simplifies it for us, simplifies it for
- 23 the county and simplifies it for the customer. They can
- readily see whenever they come in, whatever weight they
- want to operate at, this is the fee they pay based on

1 that.

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- 3 the one thing that this fee simplification was not
- 4 intended to do was to provide a revenue gain. By
- 5 instruction of the legislature, we were instructed that
- 6 when we brought something to them for recommendations, we
- 7 bring it revenue-neutral. And so if you look at the
- 8 bottom line there on the annual change, we got as revenue-
- 9 neutral as we could, there will be a revenue gain of
- 10 \$329,500 annually, so it was a minimal increase but an
- increase nonetheless, but it was as close as we could get.
- 12 We didn't change all the fees, we changed just
- those that were registration, we changed the lion's share
- of the vehicles that would be touched, but we didn't touch
- 15 title, we didn't touch some of the smaller incremental
- 16 fees, we left those as they were and just basically
- 17 touched passenger, light truck and heavy vehicles.
- 18 Trailers were changed as well, motorcycles were left as
- 19 they were.
- 20 The next area is the 50-state registration
- 21 title fee comparison, that's page 5, and what we did is we
- tried to come up with what would be a reasonable fee to
- 23 assess. We looked at other states and compared ourselves
- to them to determine where we fell, particularly in the
- 25 big states, the top six with the most vehicles on the

- 1 road, and you can see we've highlighted Texas but any of
- 2 the other top five with us have an asterisk and you can
- 3 see how we compare against those others. For Texas, for
- 4 instance, we rank number 17 on passenger vehicle fee;
- 5 we're 17th highest, if you will. Ror small trucks we're
- 6 38th, and then on title fees, even though we didn't change
- 7 those, we're actually 9th against other states.
- 8 So basically we knew that we had the
- 9 opportunity to increase the fee but for this particular
- 10 situation we didn't, so for passenger vehicles you've got
- one fee, passenger vehicles and light trucks is going to
- 12 be \$50.75. If you follow what you do today with your
- passenger vehicles, it's based on year, there's three-year
- increments and you pay based on whatever year model you
- 15 have. In the future it's going to be \$50.75 no matter
- 16 what type of passenger vehicle you have, because
- 17 basically, passenger vehicles have the same wear and tear
- on the road as any others, it doesn't matter how old they
- 19 are, so the fee is going to be the same.
- 20 And that was basically the premise we used for
- 21 the categories in the heavy vehicles, it's based on what
- amount of wear are you actually imposing on the roadways
- 23 so that's how we came to these fees and actually the
- 24 categories.
- The next point is what makes up a registration

- 1 fee, and that's page 6, and I know that Ms. Johnson is
- very familiar with this in her office, but we'll walk
- 3 through it. As you can see at the top, the fee is made up
- 4 of three items: it's the state registration fee,
- 5 miscellaneous fees and also county option fees. The
- 6 counties have the statutory option of imposing additional
- 7 fees associated with registration which most of them do
- 8 avail themselves of.
- 9 So if you look at the state registration fee,
- 10 as I mentioned before, motorcycles we left alone, the
- passenger vehicles and light trucks are now set at \$50.75
- 12 as of September 1, and large trucks are as you saw in
- 13 those other categories. Then the miscellaneous fee
- examples are there's an insurance fee, there's an
- 15 automation fee. For those of you who are familiar with
- 16 what we do, this fee is dedicated for the development and
- maintenance of our automated systems, our vehicle title
- and registration automated systems. Prior to this and
- 19 prior to September 1 -- that's for counties with vehicles
- that are over 50,000 vehicles; as of September 1 of 2011,
- 21 it's going to be all vehicles. All counties will be
- involved. It doesn't matter what the vehicle numbers are.
- 23 County option fees, examples of those are the
- 24 optional county fee for the road and bridge, it can go
- 25 anywhere from zero dollars if they choose not to do it to

- 1 \$10 maximum, and then as you go through there, you can see
- what the others are as well. And we show some typical
- 3 examples of how this breaks out by the county choices as
- 4 to how the fees change from county to county. You can see
- 5 how those differ slightly from county to county based on
- 6 what they choose to avail themselves of for the local
- 7 option fees.
- 8 The last item I had is the is the motor vehicle
- 9 registration transactions. As you can see, and as I
- mentioned earlier, we have 21.4 million vehicles. If you
- look at that chart, you can see how that's gone up over
- 12 the years. We've had a few dips, but particularly with
- the economy and Texas having a strong economy and
- 14 continued growth, we're seeing that translated into
- vehicle population as well. We're still seeing a number
- of vehicles coming in to Texas and we're growing each
- 17 year, so it's a good thing that we are trying to be more
- 18 efficient in our automated systems and come up with
- 19 procedures that really will help the customers come in and
- the counties help to process those customers.
- 21 And we anticipate, as I've said, we've had a
- lot of growth over the years in the vehicle population,
- 23 actually we're showing 1.5 percent estimated growth on
- vehicle registrations next year. That's actually down
- somewhat from what we've had, we've had as high as 4

- 1 percent, but it's going to be still growing, Texas is
- 2 still a growing state, and that's a good thing.
- We had one final chart that we added to this
- 4 and that's the ten-year chart which shows the revenue that
- 5 has been collected and retained over a ten-year period
- from 2000 to 2009 fiscal years. If you look at that, what
- 7 we did was group those by the title fees, if you will, the
- 8 sales tax or the GR, the Fund 1 revenue, what's going into
- 9 that and what's going into Fund 6, and also what's going
- into the counties, and those are grouped until you get to
- 11 the counties. And it does reflect, if you look at the
- 12 sales tax, in particular, and the GR area, you can see
- that it's dipped fairly significantly from 2009 back to
- 14 2008.
- 15 And the counties, as I said, they are
- 16 collecting these fees for us, that's part of their
- 17 statutory requirement, we certainly use them to touch that
- 18 customer and we try to provide the best means for them to
- 19 do that, whether it be through automated systems or
- 20 procedures and training support.
- 21 So overall, we feel like that the process we're
- moving towards, we have a Vision 21 system that we're
- 23 developing which is looking at not only our automated
- 24 systems but also our processing, our programs, and how we
- 25 can best improve that. And with that, I'm ready to answer

- 1 any questions if you have any.
- 2 MR. VANDERGRIFF: Does anyone have any
- 3 questions?
- 4 MR. WALKER: Mike, on the DPS insurance fee,
- 5 can you explain that to me? I'm not real sure I
- 6 understand that.
- 7 MR. CRAIG: Basically this fee was provided as
- 8 a mechanism for funding not only the Texas -- it was
- 9 actually called the financial responsibility verification
- 10 program, it was an automated verification system to
- 11 provide online capability to determine whether you have
- 12 current insurance or not. The reason DPS is also in there
- is that part of that money was going to be dedicated and
- is dedicated to development of their drivers license
- 15 system, improving that, enhancing that. So that's what
- 16 that is, it's collected as part of the title transaction.
- 17 MR. WALKER: It's dedicated to those particular
- 18 areas?
- 19 MR. CRAIG: Correct.
- 20 MR. WALKER: And what's the balance, are we
- 21 pretty much using all of that up or is there an excess or
- 22 a shortage?
- MR. CRAIG: Well, since it's going to two
- 24 different agencies, none of which are ours, I couldn't
- tell you exactly how that's being spent over there.

- 1 MR. WALKER: We just forward it on.
- 2 MR. CRAIG: That's a good question, I'm glad
- 3 you asked. It actually goes into Fund 6 initially and
- 4 then it's paid out based on expenditures from the
- 5 agencies.
- 6 MR. WALKER: Thank you.
- 7 MR. VANDERGRIFF: Cheryl.
- 8 MS. JOHNSON: Yes. Looking at the chart -- and
- 9 I love charts so thank you for this -- has the team
- 10 identified the cause for the dips? Because you can see
- 11 several series of dips, some of them very severe, like
- 12 1992. Is there something in particular that you've been
- able to tie the cause to? Is it economic, is there
- 14 something going on at those particular times?
- 15 MR. CRAIG: I was here in 1992, I do not
- 16 remember exactly why there was a dip that year, no. We
- can certainly get back with you on that if you'd like.
- 18 MS. JOHNSON: And we don't need to spend any
- 19 time but I was just curious because we're not having the
- increase this year and I would imagine that you're
- 21 trending that, but I can't the imagine the population in
- Texas dipped that much in 1992 where we got cars off the
- 23 road.
- MR. CRAIG: And it could very well have been,
- and I don't want to speak out of school, it could very

- well have been that we actually calculated it a little
- 2 differently that year and maybe used a different measure.
- 3 Again, we're estimating a reduced increase in the vehicle
- 4 population, not a reduction in the vehicle population.
- 5 MS. JOHNSON: And what do you generally base
- 6 that on, or is it just historical trends?
- 7 MR. CRAIG: Just historical trends and based
- 8 upon what we've seen before.
- 9 MS. JOHNSON: Thank you very much.
- 10 MR. RODRIGUEZ: Mike, I just want to tell you I
- 11 really enjoyed the visit at your place the other day.
- 12 MR. CRAIG: Thank you. We enjoyed having you.
- MR. RODRIGUEZ: It was very productive, and
- it's good to see that the DMV has people like yourself and
- 15 Rebecca Davio and certainly Ed onboard now. I think the
- 16 future is very promising. So thank you for taking time.
- 17 MR. CRAIG: Thank you very much. If I may also
- 18 comment, and not to belabor the point, the chief came in,
- 19 we did a quick tour -- as we will for any of you who
- 20 haven't come by yet -- and we were talking about how we
- 21 can better touch the law enforcement community because we
- 22 have difficulty getting information to actually the street
- 23 level officer, and I think we came up with some really
- 24 good ideas, I think it's going to really help us in the
- future, and I appreciate your input.

1	MR. VANDERGRIFF: Thank you, Mike. Any other
2	questions?
3	(No response.)
4	MR. VANDERGRIFF: Appreciate it
5	MR. CRAIG: Thank you very much.
6	MR. VANDERGRIFF: We really have no information
7	to report as far as the Governor's Office is concerned.
8	The quarterly report, as I said, we did submit one to the
9	Joint House and Senate Transportation and we'll be
10	finalizing that here in the next week with the governor
11	and we'll forward that on to you. It really covers one
12	month so it's a very limited report because we decided
13	we'd make sure and stay with the fiscal year which meant
14	we only had November included in that. We obviously
15	expect a more robust, certainly capped with the
16	highlighting of the hire of Ed Serna and then also other
17	staff will be coming onboard here shortly as well.
18	So with that, I will move to item 2.A which is
19	the fiscal and administrative reports. Dawn Heikkila.
20	MS. HEIKKILA: Mr. Chairman, members, thank
21	you. My name is Dawn Heikkila, I'm the division manager
22	for the Motor Vehicle Division, and I just have a couple
23	of items, basically updates.
24	We have heard back from the Legislative Budget

Board and we will be working with TxDOT revisions to the

25

- operating budget, and hopefully that will happen in the
- 2 next couple of weeks. Just a quick reminder, I think
- 3 you've heard this, everyone that was attending the Finance
- 4 and Audit Committee meeting yesterday heard it, but the
- 5 budget cycle will begin next month with the release of the
- 6 instructions for preparing and submitting the strategic
- 7 plan, so we have that to look forward to as well.
- 8 We also have a draft of the 5 percent GR and
- 9 GR-dedicated reduction plan that the agency is required to
- 10 file with the Legislative Budget Board on or before
- 11 February 15 which I believe the date is now moved to the
- 12 16th because of the holiday, and the Finance and Audit
- 13 Committee took that up as well.
- Mr. Campbell, do you have anything to add?
- MR. CAMPBELL: I guess the motion that we made
- 16 yesterday should be done in the committee meeting.
- MR. VANDERGRIFF: I thought we have that as a
- 18 specific item, but it would come out of the committee
- 19 meeting, yes.
- 20 MS. HEIKKILA: Do you want me to run through
- 21 the reductions?
- MR. VANDERGRIFF: Go ahead, please.
- MS. HEIKKILA: The proposed draft that you have
- in front of you identifies the sources of general revenue
- 25 that the agency has and it ranks each of these in priority

- order for the reduction. Priority number 1 is the
- 2 contingent appropriation from the contingency rider in the
- 3 General Appropriations Act, Article 9, \$200,000 of General
- 4 Revenue appropriated to the department. That is the first
- 5 item that will be reduced if the LBB moves forward with
- 6 the reductions. Item number 2 and 3 identify GR
- 7 reductions in the program areas. The Motor Carrier
- 8 Division has General Revenue funds as does the Automobile
- 9 Burglary and Theft Prevention Authority Board.
- 10 Any questions on the draft?
- MR. RODRIGUEZ: I don't know where you're at
- 12 with this right now, but in our discussions, you were
- 13 suggesting that we invert two and three. Is that right?
- 14 MS. HEIKKILA: Yes. I believe that the
- 15 recommendation moving forward coming out of the Audit
- 16 Committee will be something like the methodology for
- 17 calculating the reductions will stand and then the ED will
- 18 have flexibility on how to rank those priorities.
- 19 MR. RODRIGUEZ: I quess the committee will make
- 20 that recommendation.
- 21 MR. VANDERGRIFF: The committee yesterday --
- we'll go ahead and take this up right now -- the
- 23 committee, I think, considered this yesterday, and what we
- need to come out of this really, it's not posted as a
- vote, because this was something that's still for the

- 1 committee, for the full board to vote on, but I think that
- 2 the staff can take instructions from the meeting yesterday
- 3 to finalize this 5 percent reduction. They are still in
- 4 conversations with the authors of the request which is the
- 5 governor, the lieutenant and the speaker. But anyway,
- 6 I'll go ahead and let you take it up and discuss what the
- 7 committee wanted to do.
- 8 MR. CAMPBELL: Do we want to go ahead and put
- 9 this in the form of an action motion?
- MR. VANDERGRIFF: No, because we didn't post
- 11 this as an item on the agenda, I think it's really more of
- 12 an instruction or a direction to the staff just to proceed
- with this kind of direction, so I think you probably
- 14 should outline what, as a committee, you would like for
- 15 them to do.
- 16 MR. CAMPBELL: Okay. Our recommendation coming
- out of the committee is to take this action, and it was
- 18 voted on unanimously to prioritize our reduction, the
- 19 mandate from the governor, lieutenant governor and speaker
- 20 of the house, the 5 percent General Revenue reduction and
- 21 out of the categories that Dawn had just mentioned.
- We did discuss possibly giving our new
- 23 executive director the flexibility of altering the 2 and 3
- as needed, so if there's a category, we want the
- 25 flexibility there in case there's an area that needs more

- 1 revenue or less, that you can have that latitude.
- 2 However, to come up with the total amount of reduction,
- 3 \$1,654,571, it's done this way as presented.
- 4 MR. SERNA: And I understand that, that I've
- 5 got instruction from the board on how to proceed, and
- 6 we'll get it done in a timely fashion. We'll work within
- 7 the funds that we have available to us and we'll make sure
- 8 that we match that \$1.65 million.
- 9 MR. RODRIGUEZ: Does that flexibility include
- 10 the ability to re-prioritize?
- 11 MR. CAMPBELL: Yes, I believe it does, with the
- exception that I think the \$200,000 had already been -- Ed
- had made that recommendation to the committee and to Dawn
- 14 and through Dawn to the committee. The other two, I
- think, has the flexibility to flipflop whichever direction
- 16 you'd prefer.
- 17 MR. VANDERGRIFF: I did want to note, and
- 18 certainly the staff can chime in if I'm incorrect in this,
- 19 but if a reduction was made in the Automotive Burglary and
- 20 Theft Prevention money that that is dedicated fund so it
- 21 would not necessarily, unless the legislature directs
- otherwise, be spent and would then potentially roll back
- 23 to the authority in the next biennium, much like we had
- 24 money roll to us in this biennium -- or they did in this
- biennium from the previous one that was still available.

- 1 So it would depend on, obviously, what the legislature
- does and how deep cuts have to be to balance the budget.
- 3 MS. HEIKKILA: Right. And again, just as a
- 4 reminder, they're not actually going to sweep these
- 5 accounts, this is just our plan in the event that they
- 6 have to act on this reduction, this is what will hurt the
- 7 least amount.
- 8 MR. VANDERGRIFF: And I don't want to put words
- 9 in Charles Caldwell's mouth, but I believe we've had
- 10 conversations with the leadership at the Automotive
- Burglary and Theft Prevention Board so they're certainly
- aware and supportive, as best you can of potentially
- 13 losing funding.
- 14 MS. HEIKKILA: Yes, Charles did provide input.
- 15 MS. HEIKKILA: The only other thing I have is
- 16 an update on the budget. TxDOT has assigned a budget
- analyst to work with me in performing agency-level
- 18 reconciliations as well as division-level reconciliations,
- 19 those are ongoing. Part of that will include a
- 20 reconciliation of the 15 percent retainage so we'll know
- 21 exactly where we stand with that, and I hope to have
- 22 something that I can send out for general distribution to
- 23 the board probably late next week or first of the week
- 24 after that.
- 25 Any questions?

1	(No response.)
2	MR. VANDERGRIFF: Thank you very much.
3	We are now on agenda item number 3.A.3 which is
4	the personnel postings and hiring, by Mr. Serna.
5	MR. SERNA: I just want to provide the board
6	with a quick summary. We, the TxDMV has had nine
7	positions posted, they all closed on February. We're
8	working to fill ten vacancies, one of them is filling two
9	vacancies. Just the levels that we're looking to hire:
10	our chief operating officer; our chief financial officer;
11	our general counsel; two executive assistants, one to
12	support the board and one to support me; our director of
13	State Government Affairs. The two positions that we're
14	looking to fill are development and planning coordinators
15	to support the board also in research and other
16	activities. We're also going to fill a Local Government
17	and Regulated Industries director, and then potentially we
18	may have another legal counsel, chief litigation counsel.
19	In total, we received 871 applications, and the
20	lion's share falls with the two executive assistants, had
21	a little bit over 200 each, 223 and 213. Human Resources
22	Division, that that George Ebert in TxDOT's HR assigned to
23	us, is working to conduct a preliminary screening which
24	will go through all the applications and screen for
25	minimum qualifications. And then for some of the

- 1 positions they will do a secondary screening to help us at
- 2 least identify a ranking of the candidates.
- WE will involve members of the board
- 4 Administrative Committee in our actions as we move forward
- 5 to get the positions filled. Our target is to begin
- 6 scheduling interviews possibly as early as next week. I'm
- 7 a little desperate to get an executive assistant onboard
- 8 and I'm certain there are other members of the staff that
- 9 would like to get the board's executive assistant onboard,
- so we may have some priority issues here. But we'll start
- interviewing possibly as early as next week. Our goal is
- 12 to begin to have these positions filled as we move through
- 13 March as quickly as possible
- 14 Our current priority in getting them filled,
- aside from the executive assistants, some of the most key
- 16 people in any organization, is our chief financial
- officer, our chief operating officer, and our general
- 18 counsel. We want to get those positions filled as quicky
- 19 as possible. I'll provide the board with regular updates
- 20 until we get these positions filled, and then once we have
- 21 them filled, we'll naturally introduce those staff members
- to all the board and to the public.
- 23 So with that, I'll answer any questions you
- 24 have about our process.
- MR. VANDERGRIFF: I want to tell you that for

- 1 those of you who have not visited Ed in his office, I
- 2 concur that the top position needs to be his assistant.
- 3 You don't even know he's there at first because he's in
- 4 the back of the room and there's all this vacant space in
- 5 front of him, so he definitely needs the support and help
- 6 there for sure.
- 7 Again, no further questions on this, I'll move
- 8 to the -- sure, excuse me, Janet.
- 9 MS. MARZETT: Thank you. I wanted to thank Mr.
- 10 Ebert and his staff for their efforts in helping us
- 11 support in these positions. So just with that, thank you.
- 12 MR. VANDERGRIFF: That's a great point. Thank
- 13 you for doing that, I appreciate that.
- The listening tour, I'm not sure if Ms. Davio
- 15 would like to have any update there or not. Sure, I'll go
- 16 ahead.
- 17 Anyway, I would want to tell you that we did
- 18 have three additional meetings this last month in January.
- 19 Those meetings were in San Antonio, Dallas and Fort
- 20 Worth, or the Dallas, Tarrant County, Collin County, all
- 21 that area. And the sessions with the tax assessor-
- 22 collectors were particularly informative and good. They
- 23 come out in droves, and that's a credit to both the staff
- 24 at VTR and the tax assessor-collectors and their interest,
- and then obviously there's far more issues and

- 1 opportunities in Vehicle Titles and Registration than I
- 2 ever dreamed were possible, I'm learning every day. So
- 3 that was great for that.
- 4 We also had several meetings with legislators
- 5 that were excellent. I want to thank Mr. Rush for being
- 6 with me in San Antonio, and the only negative in it -- if
- 7 you call it a negative, that's of some debate -- is that
- 8 the public, the general public doesn't really come.
- 9 Marvin and I had one public person at our session, several
- 10 members of the tax assessor-collector community and people
- interested in the business. Andy is always present, as
- 12 are several other members, Jerry Dyke, former chairman of
- VTR, has been gracious to be at some of our meetings as
- 14 well.
- 15 So we've appreciated all of that, but really
- 16 the time to then go out to the rest of the communities, I
- made a decision to let's pull back from that and rethink
- 18 how we address the public. There are 254 tax assessor-
- 19 collectors and every one of them are individual and have
- individual needs and desires, and so I think we clearly
- 21 have to get out in the regions to meet with them. There
- 22 are great opportunities to listen to the legislators about
- 23 what they're interested in and local people, the various
- trade associations that we deal with are incredibly
- important to us, and so we want to schedule those meetings

- and be in your communities and have all board members
- 2 participating in that, and we've just got to rethink how
- 3 we really get to the public.
- 4 And actually, some of the people who
- 5 participated in the sessions, the biggest we had was
- 6 probably about 80 people in Tarrant County came, and we
- 7 had two public members at that one which was good. I
- 8 actually quizzed them several times are you really
- 9 interested or did you just wander into the wrong place,
- and they really were, they had some issues, that was good.
- 11 (General laughter.)
- 12 MR. VANDERGRIFF: But we had some suggestions
- about how to get to the public and a couple of themes came
- 14 up is that really we're a step removed from the direct
- 15 public in much of what we do. VTR certainly has an impact
- 16 in their regional offices with the direct public, Motor
- 17 Vehicle Division has activities they do in consumer
- 18 affairs that are important and reach the consumer, but for
- 19 the most part we go through tax assessor-collectors or the
- 20 industries and individuals that we regulate to reach the
- 21 public, and so we maybe need to engage them better in
- 22 reaching them.
- Then we had a second idea was just go stand in
- the titles and registration line at the end of the month
- and they'll give you lots of things, so we may do that as

- 1 well.
- 2 But we will be posting notice on the list
- 3 served, it will kind of explain where we're going to head
- 4 with this, and then letters are going to go out to all the
- 5 trade associations as well as tax assessor-collectors, so
- 6 you'll receive a copy of that here within the next week,
- 7 and the board.
- 8 So with that, I will ask if any board members
- 9 have any questions about the listening tour and I will
- 10 call it the suspension and redirection of that as we go
- 11 forward.
- 12 MR. GILLMAN: Have we had a listening tour
- 13 session since our last meeting?
- MR. VANDERGRIFF: Yes, we did. We had San
- 15 Antonio -- excuse me, San Antonio was right before, but we
- 16 had Dallas and Fort Worth after that. And we had, again,
- 17 very good attendance at the sessions that involve the
- 18 industries, we had very good attendance, and that one
- 19 night session in Dallas County, there were probably 30
- 20 people there and it was good attendance, but every single
- 21 one of them was associated with somebody who does business
- 22 with us in an agency or a tax assessor-collector
- 23 perspective, and then, as I said, Tarrant County, about 80
- 24 people there which was good.
- MR. BUTLER: Mr. Chairman, were there some

- 1 suggestions about handling this on the internet, to do a
- 2 poll or a survey on the internet?
- 3 MR. VANDERGRIFF: Absolutely. And I will say
- 4 the numbers have changed now since the first of the month,
- 5 but counting the one in San Antonio and two in Tarrant
- 6 County, we had three public people come to these four
- 7 meetings, and I think at the time you had ten that had
- 8 been online and there's probably a few more since then.
- 9 So w were having more success in people just looking for
- 10 us online and registering questions or comments online.
- MR. BUTLER: Perhaps there would be a way of
- 12 advertising that that was available and that the program
- was available, have a survey designed.
- 14 MR. VANDERGRIFF: That's a good suggestion.
- 15 Rebecca, if you don't mind, how was that being advertised,
- 16 is it just they get on the website and they see it?
- MS. DAVIO: (Speaking from audience.) Any time
- 18 that there's a press release or any other notice about the
- 19 listening tour or the rethinking of the listening tour,
- then we've always directed folks back to the website to
- 21 make sure that they understand that that's an option that
- 22 we want to hear their suggestions and ideas.
- 23 MR. VANDERGRIFF: I do want to note a couple of
- things. Kim Sue Lia, who is with VTR, really did an
- excellent job of doing a lot of the written materials,

- 1 press releases, and we did have what I consider to be
- 2 excellent interest on the part of the media. We did meet
- 3 with the editorial boards in both San Antonio, Dallas
- 4 which was the Dallas Morning News, and then Tarrant County
- 5 which was the Star Telegram, and we want to do that again.
- 6 They were most interested in meeting with us and then we
- 7 actually got a nice blog written about the Department of
- 8 Motor Vehicles from the Star Telegram, it was good.
- 9 One other thing that you're going to start to
- see that we're experimenting, or the staff is
- 11 experimenting with it now, and that is a couple of reports
- 12 you'd get. One that hopefully might be daily but
- 13 certainly weekly which just kind of captures articles from
- 14 across the country and certainly in Texas that are dealing
- with issues we deal with, and I think that would be a good
- 16 news source for you. And then now that we have an
- 17 executive director onboard, hopefully we can develop a
- 18 weekly board communication so you just kind of keep posted
- 19 and updated electronically on what's going on at the DMV.
- 20 I think those two things will be helpful to you and to
- 21 all of us as well.
- But I did want to note Kim Sue Lia, and we will
- get out and when we do meet with the editorial boards as
- 24 well as the groups, I want to try to arrange those to fit
- 25 the members' schedules of the board here so that we can

- 1 get you out with them. And last but not least, in
- 2 Cheryl's committee you're going to work on a lot of the
- details of this, and also arm you with fact sheets and
- 4 power point presentations, and staff has got that
- 5 prepared, so that if you're out in public you've got your
- 6 cheat sheet and your power point and everything so you can
- 7 talk about the DMV.
- 8 MS. JOHNSON: If I could add too, Legislative
- 9 and Public Affairs will be taking this up and I would
- imagine that the DMV will be involved, Ms. Davio, with the
- 11 tax assessor-collectors conference that will be coming up
- in June in Abilene? Typically TxDOT had a booth, and so
- my hope is that the DMV is going to be there as a visible
- 14 force. And if we could possibly look at in the mailouts
- 15 for the registration renewals, that might be a good
- 16 opportunity to lead people online to the survey, since
- 17 you're already mailing to them anyway. And also car
- 18 shows. I would be interested in hearing from our auto
- 19 dealers to find out when are the car shows, because if you
- 20 want to catch the public, you can catch them at a car
- 21 show, it would be a great way.
- 22 And on the online survey, is that coming from
- the main page of the website or is that when you do your
- 24 online renewal? Because we probably get a lot of input
- from the public when they're doing online renewal because

- that's the only place that they're really going.
- 2 MS. DAVIO: (Speaking from audience.) The
- 3 information about the DMV Listens, that portion is on the
- 4 DMV website and we have about 9,000 hits a month on that.
- 5 MS. JOHNSON: And the only other request that I
- 6 would have is has anybody summarized the input we've
- 7 received so far so that that could be distributed? I know
- 8 Legislative and Public Affairs will definitely need that
- 9 information.
- 10 MS. DAVIO: (Speaking from audience.) We're
- working on that and working on responses and we'll make
- 12 sure your committee gets is.
- MS. JOHNSON: Wonderful. Thank you.
- MR. VANDERGRIFF: I will note that, again,
- there are 254 tax assessor-collectors, and sometimes their
- 16 requests are conflicting, so we'll look to you to
- 17 translate where we should be on that. But those are good
- 18 points, I think, particularly the new idea with respect to
- 19 car shows and the online survey, making sure that it's
- 20 publicized.
- 21 MR. CAMPBELL: Mr. Chairman, one question real
- 22 quick. You say you have about 9,000 hits and that's out
- 23 of 21 million vehicle registrations or just in the area of
- 24 internet.
- MS. DAVIO: In the area of internet.

- 1 MR. CAMPBELL: And what percentage of the 21
- 2 million is internet?
- 3 MR. VANDERGRIFF: It's probably a good idea for
- 4 you to just sit here for a minute.
- 5 MS. DAVIO: I was trying to just hang out back
- 6 there. For the record, my name is Rebecca Davio, I'm the
- 7 director of the Vehicle Titles and Registration Division.
- 8 So the number that I referred to was the number
- 9 of hits to the DMV website. That is separate from the
- 10 number of online registration renewals that happen. That
- 11 happens through an official state portal referred to as
- 12 Texas Online or texas.gov, and so there are 7 or 8 percent
- of the total state registrations that are renewed online.
- 14 And then I think you did this in jest or being
- 15 facetious, but have we actually, our department actually
- 16 gone into the registration, the areas as individuals and
- just kind of listen and sit there and get ideas or
- 18 thoughts?
- 19 MR. VANDERGRIFF: Not that I know of.
- 20 MR. CAMPBELL: Because I think that would
- 21 probably be one of the best ways to do it. I know this is
- not in our area, but I went to get my license renewed, and
- 23 boy, that is really an interesting deal. You wait in a
- line for them to see if you need any more information and
- 25 then you go sit for a couple of hours. If you're wanting

- 1 to get specific results, if we maybe not dressed in suits
- 2 but if you went in there and made observations, I think
- 3 you could make some good improvements.
- 4 MS. DAVIO: Absolutely, that's a great idea.
- 5 We'll make notation of that.
- 6 MR. CAMPBELL: Notation and when will it be
- 7 done?
- 8 (General laughter.)
- 9 MS. DAVIO: I'm sorry. We'll get back with you
- on that and see when we can do that. We actually did do
- some in-the-field surveys when we were developing our new
- registration sticker, so it really is a great opportunity.
- 13 We went out tax assessor-collectors' offices all around
- 14 and just talked to the motoring public and it really is a
- 15 wonderful way to get some feedback. So we'll look into
- that and we'll get you an idea of how we're going to be
- 17 able to do that and when.
- 18 MR. VANDERGRIFF: And I did want to note, Ms.
- 19 Davio will be back up here in a minute on DVR, but I did
- 20 want to note too that I got a chance to meet the folks in
- 21 the regional offices in Dallas and Tarrant County and in
- 22 San Antonio, and there are some excellent people there
- 23 working in I won't say substandard but questionable
- 24 conditions certainly in a couple of cases, and they're
- very responsive to the public, and I was most impressed.

1	And I also met for the first time a true DMV			
2	employee, and by that I mean that the gentleman that's			
3	responsible for the Dallas office was hired after the DMV			
4	was formed, so he is not from anywhere else, he's no			
5	crossover, he's a DMV employee from the beginning, he may			
6	be ground zero as far as the brand new people. But			
7	anyway, great staff and very responsive. Thank you.			
8	I'm going to skip for a moment the board			
9	committee reports on number 5 and we'll come back to that.			
10	My intent is to cover that after the executive session,			
11	but I do want to note on the advisory committees, and			
12	certainly if Ed has any further comment, but we now have			
13	an executive director in place and as the board knows, the			
14	executive director is responsible for bringing to the			
15	board, submitting names.			
16	I think we we'll come back to you, it's my hope			
17	and I think he concurs, come back to you in the next month			
18	with kind of a plan to take applications from people for			
19	those committees and move that forward, and that will go			
20	through the Administration committee and then come through			
21	to the board. So I just wanted to note that for all of			
22	you, and we have board members who are anxiously ready and			
23	able to help assist in that process that will be involved			
24	with those advisory committees.			

Does anybody have any questions there?

25

- 2 MR. VANDERGRIFF: With that, I would ask, Ed,
- if you have anything extra that you'd like to report?
- 4 MR. SERNA: No, sir, nothing at all. Thank
- 5 you.
- 6 MR. VANDERGRIFF: I will also note that Mr.
- 7 Serna, between meeting with TxDOT, people in the agency,
- 8 various legislators, various executive branch personnel,
- 9 his schedule and plate is very full, and I know he's made
- 10 a commitment to get around to see everybody, including all
- the staff in all the regions and certainly all the board
- members as well. So he's got a very full plate, but glad
- 13 to have him here again.
- 14 MR. RODRIGUEZ: I'd like to make a couple of
- 15 comments, Mr. Chairman.
- 16 I met Ed for breakfast this morning and we had
- a very, very good meeting, and I think we're fortunate to
- 18 have his services at DMV. He has a good grasp of what I
- 19 think we need to be doing, and we went over about three
- points on that, and that is, first of all, he's got to
- 21 keep us to policy, and the next thing he's got to do, in
- 22 my opinion, is figure out why we're here, why DMV is here
- 23 and keep us all working on that. I've also asked him to
- look at staffing all the committees so that we can get the
- 25 committee staff work done.

1	It was a very, very good meeting, I was very
2	happy to have that meeting this morning, and was very
3	proud to say to you this morning that I think that the
4	selection committee made a good choice. So thank you.
5	MR. VANDERGRIFF: With that, I'd ask for Brett
6	Bray, Motor Vehicle Operations.
7	MR. BRAY: Mr. Chairman, members, I am Brett
8	Bray, director of the Motor Vehicle Division, and this
9	morning I have five items of interest at the Motor Vehicle
10	Division.
11	The first is the LACE program. LACE continues.
12	It's functional and relatively stable. We have
13	slowdowns; we have what the staff affectionately calls
14	work-arounds that they have to deal with; there are
15	maintenance issues. Wvery time a Microsoft update comes
16	along, there are LACE components affected. We're actually
17	in the process of rebuilding LACE already. It seems like
18	once you get an IT project started, it really never ends.
19	I guess you'd call it a Version 2 and the
20	lesson that we learned from Version 1 is we're not trying
21	to rebuild the whole thing at once, we're taking it in
22	components. The first component we're working on is the
23	licensing component which the license is the underpinning
24	of pretty much everything that goes on at the Motor

Vehicle Division. This particular month in February

25

- 1 they're working on versioning. This is a process of
- 2 archiving when you make changes to the programs, and the
- 3 reason it's important is because sometimes when you make
- 4 an improvement to one piece of program, you break
- 5 something else, and versioning helps to manage that issue.
- 6 One more LACE challenge is that our team leader
- 7 leaves us this month, has been stolen by the My Plates
- 8 people. We're rearranging some duties and reassigning and
- 9 struggling with that a little bit. We're also having to
- 10 replace another first line developer that will leave us at
- 11 the end of this month.
- 12 The second item is dealer training seminars.
- 13 Ms. Kent's group continues to hold dealer training
- 14 seminars. They went to Laredo on the day that you were
- 15 last here conducting a board meeting in January, trained
- 16 79 attendees. The next seminar is in San Antonio next
- week, February 18; over 300 people have signed up to
- 18 attend already. We usually have standing-room-only-type
- 19 crowds for that. We've trained about 500 dealers since
- 20 September 1 of this year.
- 21 The third item is E-tags. Dealers have issued
- over 1.3 million E-tags since the beginning of the fiscal
- 23 year and that's in comparison to 952,000 and some change
- for this same period last year, so despite the bad
- economy, the E-tag system is continuing to trend upward.

1	Lawsuits is the fourth area. Linda Secord, in			
2	addition to spending time as the general counsel to you			
3	all, ably represented us in three hearings involving a			
4	TRO, a temporary injunction, and a permanent injunction			
5	request, and they were all related to the federal			
6	arbitration legislation that was signed by the president			
7	in December concerning the Chrysler and the General Motor			
8	affected dealers that get an opportunity to arbitrate if			
9	they so choose.			
10	There was also an appeal by Dutchman			
11	Corporation, that's an RV manufacturer. They appealed a			
12	Lemon Law hearing directing the manufacturer to repurchase			
13	the vehicle, and the parties all agreed that the			
14	repurchase amount could be paid into the registry of the			
15	court while they appealed the matter on up through the			
16	court system, and we issued an order basically that			
17	blessed that.			
18	And before I get to my fifth item, I'd just add			
19	one more thing, Ms. Marzett mentioned thanking George			
20	Ebert and his staff. I believe that at the appropriate			
21	time, perhaps when you have a handoff, that General Abbott			
22	and Ms. Secord deserve at least equal thanks. Not only			
23	has she performed her regular job representing the Motor			
24	Vehicle Division and DMV as well as representing you all			
25	as general counsel, she's also represented her other			

- 1 clients, the Texas Commission on Environmental Quality, et
- 2 cetera, et cetera. She has done yeoman's service, and I
- 3 think it was very good that General Abbott gave the board
- 4 somebody from outside the agency to do that. So I commend
- 5 both of them to you at some point in the future.
- 6 The last item is my office, we issued a total
- 7 of 71 orders in enforcement cases during the last two
- 8 weeks of January, and also 30 Lemon Law orders and six
- 9 franchise cases. In the Lemon Law cases, 23 of them were
- 10 settlements and five the franchise cases were settlements.
- 11 As a frame of reference, last fiscal year I issued 123
- 12 enforcement orders, 526 Lemon Law orders and 68 franchise
- 13 case orders.
- 14 That's all I have, I'll be glad to answer any
- 15 questions you might have.
- MR. VANDERGRIFF: Any questions?
- MS. MARZETT: How do you measure the
- 18 effectiveness of your dealer training?
- 19 MR. BRAY: Well, a couple of ways. You can
- 20 actually, I suppose -- I don't know that we actually do
- 21 this -- I think that you could actually empirically tell a
- drop in violation history in a particular region that
- 23 you've just been to because it's kind of like the bar
- 24 exam, I knew more about law in general the day I took the
- 25 bar exam than any day thereafter, and I think dealers know

- 1 more the day after they've been to dealer training than
- 2 later.
- But it depends on what you're trying to
- 4 measure. We do have a survey, and I'd be happy to provide
- 5 that to you all -- and I mentioned that last month during
- 6 my presentation on our operations -- it's an after-seminar
- 7 survey and the effectiveness generally runs that they mark
- 8 either it's an excellent or a good seminar in the 98 or 99
- 9 percent range. Typically there's one or two people that
- 10 are not happy, and I don't want to be repetitious, but as
- I may have mentioned to you, we also use the seminar as a
- 12 tool in enforcement in the event that somebody is a
- violator, so they're not really happy to be there
- 14 necessarily. But if you'll find the survey interesting,
- we'll be happy to provide it to you.
- 16 MS. MARZETT: Those numbers are impressive if
- it's 98 percent. Thank you.
- 18 MR. VANDERGRIFF: You might go ahead, since
- 19 you're here, we could maybe skip to item 3.G since you're
- 20 presenting on that.
- 21 MR. BRAY: On item 3.G, staff would like to
- request permission to draft a rule change to clarify that
- 23 the State Office of Administrative Hearings can make
- 24 interim rulings and issue interim orders for franchise
- 25 cases that arise from the Motor Vehicle Division. So you

- understand what I'm saying, this is a three-step process:
- today is a discussion. Sssuming I can get some sentiment
- in favor of it, then the next board meeting we would
- 4 actually bring you a proposed rule to publish for public
- 5 comment and discussion and for your eventual action a
- 6 third meeting later. So this is the first of three
- 7 possible meetings, assuming that you, and hopefully you
- 8 will agree with our recommendation.
- 9 You may recall that you issued a resolution in
- 10 December stating that the board would decide franchise
- 11 cases, Motor Vehicle Division franchise cases because you
- 12 were advised that the cases cannot be delegated. In
- 13 contested cases like these, there are sometimes interim
- issues that must be decided relatively quickly in order to
- move cases forward and to protect the rights of the
- 16 parties. These are emergency cease and desist orders,
- 17 modification or clarification of statutory stays, and
- 18 subpoenas.
- 19 In the long term you may want to report a need
- 20 for legislation that allows you to delegate authority to
- 21 decide interim issues to a DMV staffer or anybody else of
- your choosing. In the meantime, a temporary solution
- 23 would be to allow SOAH to decide interim matters.
- Now, Section 7.04 of 2301 of the Occupations
- 25 Code lists a number of powers that SOAH judges have to

- 1 conduct hearings, and it includes powers and authority to
- issue subpoenas and interlocutory orders. And that's set
- out in a memo, I think, in your briefing book that you
- 4 have. We believe that 7.04 confers concurrent
- 5 jurisdiction to the board and to SOAH which means that
- 6 either could issue these orders. However, in my view, all
- of that authority stems from the ultimate organic statute,
- 8 it all comes ultimately back to the board authority.
- 9 Under ordinary circumstances, we understand
- that SOAH does not usually want to issue subpoenas and
- 11 cease and desist orders, but we've been in contact with
- them and they indicate they're agreeable to handling these
- 13 matters for now.
- 14 To frame the problem for you, the board's rules
- 15 currently allow a SOAH judge to hold a hearing and make a
- 16 recommendation to be considered by the board. When you're
- 17 talking about an interim matter like I've described,
- 18 subpoenas and cease and desist orders, that can be a
- 19 significant delay in litigation if we have to get a
- 20 recommendation from a SOAH judge and tee it up for a board
- 21 meeting before they get an actual order.
- 22 So there's two possible ways to address this:
- 23 one is to schedule those SOAH recommendations for interim
- 24 matters for each board meeting, which is the longer of the
- 25 two ways of doing it; or the other is to authorize us to

- 1 proposed amendments that will authorize us to propose
- 2 amendments that the board acknowledges SOAH's concurrent
- 3 jurisdiction and allows SOAH judges to handle these
- 4 matters.
- 5 So we recommend that you authorize us to draft
- 6 rule amendments which we will bring to you in March to get
- 7 permission to publish that will clarify the board's
- 8 position and allow SOAH judges to issue interlocutory
- 9 orders, including cease and desist orders, motions to
- 10 modify, a statutory stay, and issue subpoenas.
- 11 MR. RODRIGUEZ: Brett, provided we go down this
- 12 path, what is the earliest effective date that this can
- 13 take place. I know we've got to post in the Register and
- 14 all the other things, and so if we went down this path,
- 15 what would be the earliest date that this could be placed
- 16 in effect?
- 17 MR. BRAY: The answer to your question is a
- 18 little complex, but to try to answer it directly, I can't
- 19 reel off the top of my head the specific date, but what
- 20 you're pointing out is that this would be the first of
- 21 three board meetings, and if you approved of a rule a
- third board meeting later, then you've got the period
- 23 before a rule can become effective, and you're probably
- looking at somewhere in the early to mid summer before it
- even becomes effective. However, the transcript of this

- 1 board meeting, should you direct us to do that, backs us
- 2 up in our discussions with SOAH and telegraphs to them
- 3 that it would be all right for them to take this
- 4 concurrent jurisdiction, and they are willing to do that
- 5 for now.
- So while it would be a cleanup, that doesn't
- 7 take effect until about June or July, whenever. We think
- 8 it's a cleanup that needs to start now even if we can sort
- 9 of do a work-around in the meantime.
- 10 MR. GILLMAN: Mr. Chairman.
- 11 MR. VANDERGRIFF: Yes.
- MR. GILLMAN: So we're saying we're going to
- 13 take SOAH and let them make the decisions.
- 14 MR. BRAY: The interim decisions in matters
- 15 within contested cases about three things. In other
- 16 words, let me give you an example, whenever someone --
- 17 MR. GILLMAN: They can subpoena, you're wanting
- 18 them to be able to subpoena. Is that correct? Which they
- 19 can already do, can't do?
- MR. BRAY: I'm sorry, I didn't understand.
- 21 MR. GILLMAN: They can subpoena people now, can
- they not?
- 23 MR. BRAY: Well, there's been some debate about
- 24 that but they're willing to accept that obligation but it
- would be good for the board to be heard that the board

- does not oppose them doing so.
- MR. GILLMAN: Well, specifically on the item of
- 3 subpoena, this is just me, fine and dandy, but as we go
- 4 along a little further, I have some thoughts on that. So
- 5 item number two after subpoena is what?
- 6 MR. BRAY: Let's go to motions to clarify or
- 7 lift a statutory stay.
- 8 MR. GILLMAN: Explain that one to me.
- 9 MR. BRAY: Any time an action is filed at the
- 10 agency, by statute -- it's not anything anybody has to do,
- it's an automatic thing when the paper gets filed -- a
- 12 stay is imposed by the Code. That means everything needs
- to stay as it is right then. So for example, if you're a
- dealership and a manufacturer is attempting to terminate
- 15 you and you want to protest that termination, when you
- 16 file the protest everything stays just as it is right then
- and you are still a dealer for that line until such time
- 18 as the board says you're not.
- 19 In some instances, people come in and want to
- 20 modify stays. For example, if a dealer has lost their
- 21 floor plan -- and I'm just making these up -- and doesn't
- have a way to pay for vehicles, a factory might want to
- 23 come in and say, we need you to lift the stay so that they
- can remain a dealer but they need to be on a cash basis,
- 25 something like that. Those are the kinds of things -- and

- 1 I'm just giving you one example, they run the gamut of
- 2 what it might be -- those are the kinds of things that
- 3 come up on an interim basis while a case is working its
- 4 way through the process.
- 5 MR. GILLMAN: And the third item you're talking
- 6 about?
- 7 MR. BRAY: The third item are cease and desist
- 8 orders. In the enforcement world is more of a question of
- 9 a dealer that's doing something -- if you'll pardon the
- 10 technical terminology -- bad and we want them to stop it
- 11 while we fight about whether or not it's bad, in the
- 12 franchise side of the house, same kind of examples, it
- might stop them from insisting that I pay cash for
- vehicles when I have a perfectly good floor plan, that's
- 15 the reverse side of it.
- 16 Like I said, there's a million examples but
- 17 things that while a case is going on -- a cease and desist
- 18 order can be likened to the administrative equivalent of a
- 19 temporary restraining order and ultimately a temporary
- 20 injunction while a case is pending.
- 21 MR. GILLMAN: So assuming this board gives an
- indication that those three items are agreeable to us,
- that would not affect letting SOAH make the final ruling.
- MR. BRAY: No, and as a matter of fact, if
- you'll follow down my path of temporary restraining order,

- 1 temporary injunction, w ell, the third thing that happens
- 2 and usually in a court of law it's the same judge doing
- 3 all three, and if you win ultimately, you've got your
- 4 temporary restraining order and you've carried it through
- 5 and you've got you temporary injunction and in the end you
- 6 win your case, then you get the judge to order a permanent
- 7 injunction. Well, in this case the final order doesn't
- 8 stay so it comes here to the board and so any discussion
- 9 about permanent cease and desist would be the board's.
- 10 MR. GILLMAN: For the automobile dealers of
- 11 Texas and myself, I hope if we're indicating yes, let's go
- 12 along with these three items which will streamline the
- whole process and make it better, that the final decision
- 14 remains with this board.
- 15 MR. CAMPBELL: If I could, I had a question. I
- think the first two items really aren't issues, when you
- have a stay, you're basically staying in the same kind of
- 18 business, you continue to operate, and then subpoena I
- 19 don't have any problem with.
- 20 When you do a cease and desist, that basically
- 21 stops your business. What other order, like normally
- there's a letter of intent which means we're sending you a
- 23 letter -- now, this is in the banking industry, I guess --
- 24 we're sending you a letter saying if you don't correct
- these items, if you don't make these adjustments and

- 1 follow the rules like they're supposed to be, then you get
- 2 a cease and desist. Do you give them an opportunity to do
- 3 that prior to the cease and desist, or is this if you get
- 4 somebody out there that just says we don't like your
- 5 business and you're done.
- 6 MR. BRAY: First of all, I kind of have to back
- 7 up and disagree with your premise. Cease and desist does
- 8 not necessarily stop your business. It can if the cease
- 9 and desist order says you need to quit doing business,
- 10 clearly your business is stopped. But as I say, a cease
- and desist order is like a temporary restraining order and
- 12 a temporary injunction, and those can vary as much as you
- want. For example, in a family law case, you might be
- 14 temporarily restrained from getting within 100 feet of
- 15 somebody. That doesn't stop you from breathing or from
- 16 doing your job or going about your business; it's just a
- 17 restriction on you, and these orders can be as varied as
- 18 that. So I can't agree with you on the first premise that
- 19 it always stops your business.
- 20 MR. CAMPBELL: Does it have the opportunity to
- 21 stop your business totally?
- MR. BRAY: Does it have the potential to stop
- 23 your business?
- MR. CAMPBELL: Potential, yes.
- MR. BRAY: There is always the potential that a

- 1 cease and desist order could be issued to stop someone's
- 2 business, yes.
- 3 MR. CAMPBELL: Is there a chronological order
- 4 of sequence where you do this before you do this before
- 5 you do this, letter of intent as an example, or do you
- 6 just go out there and say, hey, we don't like what you're
- 7 doing or whatever and it's done?
- 8 MR. BRAY: I don't think I've shared this with
- 9 you well enough. Let me try again.
- 10 MR. CAMPBELL: You're saying I'm a little bit
- 11 slow. Is that what you're trying to say?
- 12 (General laughter.)
- MR. BRAY: No. I'm saying I haven't made it
- 14 clear enough. Obviously, I haven't done a good job,
- 15 because you've confused me with this letter of intent, and
- 16 you seem to have this impression that it's the agency
- walking out and telling people stop doing something, and
- that's not what happens.
- 19 Most of the cease and desist that I'm bringing
- 20 to you now and the ones that have come to issue now, the
- 21 agency is not a party, we're a forum. These are franchise
- disputes between factories and dealers, and so it's a lot
- of times what I suggested to you, it's a factory that
- 24 wants to keep doing something or it's a dealer that wants
- to keep doing something that the other side doesn't want

- 1 them to keep doing. And what happens is it's a motion
- 2 practice, nobody just walks out and points a finger and
- 3 says so be it, and nobody hands anybody a letter and says
- 4 this is how it is, it's a motion practice that goes before
- 5 a tribunal -- what we're recommending is that it be a SOAH
- 6 ALJ presently -- who takes the arguments from both sides
- 7 as to whether or not whatever the activity is that's being
- 8 discussed needs to be stopped and makes a decisions.
- 9 Or alternatively, as I broke out for you, the
- other alternative is you'd still have the same motion
- practice, you'd still have the same hearing, the SOAH ALJ
- 12 would then make a recommendation inside the case. So
- you're not seeing the final case, you're not seeing the
- end of the case and making a final order, it would be an
- 15 interim recommendation that would have to wait until the
- 16 next board meeting and we get it published and whatnot,
- and then you would decide whether or not they have to stop
- in the meantime whatever it is being complained of.
- 19 MR. CAMPBELL: Right. Brett, let me ask you
- the interim period, what constitutes and interim period,
- 21 is it 30 days, a year, what constitutes the interim
- 22 period?
- MR. BRAY: Well, I'm not sure in what context
- 24 you mean. Everything that happens before the board issues
- a final order is in the interim.

- 1 MR. CAMPBELL: So in the case where you
- 2 indicated, a person could have a cease and desist totally
- 3 stop their business, their business could be stopped for
- 4 three or four months.
- 5 MR. BRAY: Yes. I can't say, I could also tell
- 6 you pigs could fly, but I mean, things can happen, yes.
- 7 MR. CAMPBELL: Right. You know, I just have --
- 8 and I think Mr. Gillman may be touching on the same thing,
- 9 I think if there's a specific order like if someone is
- doing something wrong, number one, they need to recognize
- it if you bring it to their attention or whatever, and
- 12 number two, there needs to be a correction period if it's
- that so they have that opportunity to do that before you
- 14 stay the cease and desist. So maybe I'm missing something
- 15 still.
- 16 MR. BRAY: You seem to be talking in the
- enforcement vein, and by and large that's not what we're
- 18 having issues with.
- 19 MR. GILLMAN: You get a dispute between a
- 20 manufacturer and a dealer and what they're saying is
- 21 they're not wanting to make a ruling right there on the
- 22 spot. In theory, once a cease and desist order is
- 23 entered, it shouldn't be 30 days before this board can
- 24 hear it.
- MR. BRAY: First of all, no, that's not

- 1 correct.
- 2 MR. GILLMAN: And I was making an assumption.
- 3 MR. BRAY: You blended the two. If there's a
- 4 proposal by a SOAH judge for a cease and desist order,
- 5 then yes, 30-45 days you'd hear it. If the SOAH judge is
- 6 making the decision, that decision would stand until such
- 7 time as the final package gets to you, and I don't know
- 8 how long that could be, it might be a couple of months, it
- 9 might be a couple of years, you'd have to ask the
- 10 practitioners and the parties how fast they want to move
- on their case because sometimes they take a long time.
- 12 And to complicate it even further, remember
- 13 you're talking about basically an administrative law
- judge -- not basically, you are talking about an
- 15 administrative law judge, so I can't just agree with you
- 16 that if a cease and desist order gets issued it's 30 days
- or 130 days. I've seen people go in after cease and
- 18 desist orders are issued and request reconsideration and
- 19 they get reconsideration, and maybe it gets lifted and
- 20 maybe it doesn't. All of this is what a judge does every
- 21 day.
- 22 MR. VANDERGRIFF: Can I ask some questions just
- 23 to kind of quantify the issue here a little bit, if you
- 24 could. Prior to this agency being created and obviously
- 25 these were taken care of and you were the final

- determinant on the facts, so did typically in the previous
- 2 regime did SOAH issue the interim decisions, did they
- 3 issue them?
- 4 MR. BRAY: Not on these issues. Now, there are
- 5 other kinds of interim orders that a SOAH judge in
- 6 administering a case would issue. These were not; these
- 7 were left with me. And before me, when there was the old
- 8 Motor Vehicle Board just for our division, the board had
- 9 delegated it down and I had delegated it down and the ALJs
- 10 that were in-house made those decisions.
- 11 MR. VANDERGRIFF: So I guess even in a prior
- 12 life, not the same board but one that just governed your
- department, the board did not hear these cases at this
- level, they heard the ultimate and made the ultimate
- 15 decision but at this level.
- MR. BRAY: Correct.
- 17 MR. VANDERGRIFF: The second thing, can you
- 18 kind of ballpark how many of these interim orders we'd be
- 19 looking at or the ALJs, that SOAH would be looking at?
- 20 MR. BRAY: I really can't because we don't see
- 21 them most of the time, or wouldn't see them.
- MR. VANDERGRIFF: So you don't get any kind of
- report that indicates there's 20 in the pipeline?
- MR. BRAY: Well, and that's the thing, I might
- 25 be able to get Ms. Cost to help me know how many cases are

- in the pipeline but you can't tell because a case is in
- 2 the pipeline whether the parties are going to have an
- 3 interim issue, or how many interim issues, it could be
- 4 more than one.
- 5 MR. VANDERGRIFF: I'm just saying historically,
- 6 and of course history is no exact predictor of what's
- 7 going to happen in the future, but historically do you
- 8 have any idea how many they would hear?
- 9 MR. BRAY: It's hard to say because I don't
- 10 know what governs it, I don't know if it's biorhythms or
- lunar cycles or what, but they don't run any consistent
- 12 trend. I think, to help answer your question, it's not a
- 13 lot. Right now there's one pending.
- MR. VANDERGRIFF: And when it does happen, is
- 15 it fair to say that the parties, all parties, things are
- in a hurry, they need a decision that, in addition to
- perhaps the potential harm, irreparable harm to the person
- 18 being issued a cease and desist order, for example,
- 19 there's the other side of that coin who would be
- 20 irreparably harmed potentially and certainly continuous
- 21 harm if one is not issued, if that's the right way to go.
- MR. BRAY: Right. Like in the example of the
- 23 family law case, if you were wanting to get a protective
- 24 order, how would you like to have to make while the judge
- makes a recommendation to a body that only meets every

- 1 month or so? By then you're either dead or something.
- 2 MR. RUSH: This isn't a life and death thing,
- 3 but what do you call a lot.
- 4 MR. BRAY: It is not.
- 5 MR. RUSH: Give me a ballpark.
- 6 MR. GILLMAN: Well, he said he's got one now.
- 7 MR. BRAY: Yes, there's only one right now.
- MR. RUSH: What's that, five a year, ten a
- 9 year?
- 10 MR. BRAY: I just don't know because
- 11 administrative law judges run their own case for the most
- 12 part.
- MR. GILLMAN: What purpose is this board if
- 14 we're going to turn all of that regulation or decision-
- 15 making process 100 percent over to an administrative law
- judge, then why not just let them fight it out in the
- 17 courts anyway, we wouldn't have to do anything about it.
- 18 I think it's one of the reasons -- one of the reasons,
- 19 many reasons that this board -- this agency was created
- 20 out of TxDOT was to eliminate well, let's just let the
- 21 SOAH people handle it.
- MR. VANDERGRIFF: Well, remember at this point
- 23 it's not the final decision, this is just to --
- MR. GILLMAN: Well, it's getting pretty close
- when you start enjoining a guy for three or four months or

- 1 a manufacturer for three or four months. You tell a
- 2 manufacturer for three or four months he can't sell cars
- in the State of Texas, that's pretty rough, or you tell an
- 4 individual down in wherever that he can't sell cars three
- 5 or four months, that somewhat affects the bottom line.
- 6 MR. BUTLER: But it's only cease and desisting
- 7 illegal activities, it's not keeping him from selling cars
- 8 legally.
- 9 MR. GILLMAN: But if there's a dispute there,
- in other words, you're getting a guy guilty before he's
- 11 had the hearing.
- 12 MR. BUTLER: I see what you're saying.
- MS. SECORD: Mr. Gillman, if I could jump in
- 14 for just a second. For the record, I'm Linda Secord.
- 15 One of the reasons that the statute requires
- 16 that the director of the Motor Vehicle Division be a
- lawyer is so you have somebody as good as Brett Bray at
- 18 explaining this. I'm just going to step n for just a
- 19 quick second because Mr. Bray has laid this out very, very
- 20 well and I think handled your questions very well, but I
- 21 want to remind you that the briefing book that you have
- 22 behind the third tab -- it's a bright blue tab -- lays out
- 23 the statutory provision that we're talking about, and I
- 24 want to be clear with you that SOAH, by statute, has the
- 25 authority to do this.

- 1 MR. GILLMAN: I do not disagree at all.
- 2 MS. SECORD: And so it's really a question of
- 3 for now we're recommending, the staff is recommending that
- 4 we do a rule change that will make it very clear to SOAH
- 5 that they should do this for now.
- 6 MR. BRAY: Our rule is currently inconsistent
- 7 with the statute.
- 8 MS. SECORD: Yes, so that rule needs to be
- 9 changed to remove the inconsistency and make it clear to
- 10 SOAH that we're looking to them to make these temporary
- interim decisions that need to be made quickly and it's a
- 12 situation in which all of the parties get to be heard.
- 13 They would be able to appear before the SOAH judge, write
- briefs for the SOAH judge, however the SOAH judge wanted
- 15 to handle it, but SOAH could move quickly and make those
- 16 decisions.
- 17 MR. GILLMAN: Well, you know, if you're talking
- 18 about twelve a year -- which it doesn't look like you're
- 19 talking about that many.
- 20 MS. SECORD: I haven't seen any figures from
- 21 SOAH.
- MR. GILLMAN: You've got one pending now, is
- that what you said?
- MR. BRAY: Yes, there's one and a half.
- MR. GILLMAN: I'm just saying maybe this board

- 1 doesn't feel that way.
- 2 MR. VANDERGRIFF: Well, that's why it's being
- 3 brought up to the board.
- 4 MR. GILLMAN: I mean, if it's a statutory law
- 5 and that's the way it is and there's nothing this board
- 6 can do about it, then let's get on down the road. But if
- 7 you're asking the board to give an indication to SOAH that
- 8 we want them to handle all these cease and desist deals,
- 9 I'm not so sure we might ought to have a little more
- 10 discussion amongst ourselves about that.
- 11 MR. SERNA: Let me kind of interject a little
- 12 bit because I agree. I think I'm understanding the
- concern and apprehension but also I agree that the board
- 14 needs more information and more time to kind of study
- 15 this. What I'd like to do and I think what Brett was
- 16 laying out is we want -- I'm seeking the board's
- instruction to draft rules to come back to the board, but
- 18 as part of that, what I'd like to offer to do is to gather
- 19 historical information from SOAH to indicate how many
- we're talking about, roughly, in a year or in a couple of
- 21 years, and then second, provide a very clear understanding
- of the process and spend time briefing the board so that
- when we do present rules to the board, then you can
- clearly say this is not something we want to do, or yes,
- 25 we understand and this is something we want to do. But

- 1 you're giving us the green light to just go ahead and
- 2 prepare this, it is not giving us the green light to shift
- 3 anything over to SOAH right now.
- I guess basically the reason we brought it
- 5 up -- and there's a case maybe coming a little bit further
- 6 down -- the reason we brought it up is we do want to get
- 7 clear instruction from the board on how we should proceed
- 8 with these interim actions because they do affect the
- 9 livelihoods of men and women in business, manufacturers,
- 10 or automobile dealers or used dealers or the consumer
- 11 potentially in some cases, although I don't believe that
- 12 it's so much that
- 13 So what I'd like to ask the board for and
- 14 basically what I think what we're looking for is for your
- 15 permission for us, the staff, to proceed with crafting
- 16 rules but then also, just based on the questions that I'm
- 17 getting, gathering the information that clearly explains
- 18 the extent and impact, the sort of sequence of events, and
- 19 then the potential impact on parties in different examples
- 20 in different cases. You know, how long would it normally
- 21 take, how long does it take.
- 22 MR. GILLMAN: I think given you the green light
- 23 to do that, to research and give us more information.
- MR. RUSH: And isn't this a one-two-three step
- 25 process, what I heard?

1 M	R. SERN	A: Yes	, sir.
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- 2 MR. RUSH: So it's a three-month process.
- 3 MR. GILLMAN: I think you getting us more
- 4 information would be great, but I don't think we need to
- 5 leave this meeting with the impression that we're agreeing
- 6 to what Mr. Bray wants to give.
- 7 MR. VANDERGRIFF: Make sure we're clear
- 8 because, Ed, you are asking basically that your backing up
- 9 from the way this is currently worded, because this is
- 10 actually giving the authority and permission or the
- direction from the board to give SOAH a signal that it
- would be okay to handle these, and so you're saying let's
- 13 pull back from that at least for the next month and let's
- 14 get more information to the board and study it properly
- and make a more informed decision.
- MR. SERNA: Yes, sir, exactly.
- 17 MR. GILLMAN: Wonderful.
- 18 MR. SERNA: So basically adding 30 days, and
- 19 then in addition, what we will do, just to kind of make it
- 20 clear, what we will do is we will also draft rules to
- 21 bring forward to you by next month along with the
- 22 explanations and the information that are necessary to
- 23 support why we would want to move forward. But we would
- 24 not, coming out of this meeting, use this as an indication
- for the next 30 days to tell SOAH yes, that we support

- 1 moving that way.
- 2 So it's a threes-step process. One thing, Mr.
- Rush, just to kind of clarify, it's a three-step process
- 4 but it may take more than three months only because if you
- 5 do say publish these rules, that takes a particular period
- 6 of time and then there's other stuff. But it is, at a
- 7 minimum, a three-step process and we're basically at step
- 8 point five, so we're taking a little bit of a step back,
- 9 as opposed to step one. We do need to get you more
- 10 information, we will do that.
- 11 MR. GILLMAN: And I would like to be really
- 12 involved.
- 13 MR. VANDERGRIFF: I'm going to jump in just
- 14 real quick, I'm sorry to interrupt there, but we're going
- 15 to take this and refer it to the appropriate committee so
- 16 that we can have a lot of detailed discussion, then bring
- it to the board, and then I also believe, because we're
- 18 talking about basically publishing proposed rules that
- 19 we're going to have to allow time for the industry to
- 20 comment on our actions which is going to extend this. So
- in the interim period, Brett, we've got to figure out how
- 22 we take care of these orders as they come up which means
- they're going to come to us, if I'm hearing you correctly.
- 24 MR. BRAY: Yes, and that brings, if I may, so I
- can be prepared for item 6.D. 6.D is a situation where a

- 1 SOAH ALJ has already issued a final lift of a statutory
- 2 stay, and the staff was waiting for the outcome of this
- discussion to figure out how to approach it, whether it
- 4 stands as it is, as a SOAH ruling, or whether it needs to
- 5 come to the board.
- 6 Now that we think it needs to come to the
- 7 board, I believe Ms. Secord is going to advise you all
- 8 that we'll have to drop this off the agenda and re-post
- 9 because the parties will have a due process concern, and
- 10 they will be before you next arguing whether or not the
- 11 stay should be lifted -- actually, they won't even be
- 12 before you because it was an agreed order -- I'm sorry --
- they agreed to lift the stay, so I don't know that they'll
- 14 be arguing but they do have certain rights to be present
- 15 and be heard from.
- 16 MR. CAMPBELL: If it's an agreed order, that
- shouldn't be such an issue, that's something that can be
- 18 taken care of promptly. It's an agreed order in a case
- 19 where it's a manufacturer and a dealer, something like
- 20 that?
- MR. BRAY: Yes.
- MR. CAMPBELL: And they both agreed to lift the
- 23 stay?
- MR. BRAY: Yes.
- MR. CAMPBELL: I don't think that's an issue.

- I think the issue, and Ed, I think you covered
- 2 it, if you can get, in my mind --
- MR. BRAY: It's an issue in the sense that
- 4 there is currently a final order in place by a SOAH ALJ
- 5 that some of you have expressed discontent with that being
- 6 the process. We either leave here today that it is a
- 7 final order or it's in question, I guess.
- 8 MR. CAMPBELL: Anyway, my concern is where a
- 9 cease and desist, to me, can stop a portion or your
- 10 business. If there's another avenue like if your order
- 11 starts out this, this, for instance, if you say hey,
- 12 you've got to stop your business unless you fix these
- items, if you give them the opportunity to correct what
- they're doing wrong and they don't do it, absolutely cease
- and desist, but if they correct it, then it may not be.
- 16 So I'm still maybe on a different wavelength there, but I
- don't have a problem with it if it's agreed order between
- 18 both parties.
- 19 MR. VANDERGRIFF: Just to make sure for people
- in the audience as well as the board, we're kind of
- 21 jumping around here but because it is on point, we are
- actually on item 6.D which is page 12, the very next to
- last of an adjournment item, and so we're talking about
- that in the context of the discussion that we've already
- 25 had, not necessarily about the issue itself we're taking a

- 1 vote yet.
- Linda, it looks like you are anxious or ready.
- 3 MS. SECORD: I'm ready to make a
- 4 recommendation, if that's okay. If you want to leap right
- 5 now to 6.D, in my view we can leave it on the agenda, you
- 6 all can talk about it some more, entertain motions and if
- 7 your motion is to go ahead, and as Mr. Campbell has
- 8 recognized, it's an agreed order among those parties, if
- 9 you're ready to go ahead and bless that and ratify it and
- 10 all of that, that's great from my perspective.
- But as you deliberate, if the motion forms up
- 12 to where you're not in agreement with that, then I am
- going to recommend that that be tabled and that the
- 14 parties to that agreement be given an opportunity to come
- 15 before you next March at your next meeting and explain to
- 16 you why they agree to it, ask you to bless it, et cetera.
- 17 Does my recommendation make sense?
- 18 MR. GILLMAN: Ouestion. Could we make a
- 19 motion -- in other words, an agreed order, if party A and
- 20 party B agree, I don't think that we need to be making
- 21 those decisions, I think we ought to let SOAH do it. But
- I think if you get to one where it's not agreed and it
- 23 cannot come to a settlement, then I think SOAH should make
- their recommendations and we should rule on it.
- MR. RODRIGUEZ: If I'm hearing correctly, we do

- 1 have it here as an action item, a resolution to approve,
- 2 I'm hearing no resistance to approving this, so if that's
- 3 the case, then I so move that we approve the order, the
- 4 resolution for 6.D.
- 5 MR. GILLMAN: Exactly what are we getting ready
- 6 to approve here?
- 7 MR. RUSH: Yes, that's what I want to know.
- 8 MR. VANDERGRIFF: We're either going to have
- 9 discussion about the process or we're going to have a
- 10 motion on the floor, if there's a second, then we can have
- 11 discussion about the motion.
- 12 MS. SECORD: Do we have a second? I didn't
- 13 hear.
- 14 MR. VANDERGRIFF: No, we have not, so I'm
- 15 asking.
- 16 MR. CAMPBELL: I would give a second if the
- 17 motion is to approve the agreed order. I'm not giving a
- 18 motion to this 3.G.
- 19 MR. VANDERGRIFF: I understand. I wanted to
- 20 make sure we were either on the topic of 3.G and this is
- 21 kind of an example of that and we're still there, or if
- 22 we're actually on this motion.
- 23 MR. RUSH: You're talking about 6.D is what
- 24 you're talking about.
- MR. VANDERGRIFF: 6.D, yes.

- 1 MR. GILLMAN: That's one individual case; it
- 2 will not affect the rest of it.
- 3 MR. BRAY: This case involves two dealers who
- 4 are complaining that there is a change in method of
- 5 distribution. The order lifting stay is as to other parts
- 6 of the state in which these two dealers are not in the
- 7 market area which is why they all agreed to it.
- 8 MR. RUSH: I had this explained to me yesterday
- 9 or the day before, I know what it is.
- 10 MR. GILLMAN: If it's an agreed order, but I
- just don't want us to set a big precedent here.
- 12 MR. VANDERGRIFF: We're not doing that.
- MR. RUSH: It's people in the other territories
- 14 that they're trying to eliminate from not selling -- I
- 15 mean, to let them sell, not the people that are in this
- 16 situation here. Is that correct?
- 17 MR. BRAY: Now we're on discussion. It's a
- 18 little more difficult in the sense that because this is a
- 19 change in method of distribution case -- I mean, generally
- the answer to your question is right.
- 21 MR. RUSH: Yes, they gave me all the details, I
- 22 just kind of put it concise.
- MR. BRAY: I just don't want the board, when
- 24 the case ultimately gets to them, thinking it was a simple
- one, it could be very complicated.

- 1 MR. VANDERGRIFF: So we have a motion and a
- 2 second. Do we have any further discussion on it?
- 3 (No response.)
- 4 MR. VANDERGRIFF: With none I would ask for
- 5 your vote signifying approval by raising your right had.
- 6 MR. RODRIGUEZ: Item 6.D, Mr. Chairman?
- 7 MR. VANDERGRIFF: 6.D, yes.
- 8 (A show of hands.)
- 9 MR. VANDERGRIFF: The motion carries
- 10 unanimously.
- 11 And with that, unless there's further
- 12 discussion, I'll let Ms. Secord come back up here with us
- 13 and let Brett out, but I will also remind that we will
- 14 refer this to the appropriate committee, defer action and
- 15 discussion next month and with action and discussion
- 16 before the board. This is a very broad question, one
- 17 which is a precursor to a very extensive discussion, I
- 18 think, a preview of what we'll have if we are handling
- 19 contested issues here. So I will just ask you to be very
- 20 prepared for a lot of discussion and a lot of debate, but
- 21 we'll make sure and Mr. Serna has pledged to get
- 22 appropriate information out to us shortly.
- 23 Moving forward, if I can, to item 3.D which is
- 24 Motor Carrier Operations. Carol.
- You're right. Mr. Serna pointed out that I was

- moving backwards to move forward in the agenda. 1 2 (General laughter.) MS. FALLIN: Good morning. My name is Carol 3 I'm the Motor Carrier Operations manager. I just 4 have three items to touch on this morning. 5
- 6 The first one is about our relocation, we're still waiting for instructions for our move to Building 1. 7 8 The second item is a technical issue. The complaint management system, we're still undergoing enhancement 9 projects on that, we're currently working on enhancement 10 project number 6 which entails all the requirements for 11 the transition for the TxDOT and the DMV. 12 That's estimated to be completed in about three to four weeks. 13 14 We have projects that are being built as we speak, as 15 we're working on one project, we're putting other projects 16 together.
- The last issue is an operational issue 18 regarding our household goods consumer outreach program. We're in the process of gearing that back up, developing 19 20 marketing materials, working on some training issues with 21 the industry and associations, and also educational materials for the public. In addition to that, our 2.2 23 mediation services contract is up for bid next month.

17

24 MR. WALKER: What contract? 25 MS. FALLIN: The mediation services contract

- 1 that we're required to have in place.
- MR. WALKER: Would you tell me what that is? I
- 3 don't even know what that is.
- 4 MS. FALLIN: The mediation services contract is
- 5 if you're a household goods mover and you move someone's
- 6 items and you damage something and you can't come to some
- 7 type of agreement, then we contract out a mediator to
- 8 provide those mediation services.
- 9 MR. RUSH: You've either got to renew it or get
- 10 another provider?
- MS. FALLIN: Yes.
- 12 MR. WALKER: Who's the provider now?
- MS. FALLIN: Sherry West Law Offices.
- 14 MR. RUSH: Do you think you're going to
- 15 recommend to do her again?
- MS. FALLIN: Actually we're just going through
- 17 GSD. We put the proposal and the specs together and they
- 18 go out for the bids.
- 19 MR. WALKER: How many of those cases are there
- 20 a year?
- MS. FALLIN: Mediation cases?
- MR. WALKER: Yes, ma'am.
- 23 MS. FALLIN: I don't have an exact figure on
- that but that's something I can get back to you with.
- MR. WALKER: Is that something that costs the

- 1 State of Texas?
- MS. FALLIN: Yes, it does cost money, yes. The
- 3 cost for the mediation services last year was about
- 4 \$23,000.
- 5 MS. MARZETT: What is the term of the contract,
- 6 is it annually?
- 7 MS. FALLIN: I believe it's a three-year
- 8 contract. The contract expired last year. Because of
- 9 House Bill 3097, there was an emergency purchase order put
- in place, that's the one that is expiring now, so I
- 11 believe it was a three-year contract.
- 12 MR. WALKER: Is there any revenue associated
- with this mediation process?
- MS. FALLIN: No, there is not.
- 15 MR. WALKER: So the loser doesn't pay the
- 16 mediation cost or the two parties don't share in that
- 17 cost?
- 18 MS. FALLIN: No. We are required by statute to
- 19 provide the mediation services. If the mediator and the
- 20 shipper doesn't come to an agreement, then that's just how
- 21 it is.
- 22 MR. WALKER: Would this be a rulemaking process
- 23 or a legislative process to change that? Because in most
- 24 mediation cases that I've been, each party pays the
- 25 mediation fee.

- 1 MS. FALLIN: I'm guessing that would be a law-
- 2 changing process.
- MR. WALKER: Mr. Bray, you don't know?
- 4 MR. BRAY: It's a law change. But what
- 5 concerned me was I'm sure the American Association of
- 6 Mediators would be concerned when you said winners and
- 7 losers. In mediation there is no loser, that's the whole
- 8 point of mediation.
- 9 MR. WALKER: So if I wanted to mediate that the
- 10 mover scratched my table and he said it was already
- 11 scratched, the State provides that mediation free of
- 12 charge to both parties and they pay nothing to come to
- that mediation which costs the State about \$23,000.
- MR. BRAY: That's right, and that's what the
- 15 legislature requires of the department.
- 16 MR. GILLMAN: It would be interesting to
- 17 knowhow many mediations were done.
- 18 MR. CAMPBELL: And is it a final ruling?
- 19 MR. GILLMAN: It's a mediation, it's not
- 20 binding.
- 21 MR. BRAY: When you leave a mediation, actually
- it is kind of binding, when you leave a mediation, you
- 23 basically are engaging in a contract with the other party.
- 24 MR. GILLMAN: If they agree -- I'm asking you.
- MR. BRAY: Only if they agree, correct.

- 1 MR. GILLMAN: But in the mediation, they don't
- 2 have to agree, if you have a binding arbitration
- 3 MR. CAMPBELL: So if they didn't agree, then it
- 4 goes to court, I guess.
- 5 MR. GILLMAN: Right.
- 6 MR. RODRIGUEZ: Well, if you agree to go to
- 7 mediation, then you agree to the outcome.
- 8 MR. GILLMAN: It's like an agreed order, if
- 9 it's agreed, it's agreed.
- 10 MS. SECORD: There is a difference.
- MR. RODRIGUEZ: No. You must agree to go to
- 12 mediation before --
- MR. BRAY: Well, that's if it's in court.
- 14 There's a difference, I think she's about to say, between
- 15 binding and non-binding mediation.
- 16 MR. GILLMAN: This is non-binding mediation.
- 17 MS. SECORD: That's right.
- 18 MR. GILLMAN: That's the point I was bringing
- 19 up.
- 20 MS. SECORD: The goal is that at the end of the
- 21 mediation everybody will be happy enough to sign an
- agreement and not go to court, but if it doesn't work, it
- doesn't work, if you can't reach that agreement, then you
- 24 move on.
- MR. WALKER: But you will get us, before the

- 1 next meeting or prior to that time, a number of these
- 2 mediations?
- 3 MS. FALLIN: Yes, I will.
- 4 MR. CAMPBELL: And maybe how many of them do
- 5 not actually agree, go to an agreed order, that actually
- 6 go past that.
- 7 MS. FALLIN: Actually, we do not get the
- 8 results of the mediations, we just know whether they were
- 9 performed or not. That's between the shipper and the
- 10 mediator, or the shipper and the mover. The mediation
- 11 person is just there to accommodate between of them.
- 12 MR. CAMPBELL: So if you wanted to change this
- 13 statute, you don't have the numbers to justify why you
- 14 would or wouldn't change it.
- 15 MS. FALLIN: I have the numbers of mediations
- but now what the results of that mediation is.
- MR. BRAY: And the law in mediations is that's
- 18 a private matter between the parties, however, I think
- 19 it's a great question and I think we can inquire of a
- 20 mediator whether it was a successful mediation or not and
- 21 we can keep stats on that. We may not have been but we
- 22 could start.
- 23 MR. CAMPBELL: Well, I think if we did, at
- 24 least if you do want to ever change the statute, this is
- one way to mitigate it.

- 1 MS. JOHNSON: I have one request, Ms. Fallin.
- 2 You're putting together a document that's going to be
- distributed to notify the public on their rights and
- 4 remedies, so forth, under moving issues and so forth.
- 5 Could you please share that with the Legislative and
- 6 Public Affairs, at least with me so I can share it with
- 7 the committee members and we can take a look. I want to
- 8 make sure as part of that committee -- and of course, we
- 9 have yet to meet formally -- that we're all sending a
- 10 similar message and that we are speaking as one voice on
- 11 the DMV.
- 12 MS. FALLIN: Absolutely, yes, ma'am.
- MS. JOHNSON: Okay, thank you.
- 14 MR. VANDERGRIFF: Any further questions?
- 15 MR. WALKER: Yes. Ms. Fallin, you have not
- 16 addressed another issue that's facing the Motor Carrier
- 17 Division right now which is the federal order to cease
- 18 collections of the UCR fees, and that's about a \$1.2
- 19 million source of revenue for the State of Texas, I
- 20 believe, and there's a federal order. I think you have
- 21 somebody involved in that hearing today. Right now
- there's a cease order on the UCR fees. Correct?
- 23 MS. FALLIN: The only thing that I know there
- are no FY 2010 fees approved for UCR.
- MR. WALKER: There's a cease order on that

- 1 right now. Is that not correct?
- MS. FALLIN: Yes.
- MR. WALKER: That's a source of about \$1.2
- 4 million worth of revenue to the State of Texas. Is that
- 5 correct?
- 6 MS. FALLIN: We actually get \$2.7-.
- 7 MR. WALKER: \$2.7 million.
- 8 MS. FALLIN: Correct.
- 9 MR. WALKER: So we have that in our budget or
- 10 we're planning those figures in our budget, so what is the
- long-term prognosis, where do you think that's going?
- 12 MS. FALLIN: Mr. Walker, I can't answer that at
- 13 this time. I can research that, though, and get back with
- 14 you, since Angel Oliver is on the board and she is
- involved in that teleconference today.
- MR. WALKER: Thank you.
- MR. VANDERGRIFF: Any further questions? Good
- 18 points.
- 19 Charles Caldwell, Automobile Burglary and Theft
- 20 Prevention Authority. Oh, I skipped you Rebecca; we'll
- 21 come back to you since Charles is already walking up here.
- 22 This is 3.F.
- 23 MR. CALDWELL: Good morning. Charles Caldwell,
- 24 director of the Automobile Burglary and Theft Prevention
- 25 Authority.

1	We just have three quick little things here.			
2	No hearings, no court stuff, none of that, ours is real			
3	simple.			
4	(General laughter.)			
5	MR. CALDWELL: One of the things we're			
6	preparing for is our board meeting will be held in El			
7	Paso, April 1, and our Border Solutions Committee which			
8	will be March 31, and that Border Solutions Committee			
9	involves the representatives from the four bordering			
10	states and Mexico, from the Attorney General's Office and			
11	also the U.S. Attorney General's Office will send a			
12	representative to that particular meeting, and the Texas			
13	Attorney General's Office is probably going to send a			
14	representative. In that meeting we just kind of talk			
15	about the different issues between Mexico and Texas and			
16	recovering stolen vehicles and training the Mexican			
17	officials on some of our techniques and things of that			
18	nature.			
19	The other thing that we started is our grant			
20	application process. We have submitted the RFP for			
21	proposals and those applications are due in May and we			
22	will allocate those funds in June for the 2011 fiscal			
23	year.			
24	Our office has also started working with the			

State of New Mexico in establishing their auto theft

25

- authority. We've been in contact with Senator Bingham's 1 2 office and they're looking forward to establishing an auto theft authority in New Mexico. So we've been answering 3 questions and supplying them with information that we 4 5 have, and hopefully they can get theirs started as well. 6 Are there any questions? 7 (No response.) 8 MR. VANDERGRIFF: Thank you very much, Charles. 9 Rebecca Davio, VTR. MS. DAVIO: Good morning. Rebecca Davio, 10 director of the Vehicle Titles and Registration Division. 11 12 In VTR we've been working on a lot of things this month, as we do every month, but I just wanted to pick put a 13 14 couple of things to give you some information. 15 One of the things we've been working on is fleet registration. There was a law passed last session 16 that requires that any company that wants to register 25 17 18
- fleet registration. There was a law passed last session
 that requires that any company that wants to register 25
 vehicles at a time be allowed to do so and to simplify
 that, they can register those vehicles for up to eight
 years. And we've been working on developing the system to
 be able to allow that to happen, we've been working
 closely with AT&T and with HEB. Those are two companies
 that AT&T was instrumental in getting this legislation
 passed, and we have been working with those two companies
 to work through the issues.

1	And so that's something that we're trying to do			
2	and there will be some rules that are before you later or			
3	to finalize for that. But we're just really working and			
4	trying to be in partnership and trying to demonstrate			
5	flexibility. We understand the first time that you do			
6	anything that there's that need to work through and to			
7	have flexibility on both sides, and we'd like to thank			
8	those partners. I believe that Bob Garza from AT&T will			
9	be speaking later. But that's an opportunity.			
10	Another thing that we've been working on			
11	continuously but in January we have been working on the			
12	speciality license plate issue. We hosted a meeting for			
13	the speciality license plate organizations and also for			
14	the My Plates specialty license plates marketing vendor so			
15	that we could help facilitate that communication between			
16	those groups. There's lots and lots of issues that are			
17	very different, it takes time and effort to be able to			
18	have that understanding on all parties, and that's			
19	something that we really spend a lot of time on trying to			
20	help make sure that that communication is a good thing.			
21	We also have been working on the inventory.			
22	When the Department of Motor Vehicles was created, the			
23	inventory that was in all of the different divisions and			
24	in the counties that are necessary because currently we			
25	provide equipment for each one of the counties so every			

- 1 printer that Cheryl that has, every laptop, we inventory
- those, and that's an effort that we've undertaken.
- I have David Chambers in my office who was
- 4 asked to be the temporary inventory person of
- 5 responsibility at the DMV, and so we've gone out with our
- 6 regional folks, going to every county office, every
- 7 location and verifying the fact that those almost 10,000
- 8 pieces of equipment around the state are actually there
- 9 and putting a new DMV sticker on them. We felt like that
- while that is just a huge effort, that it was very
- important that we didn't want the department to take on a
- 12 liability that potentially next year it would show up that
- some equipment was missing and we hadn't really done a
- 14 thorough inventory. So that's just kind of an example of
- 15 we're willing to step up and do the work, whatever is
- 16 required.
- 17 The last thing that I thought was kind of a fun
- 18 example of we're really trying to work as a team with the
- 19 other divisions, we are submitting today, actually, an
- 20 award application to the American Association of Motor
- 21 Vehicle Administrators. They have a Public Affairs and
- 22 Consumer Education Award. It's just an opportunity to
- 23 recognize DMV entities around the country that are paying
- 24 extra attention to communication and consumer education,
- and the award application that's being submitted is all

- 1 about the communication effort that took place to launch
- 2 the Department of Motor Vehicles.
- It was the communication that went on with the
- 4 employees of the Department of Motor Vehicles, the
- 5 employees in the Texas Department of Transportation that
- 6 were supporting that effort, and then the motoring public,
- 7 the tax assessor-collectors, the dealers, everybody so
- 8 that nobody was left in the dark, and that whole effort
- 9 was really a team effort. We pulled representatives,
- there was a group, a communication team, and there were
- 11 representatives from every division that was moving to the
- 12 new agency. And that was such a great example of teamwork
- and the compilation of this application for the award I
- 14 felt like was just a wonderful example of teamwork.
- There's no history that we'll be a winner but
- it was a very good experience to really be able to work on
- 17 that effort and form those team bonds.
- 18 The last thing that I have to tell you is when
- 19 I said earlier that we got 9,000 hits a month on the
- 20 internet, it didn't sound right when I said, it, it's
- 21 actually 9 million hits a month. It was like wait, wait,
- 22 and I didn't want to claim something that just was a whole
- order of magnitude, but it is a much higher number, 9
- 24 million hits for the Department of Motor Vehicles.
- 25 There's a lot of people that want to know about vehicle

- 1 registration, the other information, there's also a lot of
- 2 people that mistakenly come to our website for information
- 3 about driver's license.
- 4 MR. VANDERGRIFF: A month, you said?
- 5 MS. DAVIO: Nine million hits a month, yes,
- 6 sir. In January it was actually over 10 million, so
- 7 there's a trend but the average is about 9 million.
- 8 MR. BUTLER: Also, Rebecca, I have a question.
- 9 This is Cliff Butler. How many power units in TxDMV?
- 10 MS. DAVIO: How many power units?
- 11 MR. BUTLER: How many vehicles?
- 12 MS. DAVIO: Oh, I'm sorry, how many vehicles
- does the DMV actually have?
- MR. BUTLER: Right.
- 15 MS. DAVIO: I believe there's 41.
- MR. SERNA: Forty-four.
- MS. DAVIO: Does that count the burned out one?
- 18 MR. VANDERGRIFF: That's right.
- 19 MR. SERNA: We traded it.
- MS. DAVIO: Okay, 44 is the total.
- 21 MR. BUTLER: So the 10,000 number you mentioned
- a while ago was printers and all every little asset?
- 23 MS. DAVIO: Yes, sir, that's primarily computer
- 24 equipment, and while the Motor Vehicle Division, the Motor
- 25 Carrier Division, ABTPA and VTR inventoried our equipment,

- 1 this effort that I spoke to -- and thank you for helping
- 2 me clarify that -- was primarily to go out and inventory
- 3 all the equipment that's out in the counties because
- 4 that's a significant bulk of the equipment.
- 5 MR. BUTLER: Definitely good internal control
- 6 to do that, definitely.
- 7 MS. DAVIO: Thank you very much. Are there any
- 8 other questions?
- 9 MR. WALKER: Yes.
- MS. DAVIO: Yes, sir.
- MR. WALKER: When I was coming up here the
- other day with Ms. Johnson here, she was telling me that
- she's had some problems getting license plates because of
- 14 jail lock-downs. Can you kind of brief this board on jail
- 15 lock-downs and what's going on there?
- 16 MS. DAVIO: Yes, sir. The law requires that
- 17 the Texas Department of Criminal Justice, print/prepare
- 18 the license plates for the State of Texas, that's in law.
- 19 It provides an industry and something for the prisoners
- 20 to occupy their time. Periodically, for one reason or
- 21 another, there are lock-downs at the prison facility.
- These are produced in Huntsville, and it may be that for
- one example there was a lock-down was there was a pretty
- 24 serious flu that was going around, and so they had a lock-
- down for that. That was a very short two- or three-day

- 1 lock-down.
- 2 There are also lock-downs -- there was a lock-
- down that got a lot of visibility when all the cell
- 4 phones, the prisoners were found to have cell phones
- 5 within the jail. That was a little bit more protracted.
- 6 We did just recently have another lock-down that I believe
- 7 went about a week. Normally they're shorter duration than
- 8 that
- 9 The Vehicle Titles and Registration Division
- 10 has employees, two employees that are inside the prison,
- 11 that's where they work. They're doing quality control,
- 12 they're overseeing the shipping, that kind of thing, and
- 13 so they didn't have any access. Sometimes on a lock-down
- 14 you can have access to the inventory that's already been
- 15 produced. I this particular instance that Cheryl was
- 16 referring to, there was no access, it was a total lock-
- 17 down.
- 18 MR. WALKER: So the inventory that you
- 19 mentioned earlier in your speech here, the inventory is
- 20 maintained at the prison system, not at our facilities off
- 21 the site?
- 22 MS. DAVIO: Yes, sir, it is maintained at the
- 23 prison facility. We did some research to look and to
- 24 explore an off-site opportunity, we've done a lot of
- contingency planning around the production of license

- 1 plates, what happens if there really is a calamity, what
- 2 if there's a big riot at the Huntsville facility and we
- 3 have a very extended period of time, we have something in
- 4 place for that because we decided that was too severe a
- 5 risk to not have something, a mitigating plan. We have
- 6 looked at off-site storage.
- 7 MR. WALKER: So what is that plan?
- 8 MS. DAVIO: I'm sorry, I can't tell you the
- 9 amount of money -- I'm sorry.
- 10 MR. WALKER: What is the plan? You said you
- 11 have a plan in case there was a riot.
- MS. DAVIO: We have a contract with another
- 13 state to be able to produce the plates and ship them and
- 14 that kind of thing. But we have not implemented an off-
- 15 site storage facility because of the cost, and I can't
- tell you exactly what that cost is, I'm sorry, I can get
- 17 it for you.
- 18 But what we were doing when Cheryl called and
- 19 said that they were running out of plates, we already had
- 20 begun the effort to look at the amount of plates to try
- 21 and figure out if there were any counties that had a large
- inventory that perhaps they had just received a shipment
- and we were preparing to be able to go out and do
- 24 redistribution if possible to make sure that no counties
- were looking. We also volunteered to look at Cheryl's

- 1 inventory of plates, the kind re-order point and see if
- 2 perhaps that needed to be tweaked. There's a balance
- 3 between having the counties needing to spend extra money
- 4 to store the plates and making sure that you don't run
- 5 out.
- 6 So we're trying to do a number of different
- 7 things, and I'm happy to report that we worked and got
- 8 Cheryl and the other tax assessor-collectors that were
- 9 running low plates sent out immediately when the prison
- 10 facility opened. And I don't believe you ran out?
- 11 MS. JOHNSON: We were out, we couldn't provide
- 12 any to our dealers. However, you did put in an emergency
- order that got us what we needed to run until we could get
- our full order. And when I took office, we stopped
- 15 keeping on hand large numbers of plates because it was a
- 16 storage issue for us and the department did very well
- improve the turnaround on our orders, it was within three
- 18 days we were having a delivery of plates. And now we
- 19 don't deliver to central office, you actually deliver to
- 20 our points where the plates are actually sold, so that has
- 21 helped us a lot.
- We are, though, likely to increase our
- 23 inventory because we don't want to run into that situation
- 24 again, and it became an issue for us when our car dealers
- were really having a fit because we couldn't get plates to

- them, and hopefully we're working through that.
- MS. DAVIO: That's right, and I apologize for
- 3 that inconvenience. It is difficult to find that balance
- 4 point for proper amounts of inventory and storage costs.
- 5 MS. JOHNSON: I would say it's more the jail's
- fault than VTR's, quite frankly. And does this board need
- 7 to have any discussion with the board over prisons to make
- 8 accommodations in this situation.
- 9 MR. WALKER: That's where it needs to go.
- 10 MS. JOHNSON: If that discussion needs to
- 11 occur, I know that I would certainly support having that
- 12 discussion if that would help. Because we're right now
- 13 living in a lot of different places and projects will
- 14 absolutely determine where the DMV is going to live, but I
- don't know that storage facilities are possible for you,
- so we do need an interim solution, perhaps, that will work
- 17 for everybody.
- 18 MS. DAVIO: I have the staff, Scott Renouard
- 19 and David Chambers actually coordinate the production of
- 20 the license plates with the Department of Criminal
- 21 Justice, and they are planning to visit with TDCJ.
- There's a new warden at the Huntsville facility, there's
- 23 also a new manager of the Texas Correctional Industries,
- 24 and license plates is considered an industry for the
- prison, and so there's two new people in there and they're

- just going to sit down and visit with them and help convey
- the importance of license plates and how that's part of
- 3 the functioning of the state.
- 4 MS. JOHNSON: Thank you so much.
- 5 MS. DAVIO: We appreciate the offer to back
- 6 that up. Thank you.
- 7 MR. GILLMAN: Just out of curiosity, didn't the
- 8 dealers stock plates years ago?
- 9 MR. RUSH: Sure we did..
- 10 MR. GILLMAN: I'm not suggesting we go back to
- it but we might study it. Obviously there was some kind
- of major problem or they would have probably still be
- 13 doing it.
- 14 MR. VANDERGRIFF: I think we can revisit that
- 15 issue. Thank you, Ms. Davio.
- 16 We're going to take up one more item before
- 17 executive session, and I would ask Brett Bra to come back
- 18 up. We'll just handle the consent agenda which is item 5.
- 19 MR. BRAY: Brett Bray, director Motor Vehicle
- 20 Division. I have with me Carol Kent, my director of
- 21 Enforcement, and given how the last presentation, I
- thought I'd bring back up, this agenda item is broken into
- 23 six parts as to type of cases and types of orders. You
- 24 can handle them in one motion or six, at your pleasure,
- and I can go into as much detail as you want about them,

- or this is as far as I got last time and you approved
- them, so I was pausing to see if I was getting any
- 3 further.
- 4 MR. VANDERGRIFF: Again, this is on the consent
- 5 agenda, so as Mr. Bray pointed out, we can take them all
- 6 up as an item in one motion or individually, or if any
- 7 member would like to remove a particular on the agenda and
- 8 ask that it be considered individually, we certainly can
- 9 do that as well if you have a question.
- 10 MS. JOHNSON: Mr. Chairman, I would move to
- 11 approve the consent agenda as presented.
- MR. RUSH: I'll second that.
- MR. VANDERGRIFF: We have a motion from Vice
- 14 Chairman Johnson and a second from Member Rush. Do we
- 15 have any desire to having discussion on any of it?
- 16 (No response.)
- MR. VANDERGRIFF: With that, I'd ask for your
- 18 approval by raising your right hand, please.
- 19 (A show of hands.)
- 20 MR. VANDERGRIFF: The motion carries
- 21 unanimously. Thank you very much.
- 22 With that, we'll take a five-minute break, but
- 23 let me let you know that it is at this point approximately
- 24 12:10 on February 11, 2010, and at this time the
- 25 Department of Motor Vehicles Board will go into closed

- session, pursuant to Texas Government Code Section 551.071
- 2 to obtain the legal advice of counsel regarding agenda
- 3 item numbers 3.A.5, 6.A, B and C, and in addition, Section
- 4 551.074 to discuss personnel matters under agenda item
- 5 3.A.3. And we will adjourn into the back room behind us
- and with the exception of legal counsel and executive
- 7 director.
- 8 We will go into executive session in five
- 9 minutes so at approximately 12:15, and then would
- 10 anticipate, hopefully, no more than 30 minutes in
- 11 executive session. We will come back out and take up, we
- 12 have one briefing item that's 3.A.5 and then 6.A, B, and C
- which are action items. So thank you for your attendance
- this morning and we'll be back shortly.
- 15 (Whereupon, at 12:13 p.m., the meeting was
- 16 recessed for executive session, to reconvene this same
- day, Thursday, February 11, 2010, following conclusion of
- 18 the executive session.)

1	<u>AFTERNOON</u> <u>SESSION</u>			
2	MR. VANDERGRIFF: It is 1:45 p.m. on February			
3	11, 2010, and the board is now back in open session. I			
4	want to advise you that no action was taken in the closed			
5	session.			
6	With that, we have two items left on our agenda			
7	that we will cover. We do not need to have a briefing on			
8	board committee reports. We did have only one this last			
9	month and that was from Finance and Audit and I think they			
10	covered that in the presentation on fiscal and			
11	administrative.			
12	And then we have decided, we took no action but			
13	I do not believe that we need to take up item 6.A and so			
14	I'm going to pass that item for a future board meeting.			
15	And then item 6.B is the adoption of rules			
16	under Title 43 of the Texas Administrative Code, and I			
17	think we have Rebecca Davio and Jennifer Soldano here to			
18	present those.			
19	I will also note that we do have but I'll			
20	have him come up after the presentation we do have one			
21	executive director of internal affairs for AT&T, Mr. Garza			
22	would like to make a public comment, and he's waited in			
23	the back, got here from Dallas to get here, only to be			
24	probably stuck getting back. So anyway, go ahead.			
25	MS. SOLDANO: Good afternoon. My name is			

- 1 Jennifer Soldano and I'm legal counsel for the Vehicle
- 2 Titles and Registration Division.
- First of all, I'd like to tell you that our
- 4 administrative code has now made it into cyberspace. You
- 5 can find it on the web under the Secretary of State's web
- 6 page under the Texas Administrative Code. We are in Title
- 7 43, we are Part 10, so in case you all didn't get to read
- 8 it the first two times, if you still don't remember all of
- 9 it, you can look it up on the web and read it again.
- 10 Section 208.7 relates to vacant positions
- 11 transferred to the department during the establishment of
- 12 the department. The Texas Department of Transportation
- 13 transferred vacant full-time equivalent employee positions
- to the department through a memorandum of understanding
- 15 executed on November 4, 2009. The purpose of the MOU was
- 16 to reach an agreement on how to efficiently and
- 17 effectively transition the department into a self-
- 18 sufficient agency. The transfer of the vacant positions
- 19 as intended to provide positions that would be needed to
- 20 fulfill the administrative functions of the department.
- 21 In filling these positions in accordance with
- 22 Section 6.03 of House Bill 3097 and the MOU, the
- 23 department will give first consideration to an applicant
- 24 who, as of September 1, 2009 was a full-time employee of
- 25 the Texas Department of Transportation and primarily

- 1 supported one or more of the transferred divisions. Once
- these positions are filled, the first consideration
- 3 procedure will no longer apply.
- The rules were proposed at the December 3 board
- 5 meeting and they were published in the December 18, 2009
- 6 edition of the Texas Register. The deadline for comments
- 7 was January 18, 2010, and none were received. I recommend
- 8 that Section 208.7 be adopted.
- 9 MR. RODRIGUEZ: So moved.
- MR. GILLMAN: Second.
- 11 MR. VANDERGRIFF: Any discussion?
- 12 (No response.)
- MR. VANDERGRIFF: Seeing none -- actually, I've
- 14 got to step back, I apologize -- never mind, it's the one
- 15 coming up, so we can go ahead and take on this one. A
- 16 motion, a second and no discussion, I'd ask for your
- approval of this by raising your right hand.
- 18 (A show of hands.)
- 19 MR. VANDERGRIFF: The motion carries
- unanimously. I did want to note for you that prior to us
- 21 starting that Director Butler left us, he has a long drive
- 22 to East Texas and preference to have most of that during
- 23 daylight hours, so I think that was appropriate given the
- 24 weather in the northern part of the state.
- I want to note that Mr. Garza who is here, he

- is here on item 6.B.3, so after you make your
- 2 presentation, we're going to give him an opportunity to
- 3 visit.
- 4 MS. DAVIO: Rebecca Davio, director of the
- 5 Vehicle Titles and Registration Division.
- 6 Chapter 217 is the Vehicle Titles and
- 7 Registration Code that we really moved from TxDOT to the
- 8 DMV portion. There were a few changes driven by
- 9 legislation. It followed the same time frame that
- 10 Jennifer just called out that you considered at your
- 11 December 3 board meeting. The rules were posted December
- 12 18 with a deadline for comment of January 18. Unlike the
- rules that she talked about, we did get three comments,
- 14 and I'd like to tell you about those.
- 15 We got a comment from the Insurance Auto
- 16 Auction, IAA, Texas Independent Automobile Resellers
- 17 Association, also known as TIARA, and we also got a third
- 18 comment from TADA, the Texas Automobile Dealers
- 19 Association. And the auction company and the Resellers
- 20 Association commented on the transfer of the regulation of
- 21 the used automobile parts recyclers to the Texas
- 22 Department of Licensing and Regulation. That was brought
- about by House Bill 3057 last session, and they are moving
- over to be under TDLR September 1, and what we will do is
- we will take those rules out of our rules when they have

- 1 officially transferred, and so we feel like that satisfied
- 2 those two comments.
- Additionally, TIARA had a comment about
- 4 including the words "at auction" in our rules and because
- 5 we looked at that again, we removed those words from the
- 6 rules that are for your consideration today.
- 7 And then the last comment was from TADA and
- 8 they were concerned about a very limited aspect of rules
- 9 relating to specifically Section 217.3, and they wanted to
- 10 be able to have the ability to use a secure power of
- 11 attorney for very limited circumstances when the titles
- weren't available for the customer to sign, maybe the safe
- was locked or something like that, and we're considering
- 14 that. However, we feel like that because the National
- 15 Highway Safety Administration plays a role in odometer and
- 16 that kind of thing that we need to look at that and do
- some more checking and corresponding to verify that any
- 18 change that we might make would be acceptable to them and
- 19 we need to look at other states.
- 20 So what we're doing is saying that we won't
- 21 make a change there but we anticipate that there will be
- 22 additional modifications made to the rules later on this
- 23 year and we will bring that at that point in time after
- 24 we've had the opportunity to do some additional research.
- MR. GILLMAN: And there would be ongoing

- 1 dialogue between the participants and yourself?
- 2 MS. DAVIO: Absolutely. We need to do that to
- 3 make sure the requirements that NTSA, if they in fact want
- 4 to weigh in, that what they're proposing would actually
- 5 work for the dealer community and that we feel comfortable
- 6 with that.
- 7 MS. MARZETT: What's your timing on how long
- 8 you think it will take in order to evaluate that and then
- 9 come back?
- 10 MS. DAVIO: Well, I think that it would be
- 11 based a little bit -- well, it would be based a great deal
- on NTSA and how quickly they respond. So it's difficult
- for me to identify exactly. That really would be the
- 14 trigger. I think that we could initiate the contact
- 15 quickly, we could also check with other states to see if
- 16 they allow this kind of procedure quickly, but it's the
- 17 response from NTSA. It may be something that they respond
- in a very timely fashion because they aren't concerned,
- 19 but if they want to look at it and study it, then that
- 20 would really drive the time frame.
- 21 MS. JOHNSON: Can you phrase that request for
- consideration or for input from them in such a way to
- 23 limit that time frame, that we're going to assume that you
- 24 concur with our recommendations or consideration if we
- 25 haven't heard from you by a certain date? That might help

- 1 facilitate that.
- 2 MS. DAVIO: Good point. We would recommend
- 3 that you would adopt final adoption of Chapter 217, as
- 4 amended.
- 5 MS. JOHNSON: I have one question. Ms. Davio,
- 6 we've corresponded via e-mail on rules page 14 of 39 on
- 7 the certificate of title application and the possibility
- 8 of eliminating the 130-U. The title contains all the same
- 9 information that's on the 130-U, with the exception of
- 10 survivorship, I believe, and there might have been one
- other piece of it, I can't remember.
- MR. GILLMAN: What's a 13-U?
- MS. JOHNSON: A 130-U is a title application
- 14 that whenever a transfer comes through, we have to have
- 15 both documents. And in the interest of streamlining and
- maybe promoting further Vision 21, is this something that
- we would like at that possibly we could move away from
- 18 having the additional forms. I know the regional offices
- 19 are going paperless.
- 20 We continue to have to keep all this paper, and
- 21 although we're scanning, it is a tremendous amount of
- 22 paperwork for the counties to maintain, and it might
- 23 simplify the process for people when they're
- transactioning vehicle sales, when they're completing
- vehicle sales as well, and purchases.

- 1 MS. DAVIO: Yes, ma'am, we're always looking at
- 2 trying to figure out how we can simplify the process and
- 3 remove that administrative burden for the counties, for
- 4 us, and for the customers as well, so we will continue to
- 5 look at that.
- 6 MR. RODRIGUEZ: You're asking that we move to
- 7 adopt Chapter 217?
- 8 MR. VANDERGRIFF: We do have one member from
- 9 the public who wishes to comment.
- 10 MR. CAMPBELL: Could I ask a question, Rebecca?
- MS. DAVIO: Yes, sir.
- MR. CAMPBELL: Are the RVs under a different
- time frame in transfer of the title, it says within 20
- 14 working days, where like automobile dealers are at 45 days
- 15 now?
- 16 MS. DAVIO: For the used vehicles.
- MR. CAMPBELL: For the used vehicles it's 45?
- 18 MS. DAVIO: It's actually really for the
- 19 seller-financed.
- 20 MR. CAMPBELL: Only for seller financed.
- MS. DAVIO: Yes, sir.
- MR. CAMPBELL: Okay, thank you.
- MR. VANDERGRIFF: All right.
- 24 MR. GARZA: Good afternoon. For the record, my
- 25 name is Bob Garza, I'm the executive director of

- 1 Governmental Affairs for AT&T Texas. First of all, just
- let me say thank you very much for allowing us the
- 3 opportunity to present some comments in regards to the
- 4 extended fleet operation project that we've agreed to
- 5 pilot with Ms. Davio and her staff.
- First, let me say that we're anxious to
- 7 participate. From what we've heard of the system
- 8 potential and if it works as it is intended, we think
- 9 we're going to like the system, and it's certainly going
- 10 to be beneficial for us as well.
- 11 Having said that, there is one item that I
- wanted to bring to your attention that is a concern for us
- 13 right now, AT&T. The online system that has been used or
- is going to be used by this process is limited to one type
- of payment, and that is called the ACH debit. Today the
- 16 ACH debit process or option is not an option for AT&T, it
- 17 brings some risks involved with it, it's not common
- 18 practice for us, and from what we understand, it might
- 19 also an issue for other fleet operators.
- 20 What I might add is today our common practice
- 21 is to use the ACH credit and we presently make payments to
- 22 the State of Texas or other agencies using the ACH credit
- and it works very well for us. So that's part of the
- 24 comment I wanted to make.
- We have had recent discussions with staff, Ms.

- 1 Davio, as recent as yesterday and today, and feel
- 2 comfortable that we can work towards a solution, but I did
- 3 want to make sure that that was brought to your attention.
- 4 We feel comfortable that we can work through it. We
- 5 would need a quick resolution for us to be able to commit
- 6 to a long-term participation.
- 7 And basically those are my comments, and I'm
- 8 not the subject matter expert here, but I would certainly
- 9 entertain any questions you might have.
- 10 MS. JOHNSON: I have a question for Ms. Davio.
- 11 Is this identified on a certain page of the rules? No?
- 12 MS. DAVIO: This is a particular nuance of the
- programming system. We're going to be expanding our Texas
- 14 IRP system which is the system that we have that allows
- 15 the online registration renewal for interstate
- 16 registration plan participants, so the interstate motor
- carriers, and we're expanding that system to allow the
- 18 registration of fleet vehicles, the extended registration
- 19 of fleet vehicles, and this is a particular nuance about
- that, the payment that's required for that. And the
- 21 payment for that goes through the Texas Online, the
- 22 system, the E-Government portal that's run by the state.
- 23 MR. GILLMAN: Could you explain what ACH is?
- MS. DAVIO: ACH is automated clearing house.
- 25 It's a way to clear a check electronically, and there's

- 1 different methods. There's a push and a pull, and Mr.
- 2 Garza admitted that he's not the subject matter expert and
- 3 I'm not the subject matter expert on that either. What I
- 4 did commit to him is that we will find a work-around so
- 5 that they can process their initial round of vehicles so
- 6 that we can accept payment in another form, that's the
- 7 short-term resolution.
- And what we'll do in the long term is what we
- 9 need to do is get his experts together with the experts
- 10 that we have and probably bring in the folks from Texas
- Online and just make sure that we can work through and
- 12 find a solution on that.
- MR. WALKER: A check won't work?
- MS. DAVIO: That's the work-around for the
- 15 initial processing.
- 16 MR. VANDERGRIFF: Any further questions?
- 17 (No response.)
- 18 MR. VANDERGRIFF: Thank you, Mr. Garza.
- 19 MR. GARZA: Thank you very much.
- 20 MR. VANDERGRIFF: Are there any further
- 21 questions of Ms. Davio? All right, none. I will be
- 22 pleased to entertain a motion on the Chapter 217 Vehicle
- 23 Titles and Registration.
- MR. RODRIGUEZ: Move to adopt.
- MR. RUSH: Second.

- 1 MR. VANDERGRIFF: Motion for approval by Member
- 2 Rodriguez and a second by Member Rush. With that, any
- 3 further discussion? Seeing nobody interested in that, I
- 4 will ask you to raise your right hand in support of the
- 5 motion.
- 6 (A show of hands.)
- 7 MR. VANDERGRIFF: Motion carries unanimously.
- The last item is item C, the memorandum of
- 9 understanding between the Texas Department of Motor
- 10 Vehicles and the Automotive Burglary and Theft Prevention
- 11 Authority.
- MR. RODRIGUEZ: Mr. Chairman, I move that we
- 13 refer this matter to the executive director.
- 14 MR. VANDERGRIFF: Do I have a second?
- MS. MARZETT: Second.
- 16 MR. VANDERGRIFF: Second from Director Marzett.
- 17 With that, any discussion? Seeing none, I'd ask you to
- 18 raise your right hand in support of the motion, please.
- 19 (A show of hands.)
- 20 MR. VANDERGRIFF: Motion carries unanimously
- 21 with, again, Board Member Butler is absent. And with
- that, seeing no other action, I would ask for a motion for
- 23 adjournment.
- MR. GILLMAN: So moved.
- MR. RUSH: Second.

- 1 MR. VANDERGRIFF: Motion and second by Board
- 2 Member Ramsay Gillman and Marvin Rush. We are adjourned.
- 3 Thank you.
- 4 (Whereupon, at 2:03 p.m., the meeting was
- 5 concluded.)

1		CERTIFICATE		
2				
3	MEETING OF:	Texas Department of Motor Vehicles Board		
4	LOCATION:	Austin, Texas		
5	DATE:	February 11, 2010		
6	I	do hereby certify that the foregoing pages,		
7	numbers 1 through 109, 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	Texas Departı	ment of Transportation.		
15 16 17		(Transcriber) (Date)		
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