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Kevin Kieschnick
Assessor and Collector of Taxes

On behalf of The Tax Assessor-Collectors Association of Texas, I would like to thank the Sunset Commission for inviting us to be part of this process. Change is never easy, but it is always necessary. If we are not changing, we are not improving; so thank you for allowing us to participate. The following recommendations were put together as a combined effort of Tax Assessor Collectors across the State of Texas. The following recommendations were approved by the Tax Assessor-Collectors Association of Texas Board of Directors, and our organization strongly feels that these recommendations will make major improvements in the areas outlined below. Thank you for your time and efforts that each of you have put into this process, we know and appreciate your dedication to the people of the State of Texas.

Sincerely,

Kevin Kieschnick,
TxDMV Liaison Chairman – Tax Assessor Collector Association of Texas

Issue 1 – The Department’s Industry-Oriented Board and Its Processes Create Risk for the State.

TACA - Strongly Concurs with the committee finding, with the following recommendation:

We agree with the philosophy behind the Commission’s recommendation; however we ask that the board membership be changed more extensively. Our recommendation is that the board composition be changed to reflect the same method of appointment and composition that is now used for TxDOT. The Texas Transportation Commission consists of five commissioners appointed by the governor, who also designates one board member to serve as the chair. We believe this appointment method will more broadly represent the state’s diverse citizenry.

We emphasize that the locally elected Tax Assessor-Collectors represent the diverse populations and interests across the state’s 254 counties. A restructured board would allow for greater objectivity to represent the population of the State of Texas in issues and decisions that must be made by the TxDMV Board of Directors.

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For quick reference purposes, below is the statute as it currently reads pertaining to the DMV board and TXDOT board:

SUBCHAPTER B. TEXAS TRANSPORTATION COMMISSION

Sec. 201.051. COMMISSION. (a) The Texas Transportation Commission consists of five members appointed by the governor with the advice and consent of the senate.

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area and be a registered voter of a county with a population of less than 150,000.

SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) The board consists of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members must be persons who hold a dealer's license issued under Chapter 2301, Occupations Code, of whom two must be franchised dealers of different classes and one must be an independent dealer; one member must be a representative of a manufacturer or distributor that holds a license issued under Chapter 2301, Occupations Code; one member must be a tax assessor-collector; one member must be a representative of a law enforcement agency of a county or municipality; and one member must be a representative of the motor carrier industry. The remaining members must be public members.

(c) Except as necessary to comply with Subsection (b), a person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;

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(2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(4) is registered, certified, or licensed by the department.

Issue II – Texas Lacks Basic Safeguards to Identify and Address Vehicle Title Fraud.

TACA concurs with the Sunset Commission’s findings on title fraud.

We do urge some caution and request for the Commission’s findings to be cognizant between accusations of fraud and convictions of fraud be differentiated. The two are not the same, and the convictions of very few Tax Assessor-Collectors are the exception and not the norm. Those who were actually found guilty of such fraud by a jury of their peers must be addressed individually; however we also respectfully request that all 254 Tax Assessor-Collectors not be lumped in together with a few bad actors. The larger issue facing Texas is external title fraud, which is costing the state millions, if not billions of dollars. Back in 2003 when vehicle titling was conducted under direction of TXDOT, there was a report they gave that stated title fraud was costing the state upwards of \$250 million per year. I urge members of this commission to obtain a copy of this report and review it. We can only assume that this number has grown exponentially since that report was created 15 years ago. TACA recommends that the commission adds the following issues to their findings in issue 2:

Branding of Uninsured Vehicles:

Create a mechanism for branding uninsured vehicles with title brands. This may or may not require the State to work with federal agencies to create a new brand for wrecked/flooded vehicles that do not have insurance, or it may be as simple as mandating that a salvage brand be attached to any wrecked or flooded vehicle that does not have insurance. These brands

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could serve not only as a deterrent to uninsured motorist, but also serve to protect the public from purchasing non-disclosed damaged vehicles. This would require coordination with law enforcement agencies, but would not be an impossible task to administer in the public's interest.

2.1 – When outsourcing state services to full-service deputies, require counties to follow standard contracting practices.

Texas Lacks Basic Safeguards to Identify and Address Vehicle Fraud

TACA Response: This heading is quite vague as to which level of government the Sunset Review Commission is referring to. Having said that, the County Tax Assessor-Collectors do not lack basic safeguards to identify and address vehicle fraud. To the contrary, Tax Assessor-Collectors take their responsibility very seriously and work hard to ensure that there are sufficient safeguards, including extensive training to identify and address vehicle fraud. Identification of vehicle fraud is not an issue. The largest issues deal with who to turn to and the lack of action that is taken when fraud is detected. Felony offenses such as Manipulation of a Government document fail to get any attention by law enforcement – they don't have the resources or desire to investigate, largely because these crimes tend to have low conviction rates due to their complexity. TXDMV as addressed later has no authority outside of civil fines, and these have proven to not be a significant enough of a deterrent to curtail the behavior of those committing these crimes. Tax Assessor Collectors are the only elected officials that are personally liable for monetary losses, and must face re-election every four years. TACA is adamant there is no one more interested in safeguards that benefit citizens and ensure the integrity of the Tax Assessor-Collector's Office more than the Tax Assessor-Collectors themselves.

Key Recommendations

- ***When outsourcing state services to full-service deputies, require counties to follow standard contracting practices.***

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TACA Response: Counties are already required to be in compliance with bidding standards according to State and County laws and guidelines. More importantly, an open bid is not required for services according to State and County laws, including the State Purchasing Act. Furthermore, the cost to close and open businesses is expensive and would essentially wipe out the Full-Service Title Companies in Texas and, at a minimum, reduce the quality of their work.

Contracts with full-service, limited-service (HEBs, etc.) deputies, and dealers are written and reviewed by the District Attorney or County Attorney's Office, which represents the Tax Assessor-Collector and the County. These contracts must be approved by Commissioner's Court, whose members are elected to represent the Citizens of their County. These contracts are regularly monitored and enforced by the County Tax Assessor-Collector, who has the authority to close down full-service title companies within 24 hours for non-compliance.

TxDMV already requires that a TxDMV promulgated addendum be part of every contract between Counties and full-service deputies. Contracts between County Government and the private sector companies are done all the time with no interference from the State or federal government.

The major fraud problem is with "Runners" and "Title Companies that do not have access to TxDMV's RTS". "Runners" and "Title Companies that do not have access to TxDMV's RTS" are known to charge in excess of \$400 for simple transactions and have received minimal oversight and rules from TxDMV. There are also out of state online companies conducting title registrations without any TxDMV oversight or regulation. These online companies have disguised themselves as TxDMV agents, do not have contracts, and have circumvented the Tax Assessor-Collector's ability to monitor them by using the TxDMV's online registration. The typical mode of "washing a title" is through a bogus mechanic or storage lien by these companies. Largely the transactions are originated from flooded, wrecked, uninsured vehicles, and titles from skips in ownership where the buyer never registered and titled the vehicle. This results in uncollected sales taxes, and fraudulent registrations.

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- ***Authorize the department to audit or perform a compliance review of any entity providing registration and title services and access records needed to conduct audits or fraud investigations.***

TACA Response: All Tax Assessor-Collectors and TxDMV already work to combat fraud and protect the public they serve, as this is their legal, ethical, and moral responsibility. TxDMV and County Tax Assessor-Collectors already have the right to audit or perform a compliance review of any Full-Service Title Companies with access to RTS, Limited Service Deputies, or Dealers providing registration and title services, and they both also have the right to access records needed to conduct audits or fraud investigations. As mentioned earlier, TxDMV has already required that their addendum be incorporated into every contract between Counties and full-service deputies to further ensure their ability to audit or perform a compliance review.

As mentioned earlier, many “Runners”, “Title Companies that do not have access to TxDMV’s RTS”, and out-of-state online companies do not have contracts and are not being audited or investigated for fraud, despite concerns raised by Tax Assessor-Collectors.

2.2 - Clarify the department’s authority to control access to the registration and title system.

TACA Concurs with the Commission findings in this area with the following additions:

Due to the roll-out of WebDealer statewide, TACA recommends that the Commission considers including mechanisms for Tax Assessor-Collectors to proactively be able to remove dealer access when fraud, waste, or abuse of the system is suspected or observed. Further, we recommend that the department establish protocols for reporting potential violations, and request that these violations be escalated and placed on a high priority investigation plan. We also recommend that the department create a mechanism for reporting potential fraud blocks within RTS and Web Dealer.

EXAMPLE: In September of 2017, Nueces County Tax Assessor-Collector Kevin Kieschnick discovered a loophole that allows for a dealer to issue plates and stickers without remitting funds to the County/State. 40 plates and stickers were issued by this particular dealership, which was caught by the county staff. The Tax Assessor Collector promptly removed the

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dealership's access to web dealer and confiscated the dealership's assigned inventory. In addition he reported this issue to TXDMV, and even reached out to TXDMV staff making a recommendation on how to fix the problem. Unfortunately, the response given by a TXDMV Sr. Staff member was "...this is why dealers are bonded, and this is what the bond is in place for, just call their bond." TACA does not find this answer acceptable given our personal liability and the fact that this unchecked opportunity for fraud still remains open and in place to this day in the system. We also would like to add that as of this moment, this same dealer is at the heart of a State Comptroller Criminal Investigation as we speak. We must have a clear path for identifying and correcting issues such as this, and have the department's IT staff address and correct these as a critical priority issues in order to curtail future repeats of criminal behavior.

2.3 - Implement mandatory fraud training for all persons processing state registration or title transactions.

TACA Concurrs with the following statement:

TACA would like the commission to know that fraud training is a priority for our organization, and we offer this training at numerous meetings and conferences annually. In addition, title fraud training for Tax Assessor Collectors is part of our professional certification process.

2.4 - Require the department to implement a proactive, risk-based approach to monitoring fraud.

TACA Concurrs with the commission's findings.

2.5 Authorization for the department to audit and perform compliance reviews:

TACA Concurrs with the commission's findings with the following addition:

We recommend for the 13 new positions be utilized for investigating all areas of reported fraud; not limiting their use strictly to the investigation of TAC offices. External title fraud is by in large far more extensive and costing the state millions. TACA urges the commission to emphasize and urge TXDMV to ensure its fraud detection is used broadly and appropriately.

2.6 Authorization for ABPTA recipients to use funds to combat broader range of motor vehicle crimes to include title and odometer fraud:

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TACA Strongly concurs and supports this finding.

ISSUE 3: Department's Approach to Enforcement does not Effectively Address the Biggest Risks to the Public.

3.1, 3.2, 3.3, and 3.4: TACA Concurs with the Commission's findings.

3.5 and 3.6 Prioritizing Enforcement and Tracking Enforcement data:

TACA concurs with this finding -

This area has been a source of frustration for several Tax Assessor-Collectors. The primary area of concern is those dealerships who do not issue titles in a timely manner, particularly those who sell vehicles knowingly without titles. There is a strong need for the department to be able to use its cease and desist authority when in the public's best interest. The length of time needed to get dealers with known histories of these behaviors takes far too long. As an example, Nueces County had a dealer operating as ABC Motors who sold close to 100 vehicles without titles, forcing these buyers to obtain bonded titles for their vehicles. The state lost the sales tax revenue on these vehicles, which has yet to be collected and probably never will be. The complaint had to be escalated to Sr. Management in order to have action taken by investigators against this dealership. The same issue is ongoing with Corpus Christi Subaru and Fiat. The dealer enforcement division officers tell county staff routinely that they don't have the time and are spread too thin to look into the allegations because they are too covered up with other complaints. Prioritizing complaints will go a long way to address the most critical issues to public/consumer safety. It should be added that the State Comptroller currently has its Criminal Investigation Unit working on this particular dealership. Issues ongoing include title fraud, forgeries, failure to register and title vehicles sold that exceed 5 months, falsifying government documents, and the list goes on. The dealer's principal owner also admitted to the Nueces County TAC that he was not paying tax nor was he titling and registering the vehicles sold through their "buy here pay here" program until the vehicles were paid off. Therefore, no registration, title or sales tax has ever been paid on multiple sales from these vehicles that get rotated through that program. This complaint has been brought to TXDMV's attention. While some action has been taken, they are still in business and still conducting the same bad behavior. We recommend that the dealer enforcement division be granted the tools

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it needs to give some teeth to the rules it is set to enforce, and set up a clear path for a dealer license to be revoked when in the public's best interest.

3.6, 3.7, 3.8 and 3.9:

TACA Concurs with the commission's findings, no further comment needed.

Issue 4 – Neutral

Issue 5:

The Sunset Advisory Commission Report provides several recommendations regarding the Texas Department of Motor Vehicles. One of the recommendations surrounds leveraging technology in the TxDMV as discussed in Issue 5-Texas Has a Continuing Need for the Texas Department of Motor Vehicles, but Opportunities Exist to Better Leverage State IT.

TACA Response: TACA Counties continuously pursue opportunities to save Taxpayers money by increasing efficiency and consolidating when possible, and agree that TxDMV has opportunities to better leverage State IT Investments, as long as customer service is not compromised.

5.1 Continue the Texas Department of Motor Vehicles for 12 years.

TACA concurs with the Commission's findings.

5.2 Require the department to ensure webDEALER is available to automobile dealers in all Texas counties by September 1, 2020.

TACA Response: County Tax Assessor-Collectors have the right to determine which automobile dealers have access to webDEALER in their county based on several factors, and it's important that they retain this right, which is paramount to the concept of Local Control. TACA supports that webDEALER be available to automobile dealers in all Texas counties by September 1, 2020, but which dealers have access should be decided by the County Tax Assessor-Collector based on history, volume, local control, and any other criteria established by the Tax Assessor-Collector. It should be noted that Tax Assessor/Collectors have the sole authority to determine whether or not they allow dealers to hold and issue inventory. Dealers are bonded

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to the Tax Assessor/Collector in this instance and the assessor/collector maintains the liability and responsibility of issued inventory.

There have been several examples of dealerships that use loopholes in the system to delay or evade payment of fees and taxes. One such example is when dealers issue license plates and registration without completing and submitting the title documentation or payment in the Web Dealer application to the Tax Assessor-Collector. As a result, the vehicle purchaser has license plates without valid registration; the state, local fees are not paid within the proper timeframe. There is an exposure to both the Tax Assessor-Collector and vehicle owner to inventory loss and possible fraud.

5.3 Apply the standard across-the-board requirement related to complaints.

TACA concurs with the Commission's findings.

5.4 Direct the department to develop a comprehensive approach to developing, maintaining, and updating its IT infrastructure.

TACA concurs with the Commission's findings with the following additions:

TACA Response: The TxDMV infrastructure should be developed to enhance customer service needs and ensure the County Tax Assessor-Collectors have the tools necessary to assist their constituents.

For instance, the Cognos reports are delayed nearly daily. This impacts the county tax assessor/collector offices in their daily reporting criteria. In a recent bulletin issued by TxDMV, it was stated that the Cognos Reports delays were related to the nightly batch processing of all tax office and regional office locations. It was stated that the problem was the historically heavy March and April timeframes. However, the delayed Cognos Reports have been a consistent subject since Cognos was first implemented.

When COGNOS is down, it greatly impairs the ability to access the NMVTIS error report, causing delays in the title examination process of rejecting titles or stopping the issuance of titles that have brands. Specifically, it delays the packing and sending title packages to open text for filming and NMVTIS rejections that require further review to be sent to TCS.

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Furthermore TxDMV stated that they believed an upgrade will help the process but it may not be completed until July of 2018. Meanwhile, the offices are continually affected by delays in processing which further delays their ability to complete their daily reports and serve their customers.

There are numerous days when the RTS system is disrupted during business hours and electronic systems are deployed too soon or without initial success. For instance, in April 2018, the new eTAG system was deployed. However, the deployment was not successful and it interrupted service to Web Dealer for nearly a week.

In order for TxDMV to implement fully functional technology improvements, there should be a method utilized in the RTS units to allow the counties/regions to employ technology interfaces to better serve the motoring public. For instance, the RTS units are not allowed to have any other payment portals running concurrent with the system. While we understand this is protectionary act against cyber threats, viruses and malware, to truly leverage technology, it is imperative that technology be available in multiple forms in order to serve the motoring public. When a tax office uses a credit card vendor to serve the public, there should be a way to allow the RTS units to have a secured portal to that vendor in order to promote a quick and efficient payment option for the motorist.

There are out of state online companies conducting title registrations without any oversight. These online companies have disguised themselves as TxDMV agents. When internet registrations were being handled by county Tax Assessor-Collectors, the Tax Assessor-Collectors were able to monitor and prevent the operation of these online companies. They are now largely unmonitored and unregulated, ever since the Xerox Corporation took over internet transactions.

The current E-Tag system is currently not a reliable resource. There is a misunderstanding of the problems and difficulties of the E-Tag issuance process. There is no active enforcement by local police agencies. The state does not promote active training due to lack of manpower.

An opportunity to save valuable tax dollars and improve customer service would be to allow the County Tax assessor-Collector to utilize NMVITIS.

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TACA recommends:

- The technology fee is raised to its original level to be used solely for technology enhancements.
- TxDMV work closely with County Tax Assessor-Collectors to understand both positive and negative impact of technology changes that may affect the counties
- WebDealer be upgraded to ensure that inventory cannot be issued without remitting documents and payments at the time of issuance; before any other online options are provided to the motoring public, TxDMV be required to certify that the technology used is effective and properly operating before deployment.
- In the event there are problems after deployment, we recommend that a remedy or patch be deployed within 90 days to ensure proper utilization at both the state and county levels.

5.5 Direct the department to evaluate and identify further opportunities to consolidate and modernize its customer service functions to improve efficiency and customer experience.

TACA Response: TACA supports consolidation and modernization which is appropriate and cost effective but does not support it where it negatively impacts customer service. Any consolidation by Texas agencies should not erase Local Control. Additionally, shifting revenue from local government to State Government is not acceptable, as was done by removing internet transactions from Texas Counties and transferring this process to the Xerox Corporation. This change, along with other changes reduced approximately \$7.6 million annually from Counties statewide. One example where a consolidation was not cost-effective was the two-step one-sticker program implemented by TxDMV, which created an estimated revenue loss of over \$20 million dollars to TxDMV and the State's general fund. State law requires that consolidation and modernization should not have an adverse effect on small businesses.

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