

MOTOR VEHICLE ADVISORY BOARD | MINUTES

May 30th, 2023 | 2:00 pm MST | Utah State Tax Commission 210 N 1950 W SLC UT 84134

Attendees	Others in	Craig Bickmore
Board Members in attendance:	attendance:	Jason Bickmore
Stephen Wade	Allan Shinney	Sonja Jorgensen
Kirk Schneider	Larry Ball	Randy Sugihara
Clint Martin	Cole McAfee	Darren Bideaux
Jon Weese	Morgan Ludwig	Nick Markosian
	Jason Gardner	

Agenda topics

Call to order

Public Comment (members of the public wishing to address the Motor Vehicle Advisory Board for up to three minutes)

Consider Approving Minutes of Previous Meeting

Adjourn

Discussion items:

Call to order

Public Comment

Prior meeting minute review

Montana LLCs

Title Issues

Disclosure

Attorney for MVED

Sunset Review for Advisory Board

Temporary Permits

Person responsible Title:

Stephen Wade Chair

Stephen Wade Chair

Open forum None

Minute Details:

1. Meeting called to order
2. Public comment
3. Minutes from October 24, 2022 approved with unanimous vote.
4. Adjourn

- Pledge of Allegiance

- Introductions
- Clint Martin – Making motion to approve minutes from last board meeting.
- Kirk Schneider – Approved minutes.

Public Comment:

- No public comment.
- Allan Shinney – I’m extremely grateful for everyone that attended today. I think it’s important to recognize Sonja Jorgensen, she is representing the used dealers. They reorganized and we’ve been attending their meetings. I will say for the 24 years I’ve been with MVED this is by far the most support I’ve seen on the used car side. There seems like a unified voice and they’re willing to participate in fair and equitable way to resolve industry issues. I’m excited to welcome her. She will be representing what used to be occupied by Wayne and Adam Jones.
- Sonja Jorgensen – Thank you Allan. Allan came to our first annual convention.
- Stephen Wade – I think we always want to be supportive of you on the new car side as well. It’s all about representing the public. Where is the crossover with “used” and “independent”?
- Sonja Jorgensen – Independent and used are the same. They just mean that we are not franchised.

Montana LLCs:

- Allan Shinney – We just got done with the dealer tour. I am happy to report that, in my opinion, I did validate some of the research that was done by Cox Automotive that our economy here in Utah is doing really well. There’s a lot of things that we’re working on. Regulators to protect the motor vehicles that are coming into our state. We’re going to be working on a lot of Montana LLC issues with our state and what we believe to be a crime. We’re going to be seeking out those things this year, aggressively. We’re doing some meetings coming up here with Montana. They’ve done some law changes and we’re going to draft off of their coattails an enforcement plan for the State of Utah. I know I’ll be having more information in the coming week, but we intend to start doing random enforcement. We’ve already got 4 cases right now that we’re working on.
- Stephen Wade – Do you deal with all tax issues with them buying?
- Allan Shinney – Yes.
- Kirk Schneider – With them forming an LLC in Montana and licensing their cars?
- Allan Shinney – Correct. Fifty plus at one address that doesn’t exist and all kinds of violations. We pull them up on Google Maps and there’s no location there, they use strip malls. Most dealers have been cooperating and giving us the information. The Tax Commission’s philosophy is we’re not going to impose on the dealers to not make a sale, but we would ask that you not help them come up with a plan to avoid that. We have spoken to dealers in the past about directing clients to webpages that do that. It’s unethical and our attorney’s interpretation is that it’s illegal. That would be the path of our investigation involving a dealer. We will be going in to pull records.
- Stephen Wade – Seems to me that if that’s being done that there would be a pattern and it wouldn’t be isolated.

- Darren Bideaux – Where dealers are promoting it?
- Allan Shinney – Not as much now because we've sent out bulletins in the last two years. Obviously in your line of work, RV sales, it's quite popular. But to say that they're advertising it now, I don't believe that. I haven't seen anything for a while, but it's definitely happened before.
- Kirk Schneider – The State of Montana is just allowing them to use bogus addresses to form the LLCs? They don't check that out?
- Allan Shinney – They are. They're working with us right now. I met with the lieutenant colonel at a conference in Arizona and he says they're working on it. They're talking about some law changes that would prohibit that, but I don't know. It'll change the dynamic of it I think.
- Stephen Wade – In our case when we have someone that says they have a Montana LLC we do a deep dive because we've been charged back for that over the years. Years ago I remember them coming back and they charged us to pay the tax. We want to see the address, we want to check it out and do everything to cover ourselves.
- Kirk Schneider – What kind of enforcement action would you take?
- Allan Shinney – It's a 100% penalty on the sales tax side and that's what we're trying to establish.
- Kirk Schneider – Are you going to send out a letter of amnesty to come forward and pay your tax?
- Allan Shinney – We could present that to the commissioners to see if they would support that, but in all fairness it's always been in the law. We will let the dealers know what our plan is.
- Stephen Wade – Let the dealers help you.
- Allan Shinney – We wouldn't have made it this far without the support of the industry. Cox Automotive said that Utah is pretty much recession proof with our sales. Our sales were down, but it seems like they've rebounded. I check our permit sales and permit sales are staying steady. We're still in pretty good inflated sales ratios where we're way ahead of what our sale ratios were before the pandemic started. We didn't expect that. New dealers are starting to get more inventory back. In my opinion, there's a big gap between a new vehicle and a used vehicle. Those prices are coming back up on the used side. I was just down at a dealership having my truck serviced at a dealership yesterday, it's a 2022. The same exact truck, less equipped, is about \$19,000.00 more. That's a big difference. They said it was done by the manufacturer and I believe it. I looked at MSRPs across the board and that's what they are. There's still a lot of growth. According to our office, Utah is the fastest growing state in the nation. We really have to protect our interests in our state. I think the governor is doing an outstanding job on dealing with economic issues as well as advertising our state as a great place to thrive. We have great workforce here. I'm bringing it up because it does affect the industry and I'm proud to announce that to you. Moving forward things are looking good, but I also think we need to do a better job representing. The goal should be repeat customers for dealerships. Is it really all about making that one sale, get them out the door, and say we got those guys good? It really should be about the repeat sale, building a name, and helping the industry whether it's the new or used side. I guarantee there is not one person in this room that hasn't had customer's come in bad mouthing your counter parts. A lot of that is not true by the way, but some of it is. I hope as a board we can have discussions on those things. What I anticipate now with the involvement of the used car side is better representation.

Title Issues:

- Allan Shinney – There’s definitely a lot of title issues too. You have to be very careful with the cars that you are acquiring, especially on the used car side. Knowing full well what you’re buying because what you see is not always what you get. We are working on some title issues with Kentucky. We still have Ohio issues. Florida has an ironclad system. A lot of states are buying parts only cars/not suitable for registration to wash them and they are ending up in our state. In monumental amounts. Where it comes to affect the used car side, even on the new car side, just because there is a title and registration here in Utah – if you sell it to an out of state customer online, it doesn’t mean that state is going to issue a title. We have a couple cases right now where they were total loss vehicles, not suitable for registration, weren’t supposed to be back on the road but they were cleaned and came to Utah. Even though there was a Utah registration and title, Idaho decided it wasn’t road worthy. The dealer had to take the vehicle back. So just because you have a Utah title and registration that doesn’t mean it’s going to transfer out of state lines. Just be aware of those things. Some of those things could be subject to legislative interpretation and they could get a law change, but right now that’s the way things are. If it comes in on a title whether it’s clean or branded that’s how we issue a title here. Utah is not a state where if a vehicle comes in with a salvage certificate or loss we’re going to clean that vehicle. It is going to stay in the state that it was in when it comes here.
- Kirk Schneider – So you don’t look at the title history? If it comes in with a clean title because somebody cleaned it in Kentucky, you’re not looking before that like Idaho did?
- Larry Ball – Montana is doing the same thing now. They’re looking back at the history and they’ll see Florida says it’s a junk vehicle/parts only, went to Kentucky & got clean, sold in Utah to a Montana LLC but Montana won’t register it and now the dealer wants a Utah title for it and they’re not going to get it.
- Kirk Schneider – But you’re saying that you have issued Utah titles on these, so should we be looking back?
- Allan Shinney – Yes, I believe you should.
- Larry Ball – Especially if you see something from Kentucky.
- Randy Sugihara – What services do the other states and you guys use for that?
- Allan Shinney – NMVTIS is one. I can send the links to Sonja and Craig so they can disperse them to their members. It’s free access. I got authorization to disperse it. It’s different than Carfax. I’m not saying it’s better than Carfax, but it’s different than Carfax. It is live DMV data accurately entered into the system.
- Larry Ball – It will list state by state and if it’s been branded. It’ll have a little notation on there to say if a vehicle is not suitable for registration.
- Kirk Schneider – Are you seeing those cars coming through the auctions?
- Allan Shinney – Yes. We look at NMVTIS as a reference. We don’t make a recommendation off of what NMVTIS says. We go by the paper. So if it comes in on a title, we issue a title. Let’s say it came in through another state and they have a process where they can clean it, like Illinois, we would title it in Utah accordingly. We wouldn’t clean it – whatever status it comes in on that’s the status we issue. If there’s a NMVTIS alert we can open an investigation to look into if there was fraud. We can only make a

recommendation to the DMV based on if we find fraud. That's hard to do, but we're really watching it closely. There is some. I have made recommendations on ones I believe to be fraud and we were unsuccessful.

- Randy Sugihara – What's the timeframe where you guys recognize this? I remember years ago when we were dealing with this on a Colorado vehicle. They knew they had a 30 day window to get them here and get them sold then they would be out of the picture.
- Allan Shinney – That is the million dollar question. That is something our attorney, Jason Gardner, works with us daily on. There's just variables that are out of our control. Insurance auctions are half the problem, they will hold the information until that car has been sold out of state then they put an NMVTIS alert in.
- Larry Ball – Kentucky changed their method of operation, it used to be that they would give you a clean title, but they realized if they do a branded title no one will be searching as much.
- Nick Markosian – What can we tell our members to do to watch out for these?
- Allan Shinney – Run a Carfax. I'm not endorsing any product, if you know a better way like AutoCheck is another one. I would do everything in your power to protect the asset you're acquiring or trying to sell. Knowing full well that governments make mistakes and there are things that lag that are out of their control. Mainly the insurance industry, the insurance auctions are a nightmare. The auctions are culpable to a point, they make announcements, but even then the titles are not in their name. We are seeing a very common thing in Nevada and other states if it goes from dealer to dealer they want a title in a dealer's name that is going to their auction. I think you're going to start seeing a lot more of that. Do not panic if that happens to you, we will issue you a title. If you get a call back from the auction saying that you sold a car and they can't complete it on the out of state all you have to do it call myself, Larry, or Cole and we will issue you a title based on how you acquired it and that you had the paperwork anyway. That's on the rise, I think Arizona is doing that too now.
- Clint Martin – It sounds like we're close to the point where we may need to start telling the dealers to get a title basically on every vehicle they purchase.
- Allan Shinney – That would be, if you want to say the word, best practice. That's probably not bad. I would ask that you work with us so we can find out a better way because right now that would be a huge increase of volume. I'm not going to say that other dealers haven't done that. Tim Dahle had to buy back three cars and they were very upset about that so we have titled every vehicle in their name at every location. If you want to do that we would probably have to do that at our level or figure out a different path. It's possible, but I would have to get some resources available to do that.
- Clint Martin – So, basically modify in their request to see what state they're coming from, based on that, then get a title on every vehicle. For example like Kentucky which you've mentioned a few times.
- Kirk Schneider – It works to sell the car in Utah, but if you sell it out of state it could come back to you.
- Allan Shinney – Yeah, even if you have a Utah title that is not going to make a difference in Idaho or in Nevada. They have a different level of NMVTIS interpretation. They will go back indefinitely in time and we look for transactions. They will go back and look at an alert from 10 years ago if it was a total loss they'll issue a rebuilt/restored title or if it was a destruction of property title they won't issue a title.

- Kirk Schneider – If something was totaled 8 years ago, it's totaled today. It didn't get better.
- Allan Shinney – There is processes. Five years ago you could have cleaned a title in Utah by an inspection process. We don't do that anymore. We try to be consistent and this wasn't what the intent was.
- Sonja Jorgensen – You can't do that anymore? Where you can follow the process of it being restored and get a clean title.
- Allan Shinney – No. Why we are talking about this is why we decided not to do it.
- Nick Markosian – Are you still doing two miles unknown? You can document that it's working properly and bring it to a police officer. If you buy a car and the mileage was questionable you could have a police officer come inspect the car so they can give you a clean bill of health so you can get actual miles.
- Allan Shinney – There is a way if it's a Utah record, but if it's out of state you will have to go to that state to fix it. Those are difficult, I'm not going to deny that.
- Kirk Schneider – If the auction transposes a couple numbers so it's not off by very much.
- Allan Shinney – That's a clerical error. We can usually overcome those. The longer the time period makes it more difficult. If it's something like that, the sooner we find out about it the better.
- Sonja Jorgensen – I saw that most recent news story where somebody sold a car that was supposed to be 88,000 miles, but it was really 128,000 miles and the woman has been trying to get her money back, that came from out of state. It was exempt so the dealer didn't know.
- Allan Shinney – We would always take a complaint on that. We track it out of state and once it's out of state if there's no fraud on the dealer's part or the seller's part we refer them to the Motor Vehicle Division in that geographical area. When you say exempt you have to be aware of federal law. Federal law changed about three years ago so it's 20 years now.
- Cole McAfee – For 2011 (models) and newer its 20 years. Anything previous is still 10 years.
- Allan Shinney – If there is a discrepancy in our Utah law vs what a DMV technician will do as far as odometer requirements doesn't mean that if a federal agent comes in to evaluate you for financing violations or whatever you'll still be expected to have an odometer disclosure even if you checked it exempt. Just keep that in mind, that's in federal code.
- Jon Weese – Where the fraudulent intent of this comes into play more than some of these other things, is there nothing we can do as a state to push back to the origin? Whether that be through the auction. I know we as dealers, it comes back to us whether we have legal leverage or not. If the guest is unsatisfied due to this fraudulent activity it's on our shoulders to make it right. It would seem to me that it should go back to the origin as far back as we can take it, so that may be to the auction.
- Allan Shinney – I promise you that we are doing everything we can to do that. We had a mass quantity of vehicles coming in from so many different areas so quickly. That data doesn't always come to us live or where we can see it until a new title has been generated. It's very difficult. The auctions put their hands up and say they're facilitators, they aren't doing it, and that they don't have liability. Well they do because they're a dealer in the State of Utah. There is no auction license.

- Jon Weese – I guess that’s where I’m pointing to is more on the auction side. They are the facilitator and they’re dealing with these on a much more regular basis than a dealer is. If anyone should research or to allow certain products through the auction it would be the auction themselves. I don’t have a solution, it just sounds like it could become a bigger problem.
- Allan Shinney – I think it will become a bigger problem, but honestly I’m more confident that we can deal with this through the associations now than we’ve ever been able to deal with it before. We only know about the things that we find out about. We have to know what you guys are encountering so we can bring things up for discussion through our commissioners, our attorneys, and other means if we have to. I don’t communicate with the DMV the best I could, but it goes both ways. They don’t understand the legal ramifications of what a criminal episode is and what moving paper is. Every state has this same problem. It’s not a DMV clerical issue to solve these problems, it’s our investigation that has to happen for us to make a recommendation to the DMV. It’s not always about you guys taking a car back and ruining your reputations.
- Jason Gardner – I think the tension between MVED and strict DMV processes is the cost benefit analysis. The resources that are dedicated to doing the clerical aspect of it to a certain degree will have to give to some of the due diligence aspects of it. Checking for historical titles. It’s the same situation for the dealers, they’re just trying to weigh their cost benefit analysis between making the sale and the amount of time and effort that’s being put in to making that sale. I think that’s the tension all around. What’s the right amount of due diligence to make the customer happy, reduce liability, and make the transfer.
- Allan Shinney – With the Tax Commission reorganization in July we have constant meetings with the DMV over these very issues. We’re looking for the perfect type cases to change some things, but we haven’t really had them. I’m not saying that there isn’t cases there, just haven’t had the perfect one to say see we got to stop this. Once that happens I think we’ll be golden.
- Randy Sugihara – It seems like you’ve dealt with this every year, and it seems like they’re getting smarter and more states are jumping on board because it’s a revenue stream for them. They don’t care that they cause us the problems they do?
- Allan Shinney – They don’t care.
- Randy Sugihara – Is there any way to hold the auction responsible since they’re the one representing that vehicle at the time of sale? Because it usually ends up in the dealers lap.
- Allan Shinney – If it’s criminal and there’s a fraudulent intent there is always a way. I might not be able to prosecute them in Utah but we can do it through NHTSA or the Dept. of Justice. They want volume. I’m not going to get a one car dealer doing that, I’m going to need like 20. If they’re doing it once they’re going to do it again. We watch those all the time.
- Nick Markosian – Are all of these vehicles coming through the auction or are they multiple sources?
- Larry Ball – Multiple sources.
- Allan Shinney – Curbing, auction, dealer to dealer. It’s the whole business.
- Randy Sugihara – On our end what we can do for you is make sure we document and get you in touch with them every time we

- Allan Shinney – New dealers take the cars in on trade and don't want to do anything about it because they don't want to affect their sale, but they punt it to another used car dealer to sell online. The quicker we find out about those things, the faster we can do something.
- Randy Sugihara – Do you see them coming off of salvage lots? Utah's becoming a huge salvage state.
- Allan Shinney – We have huge salvage dealers in our state now so the problem is not going away. They're selling a ton of cars, we're talking maybe 100+ a month.
- Nick Markosian – There is nothing wrong with that as long as they are disclosing it. They do a really good job with transparency. If the car is being misrepresented in some way that's when it gets ugly.
- Allan Shinney – They're required to do a disclosure form, but that doesn't say if it's had significant exposure, if the airbags have been repaired, etc. There's all of these other things that go into it and if they knew then it's a crime.
- Nick Markosian – It seems like they have been in business a long time and if it were a problem they wouldn't be in business anymore or am I being naïve?
- Allan Shinney – You're probably being a little naïve. We try to do everything we can. A lot of the time a used car dealer don't want to make a complaint against another competitor. If we had those complaints then we would have more teeth, more validity to talk about.
- Sonja Jorgensen – I think those can come through me. That's one thing I remember with Wayne he said to send them to him and he would be the bad guy & report them to MVED.
- Stephen Wade – Don't misunderstand my statement, but as a franchised dealer I think we're held at a standard. I know Bradshaw, years ago, somebody came back to speak badly of their Ford store and he lost his franchise. What is his franchise worth? It's more than a slap on the hand. So any new car dealer in their right mind has got to be very careful. We're instructed not to buy a car like that or even have it on the lot.
- Sonja Jorgensen – I think now it's easy to wash your hands of it.
- Allan Shinney – I think right now, what we would ask of everyone is to pay attention to the dealer to dealer transactions where a dealer is not paying you. If certain things change overnight and they can't pay you. One car turns into five cars and ten cars – that's ten victims out there too. My philosophy is, we are going to help those customers get titles to their cars. Don't let cars float to other dealers. If they aren't paying you, file a complaint.
- Stephen Wade – This points out again the value of what you do for all of us. And how important the role is that you play from the motor vehicle standpoint.
- Craig Bickmore – How many claims on bonds have there been? Do you see an uptick in that?
- Larry Ball – Its gone way up.
- Nick Markosian – What do you think the cause of that is?
- Larry Ball – We don't know. Everyone thinks that dealers have big pockets so they ask for the bond info to sue them. It's over everything – mechanical issues that we don't deal with. They want the bond to see what they can get. They aren't going to get them, but they're still requesting them.
- Craig Bickmore- Is it dealer to dealer calling for the bond or is the customer calling the bond?

- Larry Ball – It's mostly customers.
- Craig Bickmore – What is it dealer to dealer on bonds? Is there any of those?
- Larry Ball – I don't think we've seen any dealer to dealer. It's all customers. We used to not see any for a really long time, but now we're averaging about 2 or 3 a week.
- Sonja Jorgensen – I've seen an uptick in civil suits too.

Disclosure:

- Cole McAfee – Another issue is Allan got an email from a local financial institution with a copy of a contract of sale where they have all sorts of crazy fees in there. Property assessment fee, processing fee, inspection fee for \$178.00, dealer admin fee of \$1,000.00. It doesn't say doc fee in here.
- Randy Sugihara – Is that on a Utah contract?
- Cole McAfee – Yeah.
- Allan Shinney – We as an industry cannot allow that to happen. Craig has been fighting the doc fee battle for 20 years that will help his cause go away fast.
- Nick Markosian – What did you do when they sent you that?
- Allan Shinney – Gave them a ticket. They can't charge \$190.00 for a safety inspection because it's a state mandated fee - it's a flat rate. If you have customers coming into you and telling you that you might want to call these guys and file a complaint. We found this out from America First.
- Kirk Schneider – Did the customer buy the car?
- Allan Shinney – Yeah.
- Kirk Schneider – There is some culpability on the buyer.
- Allan Shinney – Someone goes into the FNI office and got sold a bunch of products they didn't know they were buying. We hear that all the time.
- Kirk Schneider – Yeah, but they get a copy of the contract.
- Randy Sugihara – We have that new document that got put into legislation as well. It's just a shorter version of the purchase contract.
- Larry Ball – Most of the problem is these people saying that it is a state mandated fee.
- Kirk Schneider – That deal is a huge problem, I'm not trying to minimize that. That can't happen.
- Craig Bickmore – Can we pass out a copy of this form to the room?
- Larry Ball – Is the form finalized?
- Jason Gardner – It's working its way towards finalizing. I'm sending it for one final review. One thing I'm not understanding is why we're subtracting optional charges from the negotiated sale price on line 3.
- Craig Bickmore – What we don't want to do is confuse a customer. It's about disclosure and about transparency... We moved up optional charges so that it was after the negotiated sale price. We went through how a car deal actually works and they said we have to have the total sale price and that we need to talk about trade-in value. Even though it's not in statute the way it is here... We'll have a couple documents that are about the same, it's just another layer of disclosure... From a practical standpoint we thought about how to make this more transparent. We wanted to bring this to this group, our industry experts, to see how the form flows. Hopefully we have the statute covered. Sonja brought up the thought process that we put the salesperson's name on that. It's concerning on that one because several hands touch the deal.

- Sonja Jorgensen – I was just asking who signs it so it can be enforced. If someone brings this form to me and tells me to enforce this I'm going to ask the dealer who signed it and they might not know or the person no longer works there.
- Craig Bickmore – Would it be the desk manager? Would it be an FNI manager? Would it be the sales manager? Would it be the salesperson? My only concern would be that the salesperson may not be the person who signs it. There is a place on here for the dealer representative's signature. I don't know who that would be. This isn't our form, it's a state form. We're just trying to look at it from a practical standpoint.
- Jason Gardner – It appears from the way this form is structured that negotiated sales price is including the optional charges, so it's assuming that they're accepting those charges. It has line 1 minus line 2.
- Larry Ball – Shouldn't that say plus line 2?
- Craig Bickmore – We looked through this and could've gotten some things wrong. Our intent was to completely separate the negotiated sale price with the optional.
- Jason Gardner – The way I read the statute is negotiated sales price is distinguished from the optional charges. So negotiated sales price needs to be something not including optional charges. The only way for this to work if you want to use this format would be line 2 added to line 1 then you could say total sale price with a little parenthetical there that says with optional charges.
- Craig Bickmore – I think line 3 describes that.
- Jason Gardner – It says minus on line 3.
- Craig Bickmore – We just made a typo there.
- Randy Sugihara – As far as dealers go this is way more complicated than a line item dealer contract. This is going to confuse more people than anything.
- Craig Bickmore – There's no chance of them rescinding this form because they're looking for the kind of excuse like Allan & Cole said. The reason we went through this, even though we don't like it, we're grateful to have it. Think about how many cars you sell a year and multiply that by your doc fee. What is that worth to you? How would you like to lose that?
- Randy Sugihara – They put on the table you lose the doc fee or do the statement?
- Larry Ball – No, this was negotiated into the form by Craig.
- Kirk Schneider – It comes up a lot. I know you guys don't see this, but compared to what the FTC is trying to bring down this is like eating cake.
- Nick Markosian – Can we cut and paste the motor vehicle contract since it's the same thing?
- Craig Bickmore – Because it has to be by statute.
- Larry Ball – Jason, can this replace the motor vehicle contract of sale?
- Jason Gardner – No, this shouldn't touch the motor vehicle contract of sale.
- Sonja Jorgensen – It doesn't have the finance disclosure.
- Nick Markosian – You've obviously done way more than I have. It's just frustrating because it's so redundant.
- Sonja Jorgensen – I'm looking at this from a dealer standpoint, I don't understand how 1a-1h are different than 2a-2d. What are the dealers putting as what's included in the negotiated sales price and optional?
- Craig Bickmore – Some of this is going to have to be education. Here's the root of the problem, you go into a car deal and into the FNI office and you ask what all the added stuff is on the car because you weren't told about that. Etch, undercoat, tint, etc. That

was the genesis of the bill. The negotiated sales price is advertised with hard things on the vehicle that are non-negotiable. Like if you don't pay for etch then you can't have the car. So whenever you negotiate the price it includes etch, gap, etc. – if it's listed on there then that is the negotiated price, but you can sell whatever you want after. Service contracts or whatever. That is why we want to differentiate between the negotiated sale price and the options. So the customer doesn't have to come in and say that's not what they agreed to.

- Sonja Jorgensen – I don't see how the negotiated sales price is going to include any of those things though. I can sell a car for 18 grand, but it's not going to include etch, doc, any of those things. Those are going to be down below somewhere.
- Craig Bickmore – The negotiated sale price does include etch and all of those hard adds.
- Sonja Jorgensen – On the motor vehicle contract it's going to say the sale price was 18 grand, for example because that's what they negotiated with me, but on this it's going to be 18 grand plus the etch, undercoating, or whatever I included.
- Craig Bickmore – The negotiated sale price includes etch, gap, whatever you negotiate with them.
- Sonja Jorgensen – That's what I'm saying the 18 thousand I negotiated is going to be the top line on the contract, but it's not going to be the top line on this because that 18 grand includes all these other things.
- Jason Gardner – The way I understood these two. These lines underneath negotiated sales price is not in statute that was something that was asked to add. But the distinction between them that I see is one the customer can say I still want to purchase the vehicle, but I don't want that option. The deal can still stay alive without them electing into the things under optional charges, but the deal dies if they don't want the things in the includes portion of the negotiated sales price. That's the distinction that I see.
- Sonja Jorgensen – I understand that, but my point is on the motor vehicle contract that first line is going to be different than this first line. Because this first line includes those things.
- Kirk Schneider – Shouldn't they be the same? The first line on the buyer order should be 18 thousand which includes etch, etc. And if you buy any accessories. I think the second part is confusing, but if the car is 10 thousand and etch is 5 hundred and you get up to 12 thousand dollars that should be your first line.
- Randy Sugihara – I think what she's saying though is on the motor vehicle contract you have the 18 thousand then we come down to the line items and have to have them printed out there. This is going to print them all on line 1.
- Kirk Schneider – Why would you list them all out on the contract of sale when you have this document?
- Randy Sugihara – Because we have to. On the motor vehicle contract the options are down at the very tail end. You're going to have two different prices on your first line for both contracts which is going to really confuse people.
- Sonja Jorgensen – So what you're saying is this negotiated sales price includes things that will not be on a line item on the motor vehicle contract. So then it would be the same number line 1 of this and line 1 of the motor vehicle contract, but those things don't need to be itemized?
- Craig Bickmore – I'll give you an example. It happens on the used car side and new car side, they get in there and say here is my vehicle at 18 thousand and there was things

that were already included on the vehicle. The constituent said they didn't want that and they said it was part of the car you take it or leave it. They didn't want to pay extra for this or that. What they don't want to happen is that someone gets a price then they go into the FNI office and find out that those things are not optional, they are a part of it. It's just trying to work around how to hit the legs and not make it confusing. I'm in a meeting with 15 dealers in there and we talked about this and talked about the legislation. Saturday afternoon I get a call from an attorney. He goes Craig I'm in a new car store, can you tell me in statute where this \$200.00 etch fee is? I started laughing and said no. This dealer was in the meeting the day before. Those are the kinds of things we are trying to avoid. The intent of the legislator is, is that when you negotiate a price you can't come back and say you don't want etch or that other thing because you didn't tell me.

- Jon Weese – Would it be easier to keep the contracts as they are and just have a document listing the optional? Rather than having to go through the whole trail of how we got to a price? If we negotiated the 18 thousand dollars to not have etch, I would rather them sign a document saying that etch is optional. Rather than having my sales guy explaining etch when he isn't the salesman of etch, it's my FNI guy. So wouldn't it be easier to list optional items and have that disclosed to them and signed than it would be getting back to the negotiated price? I don't even like the term negotiated price. I get what we're trying to do. What you're saying happened can happen with anything. If this protected us with our doc fee and if it protected us forever, but who's to say that it isn't going to be the next thing to be leveraged against our doc fee?
- Kirk Schneider – As long as the things you have on the car are actually optional. The problem is a lot of people are putting etch, gps, or whatever they put on the car it is not optional. They are preloading it and the customer has to buy it so as long as you're willing to say yeah you don't have to take that I'll just eat it.
- Jon Weese – For instance, we preload etch because we don't want to be out there etching our glass in delivery, but that costs you about \$3.00. But if you're putting like clear bra or undercoat obviously that should be disclosed upfront. It's just going to get really complicated digging into the contract and disclosing all that. You're basically doing the job of the finance business manager disclosing that before it even gets in the office.
- Randy Sugihara – I agree with Jon 100% on that. I would not let a salesperson from my dealership go through this document with a customer. That's the finance manager's job- he's been trained to do it & he knows the documents. I think this could be made much simpler by just doing optional charges. I think this is going to confuse the consumers big time.
- Kirk Schneider – The problem is though what the representative wants is that it's got to be disclosed before he hits the FNI office. That's the whole point of it, so you don't get in there and have a bunch of fees added on.
- Allan Shinney – Something interesting Cox Automotive Group talked about on our trip. Let's say you buy the car online. They said the majority of customers that can see the itemized list will select more of those options because they're seeing the price instead of being deceived. If you let them have the option of choosing they might have a budget in mind and will select some of them instead of being tricked into them.
- Sonja Jorgensen – My understanding to why this came about was say the negotiated price was 18 thousand, but then all of the sudden it becomes 22 because there's etch etc. That's not included in the negotiated sales price. The problem is it wasn't in the

negotiated sales price. They go to FNI and realize they have all these extra charges. I don't think including it as part of that negotiated sales price is going to help because they're going to negotiate 18 grand on a 20 thousand dollar car (they talked me down to 18) then they're going to come in here and see this form that includes everything except for the bottom things and say no I agreed to 18 thousand.

- Craig Bickmore – To answer your question Jon, I'm in agreement with everybody here. We have to conform to what the statute says. That's what we've been trying to do with this form for the last 45 days. How do we be transparent? How do we disclose so people aren't confused? We've had to start all over. We don't have an answer. Jason, do you have any comments on that?
- Sonja Jorgensen – I liked the last version. I didn't know there was still problems with it.
- Jason Gardner – We have to have negotiated sales price, however, the statute doesn't require a breakdown of what is included in the negotiated sales price. That was something that was added later based on industry comments. It was meant to clarify, but it seems to be causing more confusion than clarifying. The other idea of what it was intended to do was if a buyer gets the form that says negotiated sale price then goes to a dealer down the street they are going to know what apples for apples is on this vehicle. They're going to be able to say yeah well they negotiated it at 18 thousand, but it included these various things. Whereas if they take it that might not be as apparent with just a negotiated sale price without the itemization of what that includes. That may or may not happen, maybe it's a non-issue, and maybe we can just strike it entirely. As far as everything else on the form, optional charges being itemized is statutory. That has to be on the form. The trade-in vehicle value has to be on the form, that's required by the statute. As well as the list of taxes and fees and dealer financing. So pretty much everything else on the form has to be there including the signature line.
- Jon Weese – The itemized options are installed. Pre-installed.
- Jason Gardner – If it's an optional charge, it has to be included there. What optional means is something the person can opt out of and not pay for. Anything they cannot opt out of and still purchase the vehicle at that negotiated price is not an optional charge. Optional charges would be if they wanted to buy an extended car warranty. If it's built into the vehicle already & integral that's not optional anymore, that's part of the negotiated sale price.
- Kirk Schneider – I think service contracts do not fall on this deal because that's something that's sold in the FNI office. It would not be listed on this form. This would be if I wanted floor mats and a ski rack.
- Randy Sugihara – So where does the service contract go?
- Kirk Schneider – That's after this form is signed. You can still sell service contracts, you don't need to sell that up front.
- Jason Gardner – I don't think the optional charges have to be comprehensive. I think that's just basically if you wanted to highlight to the person there is these things that could or could not be affixed to the deal, you have a choice of having them or not having them & the negotiated sales price still remains the negotiated sales price.
- Nick Markosian – Are there other states that have forms similar to this that we could research?
- Craig Bickmore – California. If you guys have suggestions we are all for that.
- Randy Sugihara – I'm with making this as easy as possible. I'm not going to have a salesperson out there selling a warranty. There is going to be a discrepancy from line 2

- & 1 to the bottom line here then they get into the FNI office and it's going to be totally different, we've already had them sign this and my motor vehicle contract then they come back two months later and say that we gave them two different contracts.
- Craig Bickmore – You're exactly right. So actually, this can be done. The intent with the legislator was to have this done before FNI. The legislation says it has to be done prior to the sale being finalized.
 - Sonja Jorgensen – The bottom line has to be on here so with what you're saying, Randy, you have to have warranty and everything because this is the bottom line they are going to see in financing. That is what line eight says.
 - Allan Shinney – I talked to a county attorney's office in northern Utah about this. The way the sales go down – a customer comes in, signs the contract, then go into the FNI and they don't want to sign this. You have a problem on your hands because the law says if they sign the purchase agreement it's not about the delivery of the car, they own the car. If they don't want to sign this it's a violation. A violation of the new statute.
 - Craig Bickmore – For all intents and purposes this is going to be in the FNI office side by side. The FNI person is going to tell them that this is a state disclosure, here are all the things to make you understand this, all the things included in the negotiated price, all the options, all the taxes and fees so let's go ahead and finish the contract of sale. This will be a double protection.
 - Kirk Schneider – If we say to the customer this car includes etch, GPS, and it's \$1,000.00. Just so you know the car is \$18,000.00, but it's \$19,000.00 so when you go to the FNI office they can sell you service contracts and other things. But if we're disclosing it all in the FNI office it's totally redundant.
 - Allan Shinney – I think we could probably do a conference call to talk about this because it's going to go on forever. We have consumers that walk in to a dealership, go to a salesperson and say they want an out the door price right now. I do that all the time, if I go into an FNI office and they're trying to jack up the price I'm going to say no I want that price I was given out the door. They need to be trained properly with what the law says, what the contract law says, and what the fee is. It's a progressive fine, up to \$5,000.00 per incident.
 - Larry Ball – The original bill had the first penalty at \$10,000.00.
 - Allan Shinney – I think we could arrange a virtual meeting to go over these items because we could talk about this forever. We have a deadline of July 1st.
 - Craig Bickmore – Jon, back to your comment. We could add lines under the negotiated sale price so the people can understand what is in there. Jason Gardner is right, they don't have to be in there, but as the group got together from our side we thought we better include what those items are. We're not married to anything except what the statute says.
 - Stephen Wade – Craig, thank you for all that. We are going to table this for right now. I personally think if we can simplify this in any way possible that would be good.

Attorney for MVED:

- Allan Shinney – Myself and Larry Ball had an appointment last week with the Attorney General's office and I'm very confident we are going to acquire an attorney. It was a battle, I'm not going to lie. We went in prepared. They had every intention of not giving

us our attorney and I told them why we need an attorney. The concession is that we are not going to get a fulltime attorney, but we are going to bury them with work. We are going to show them that we need a fulltime attorney and we're going to need help from the new and used industry. It really comes down to, as an industry, we need to decide what the best course of action for the industry is. How it's regulated, how it's enforced, and what needs to be done. There's some things I've been bringing up with my boss and the commissioners about like why we have salesman licenses. I'm not saying we get rid of salesperson licenses, but why are we doing the background checks on sales licenses when you're the one assuming the responsibility of who you're employing. We have never charged a salesperson, we charge the owners. What can we do to bring honest discussion and prevent this type of stuff? To protect the citizens and to protect the dealers. We have a lot of agencies involved in your businesses, we have commerce, the AG's office, MVED, and DMV. The Tax Commission has streamlined a lot of those things. I'm over the DMV now for dealer stuff. Since July 1st I have seen the best progress forward on the DMV side for dealer stuff. We have some stuff coming up that we need to talk about like temporary permits. Our temporary permits are 50 years old, we need a new course of action that takes into account dealer track systems that you guys have to communicate that and alleviate temporary permit audits. Those are the type of things the board needs to be discussing.

- Randy Sugihara – Why didn't they give you guys a fulltime attorney?
- Allan Shinney – Because they said we don't have the work, but I guarantee you that we have the work. We have more cases coming in than what they projected to us.
- Larry Ball – They said their attorneys can handle 100 per year and we've already filed 168 in ten months.
- Allan Shinney – Right now our case count is projected to go over 11,000 this year. Not all of them are bad, some of those are good. When I took over we were at 4,000 - 5,000. We've gotten better and things are going to improve, but it really comes down to the disconnect part I've been talking about. Are these issues civil, are they criminal, and what is the best thing for us to do. Some of our codes were written in 1950, it is 2023, and we have to modernize. Some of our cases get rejected. We would like to spend more time having discussions with Sonja, having discussions with Craig, presenting things to your boards, and asking what we need to do.
- Larry Ball – Its renewal time. We're on par with where we were last year, but we could be doing way better. The new car dealers are lagging way behind.
- Allan Shinney – Renewing is so easy. What can I do to make it easier? I don't know what I can do to make it easier. I told my boss this – if you guys are not renewing it is not a State of Utah problem. We've eliminated all of the problems out of renewals.

Sunset Review for Advisory Board:

- Clint Martin – Mr. Chairman, one more item that we could discuss quickly. As I'm sure everyone is aware the legislator body is talking about disbanding this board. Is that something we want to talk about for a few minutes?
- Stephen Wade – I think we will table that for right now.

- Allan Shinney – I don't know if we have time. I don't know when that is coming up. We had a meeting and it got shelved.
- Jason Gardner – It's on the agenda for the transportation interim committee on the 14th of June.
- Allan Shinney – We're neutral on it. I'm a believer of the board, but there have been parameter changes like the governor's office asking us to evaluate boards. The fight is really in your hands. What you guys decide to do and what is the best use of our department for the industry. If the industry believes that the board needs to continue I think that argument needs to go to Craig & Sonja so they can come up with a course of action. Is that right Jason?
- Jason Gardner – You did. The big takeaway here, regardless of what happens with the board itself. I think we need to make it clear as the Tax Commission we are open to input from the industry whether you had a collaborative effort among various industry leaders and yourselves and presented us with recommendations or even if you came to us piecemeal. We're always open and receptive. That's really the role of the board as it is, is to have an opportunity for people to get together and make recommendations. I don't know that that would end. At least maybe not in a formal setting. Any recommendation will be accepted.
- Stephen Wade – Jason, are you saying that we should make a recommendation as to what we think before the 14th? And if so, who do we make that recommendation to?
- Jason Gardner – You would make the recommendations to your own industry reps so it would be Craig and Sonja. They can appear at that transportation interim committee and make their recommendations to the committee members whether the board should be sunsetted or not. If it remains to exist, we will continue to participate. If it doesn't remain to exist, we will continue to work with the industry. I want to make that clear, we will continue to work with you regardless.
- Clint Martin – Mr. Chairman, my perception would be that there would not be a formal meeting or a formal board so it would be less likely. When I was observing a tourism board they didn't have good responses and that's why they tabled it. I don't know if our representatives will be prepared with good responses. They wanted to know how often we're meeting, who's attending, who's being represented, what the cost is. I knew the answer for many of those, but not all of those. If we want this board to continue I think we should be prepared by June 14th and make sure that someone is in charge of being there.
- Stephen Wade – I hear you, and I think it has merit to what you're saying. What I'm hearing from Allan's group and Jason is basically it is left up to Craig and Sonja to determine where their teams are.
- Randy Sugihara – The Independent Dealer Association will put a letter together.
- Stephen Wade – If I'm correct, we all have opinions about that. I've always been in favor of the board, but we can be looked at as buttering our own bread. I think the things we provide here help the consumers and help us help the consumers. We've had such excellent help. If we don't have that, then sometimes we don't even know what we need to do to help the consumers. I'm in favor of keeping this board, but I don't know if that's how it's looked at. Maybe us looking out for us. So I think we need to be proactive here. I've had discussions with Craig and we plan to show up and be there in strength with our concerns and our opinions. And I hope that you would do the same. If we are on the same team we can collaborate to say both sides have gotten together

and believe this to be in our best interest of what should take place for the community. We all share this one opinion, possibly. I will leave that up to you two to decide.

- Craig Bickmore – We actually have a board meeting next week with our board.

Temporary Permits:

- Allan Shinney – The only other thing, we brought this up before. The temporary permit amount we charge in the State of Utah is by far the lowest in the region. Now what I want to tell you is, I am advocating that we look into raising the cost of temporary permits. It's self-serving, I'm not going to deny that. It funds our department and we are losing officers to higher paying jobs. We can't compete, even with the highway patrol. Their entry level starting July 1st is \$33.00/per hour. You're talking for a trooper in the police academy. I have investigators that have been here some time that are only making \$23.00/per hour.
- Randy Sugihara – How much is the increase?
- Allan Shinney – I don't know. We're throwing some numbers around and working with UPA right now because they're saying we're below 30% of the market. They're going to make us, so what I've done is cut from 25 officers down to 16 now. In Larry's opinion, we've cut as low as we can go because our case count has gone up. I will tell you this, I have guys that work and I have guys that don't do jack. It drives me crazy because I do more work than they do. We are carrying the mantel, because I'm accountable to you guys, I'm accountable to the citizens, and I'm accountable to my boss. We are bringing guys up and they are getting better, but we are losing the guys that have potential to higher paying jobs and it's not right.
- Stephen Wade – You only get money from selling permits?
- Allan Shinney – Yes, that's where we get our money. We have been responsible, we have over 5 million dollars in savings because we have been fiscally responsible. We didn't go out at the end of the year and buy tons of new equipment. So we have money to fund these things, but we have to get legislative approval to touch that money. It's basically a rainy day fund is what I'm telling you.
- Larry Ball – The last time we talked about this we were going to raise them to \$20.00.
- Allan Shinney – I don't know what that number really is. What is the number right now?
- Morgan Ludwig - \$12.16.
- Nick Markosian – Who decides?
- Allan Shinney – It would have to be a legislative change. We have a range and we're at the top of the range & have been for a long time. We're still responsible with that money, we don't waste it. I think I can get better production out of non-sworn guys. Cops have a pattern, they like to do the same thing. I want educated guys, I want guys with bachelor's degrees that can go in and treat you like a respectful person until it's time for them to do their job. There's a difference between a person doing a heinous act and a criminal offense that's a white collar crime. Those are hard for us to hire the right guys. We had a 50% turnover and it wasn't because they liked my smiling face. We have the right guys now.
- Kirk Schneider – How many permits do you issue a year?
- Allan Shinney – It's a lot.

- Craig Bickmore – Maybe there is just a range so we move the range. The proposal as I see would be what you just said. They'll look at the fiscal annual goal, see you have X amount of money, now you want to move the range, that's a hard sell for 5 million saved in a year. It used to be that we had to go to the legislator every year. So we just need to move the range, but this is what the financial analyst will look at.
- Allan Shinney – We've save that money over a 7 year period, not just one year.
- Sonja Jorgensen – How do you get that money released?
- Allan Shinney – We have to do an appropriation request to do that. It is designed for pay. Let's say temporary permit sells drop by 50%, we can still fund our division. That's what it's for. It's really a question for our budget analyst how that gets done. What I'm trying to tell you is UPA is going to force us. Larry & I have different philosophies, I still think I could tap into my law enforcement resources and have non-sworn because the guys don't want to do law enforcement issues. I don't need to pay a cop for what a meter maid's do. I can hire more policemen, but what am I going to do with them? I believe we are a regulatory agency that does criminal investigations. My number one priority is renewal of the licenses so you guys can conduct business. It really comes down to what is the best thing for us to be doing? We know fraud is coming in and I know an attorney is going to help me. We're going to put the attorney over the screening committee and they're going to be the ones that decide how we process the case instead of an investigator, or sergeant, or even a lieutenant. That's going to help, but we're still required to do registration enforcement. We're not really doing registration enforcement. We're legislatively responsible for certain items and we're doing them, but we could be doing better. Our main focus has been the industry.
- Randy Sugihara – I hope the Independent Dealers Association would support you guys 100%. If you need extra tools, I think everyone in here understands that temporary permit fees are past due anyway. That helps everybody and that helps the consumer number 1.
- Stephen Wade – Let's take this back to our individual groups and have a discussion.
- Allan Shinney – We have been funding raises through vacancies savings. Larry is going to retire this year. Larry served this department for 35 years. I'm losing a huge amount of knowledge. So I'll hire somebody new and get Cole promoted. There will be savings, but the way it works is Cole will be making more than Larry when he gets promoted or close to it. That doesn't always make it right, but I'll have savings on the backside when I hire a new person. That's how we've funded this department for the 7 years I've been here. Our guys are getting paid more now than ever before.

Meeting adjourned.