

ARIZONA STATE SENATE

RESEARCH STAFF

TO: SENATE TRANSPORTATION & TECHNOLOGY
COMMITTEE OF REFERENCE AND HOUSE
TRANSPORTATION & INFRASTRUCTURE
COMMITTEE OF REFERENCE



KIYAHNA J. ARAZA

LEGISLATIVE RESEARCH ANALYST
TRANSPORTATION & TECHNOLOGY COMMITTEE
Telephone: (602) 926 -3171

DATE: January 19, 2024

SUBJECT: Sunset Review of the Arizona Department of Transportation

Attached is the final report of the sunset review of the Arizona Department of Transportation (ADOT), which was conducted by the Arizona Office of the Auditor General (Report No. [23-105](#), [23-106](#) and [23-110](#)).

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona

The Honorable Katie Hobbs

President of the Senate

Senator Warren Petersen

Speaker of the House of Representatives

Representative Ben Toma

Senate Members

Senator David C. Farnsworth, Co-Chair

Senator Frank Carroll

Senator Rosanna Gabaldón

Senator Theresa Hatathlie

Senator Jake Hoffman

Senator Anthony Kern

Senator Christine Marsh

Representative David L. Cook, Co-Chair

Representative Neal Carter

Representative Patricia Contreras

Representative John Gillette

Representative Consuelo Hernandez

Representative Teresa Martinez

Representative Steve Montenegro

Representative Keith Seaman

Representative Leezah Elsa Sun

Representative Myron Tsosie

Representative Justin Wilmeth

CC: Arizona Department of Transportation
Office of the Auditor General
Arizona State Library, Archives and Public Records

Senate Resource Center

Senate Republican Staff

Senate Democratic Staff

Senate Research Staff

Office of the Chief Clerk

House Republican Staff

House Democratic Staff

House Research Staff

**Senate Transportation and Technology Committee
of Reference and House Transportation and Infrastructure Committee of
Reference Final Report**

Arizona Department of Transportation

Background

Pursuant to [A.R.S. § 41-2953](#), the Joint Legislative Audit Committee assigned the sunset review of the Arizona Department of Transportation (ADOT) to the Senate Transportation and Technology Committee of Reference and the House Transportation and Infrastructure Committee of Reference.

Established in 1974, ADOT was created to replace the Arizona Highway Department and to provide for an integrated and balanced state transportation system. ADOT has exclusive control and jurisdiction over state highways, state routes, state-owned airports and all state-owned transportation systems or modes. The duties of ADOT include: 1) registering motor vehicles and aircraft, licensing drivers, collecting revenues, enforcing motor vehicle and aviation statutes; 2) conducting state transportation planning through cooperating and coordinating transportation planning with local governments; 3) maintaining and operating state highways, state-owned airports and state public transportation systems; 4) depositing revenues from transportation-related fees and taxes into the Arizona Highway User Revenue Fund (HURF) and distributing the HURF revenues to counties, cities, towns and the State Highway Fund according to statutorily prescribed formulas; and 5) operating a state motor vehicle fleet for all motor vehicles that are owned, leased or rented by Arizona (A.R.S. §§ [28-331](#), [28-332](#), [28-472](#) and [28-6533](#)).

The Director of ADOT (Director) is appointed by the Governor. The duties of the Director include: 1) being responsible for the day-to-day administration of ADOT; 2) exercising complete and exclusive operational control and jurisdiction over the use of Arizona highways and routes; 3) assisting various municipalities in the development of their regional and local transportation plans; and 4) adopting rules, as necessary, regarding the collection of taxes and license fees, public safety and convenience and the use of state highways and routes to prevent the abuse and unauthorized use of state highways and routes (A.R.S. §§ [28-331](#), [28-361](#), [28-363](#) and [28-366](#)).

In order for ADOT and the Director to carry out statutorily prescribed duties, ADOT has the following six Divisions: 1) Motor Vehicle; 2) Transportation Planning; 3) Highways; 4) Aeronautics; 5) Public Transit; and 6) Administrative Services. The Motor Vehicle Division (MVD) is responsible for carrying out some of ADOT's statutory responsibilities and contracts with authorized third parties' contracts to perform certain functions for ADOT. These functions include: 1) title and registration; 2) motor carrier licensing and tax reporting; 3) dealer licensing; and 4) specified driver licensing. In order for an authorized third-party personnel to provide driver licenses, the personnel must perform driver license skills and written testing and driver license processing. The personnel must also be an authorized third-party driver license training provider in order to perform driver license training. Further, a person must be a separately authorized third-party commercial driver license examiner in order to perform commercial driver license skills testing (A.R.S. §§ [28-332](#), [28-5101.01](#), [28-5101.02](#) and [28-5101.03](#)).

ADOT is set to terminate on July 1, 2024, unless legislation is enacted for its continuation ([A.R.S. § 41-3024.25](#)).

Committee of Reference Sunset Review Activity

Pursuant to [A.R.S. § 41-2954](#), the Senate Transportation and Technology Committee of Reference and House Transportation and Infrastructure Committee of Reference met on Thursday, January 4, 2024, to review the performance audits and sunset review report prepared by the Auditor General, consider ADOT's responses to the statutorily-outlined sunset factors and receive public testimony.

Committee of Reference Recommendations

The Senate Transportation and Technology Committee of Reference and House Transportation and Infrastructure Committee of Reference recommended that ADOT be continued for four to six years until July 1, 2028, to July 1, 2030.

Appendices

1. Meeting notice
2. Committee minutes
3. Committee materials
4. Chair's letter requesting ADOT's response to agency factors
5. ADOT's response to sunset factors

Interim agendas can be obtained via the Internet at <http://www.azleg.gov/Interim-Committees>

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

SENATE TRANSPORTATION AND TECHNOLOGY COMMITTEE OF REFERENCE AND HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF THE ARIZONA DEPARTMENT OF TRANSPORTATION

Date: Thursday, January 4, 2024

Time: 8:00 A.M.

Place: SHR 1

Members of the public may access a livestream of the meeting here:

<https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2024011000>

AGENDA

1. Call to Order
2. Roll Call
3. Opening Remarks
4. Sunset Review of the Arizona Department of Transportation
 - Presentation by the Arizona Office of the Auditor General
 - Response by the Arizona Department of Transportation
 - Public Testimony
 - Discussion and Recommendations
5. Adjournment

Members:

Senator David C. Farnsworth, Co-Chair

Senator Frank Carroll

→ Senator Rosanna Gabaldón

Senator Sally Ann Gonzales

Senator Theresa Hatathlie

Senator Jake Hoffman

Senator Anthony Kern

→ ~~Senator Christine Marsh~~

Representative David L. Cook, Co-Chair

Representative Neal Carter

Representative Patricia Contreras

Representative John Gillette

Representative Consuelo Hernandez

Representative Teresa Martinez

Representative Steve Montenegro

Representative Keith Seaman

Representative Leezah Elsa Sun

Representative Myron Tsosie

Representative Justin Wilmeth

42/44/2023

01/04/2024

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For questions regarding this agenda, please contact Senate Research Department.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602) 926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA STATE LEGISLATURE

SENATE TRANSPORTATION AND TECHNOLOGY COMMITTEE OF REFERENCE AND HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE OF REFERENCE FOR THE SUNSET REVIEW OF THE ARIZONA DEPARTMENT OF TRANSPORTATION

Minutes of the Meeting
January 4, 2024
8:00 A.M., SHR1

Members of the public may access a livestream of the meeting here:

<https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2024011000>

Members Present:

Senator David C. Farnsworth, Co-Chair
Senator Frank Carroll
Senator Rosanna Gabaldon
Senator Sally Ann Gonzales
Senator Theresa Hatathlie
Senator Anthony Kern

Representative David L. Cook, Co-Chair
Representative Neil Carter
Representative Patricia Contreras
Representative Consuelo Hernandez
Representative Teresa Martinez
Representative Steve Montenegro
Representative Keith Seaman
Representative Leezah Elsa Sun
Representative Justin Wilmeth

Members Excused

Senator Jake Hoffman

Representative John Gillette
Representative Myron Tsosie

Staff:

Kiyahna J. Araza, Senate Transportation, Technology and Missing Children Research Analyst
Cherie Stone, Senate Policy Advisor
Jeremy Bassham, House Transportation and Infrastructure Research Analyst
Samantha Klakulak, House Democratic Policy Advisor
Austin Correa, House Policy Advisor

Co-Chair Farnsworth called the meeting to order at 8:06 a.m. and attendance was taken.

OPENING REMARKS

Senator Farnsworth and Representative Cook offered opening comments.

SUNSET REVIEW OF THE ARIZONA DEPARTMENT OF TRANSPORTATION

Presentation by the Arizona Office of the Auditor General

Monette Kiepke, Office of the Auditor General, gave a brief overview of the sunset process, distributed and explained a PowerPoint presentation entitled "Arizona Department of Transportation, Performance Audits and Sunset Review" (Attachment A) and answered questions posed by the Committee.

Lindsey Perry, Auditor General, answered questions posed by the Committee.

Ms. Kiepke and Ms. Perry answered additional questions posed by the Committee.

Miguel Caro Mateus, Office of the Auditor General, continued with the PowerPoint presentation (Attachment A) and answered questions posed by the Committee.

Ms. Perry answered additional questions posed by the Committee.

Mr. Mateus and Ms. Perry answered additional questions posed by the Committee.

Ms. Kiepke answered additional questions posed by the Committee.

Public Testimony

Barry Aarons, Motor Vehicle Providers Association, offered comments, distributed and explained a letter from the Motor Vehicle Providers Association of Arizona addressed to Director Jennifer Toth (Attachment B). Mr. Aarons answered questions posed by the Committee.

Kim Grady, representing self, offered comments on the Apache Trail SR 88, Arizona Department of Transportation (ADOT) issues and answered questions posed by the Committee.

Rhonda Mattachione, representing self, offered comments on the Apache Trail Loop and ADOT issues.

Jack Mattachione, representing self, discussed the funding of the Apache Trail Loop, ADOT issues and answered questions posed by the Committee.

Response by the Arizona Department of Transportation

Jennifer Toth, Director, Arizona Department of Transportation, distributed and explained a PowerPoint presentation entitled "Arizona Department of Transportation, Sunset Audit Review Hearing" (Attachment C).

Eric Jorgensen, Director, Motor Vehicle Division, Arizona Department of Transportation, continued with the PowerPoint presentation (Attachment C).

Senator Farnsworth offered comments and suggested a 4-year recommendation for the continuation of the Department of Transportation.

Jennifer Toth, Director, Arizona Department of Transportation, addressed the questions concerning SR 88 and answered questions posed by the Committee.

Mr. Jorgensen and Ms. Toth answered additional questions posed by the Committee.

Greg Byres, State Engineer, Arizona Department of Transportation, answered questions posed by the Committee.

Mr. Jorgensen and Ms. Toth answered additional questions posed by the Committee.

Mr. Byres answered additional questions posed by the Committee.

Mr. Jorgensen and Ms. Toth answered additional questions posed by the Committee.

Discussion and Recommendations

The Committee discussed the recommendation for the continuation of the Arizona Department of Transportation.

Senator Farnsworth moved that the Senate Transportation and Technology Committee of Reference and House Transportation and Infrastructure Committee of Reference recommends that the Arizona Department of Transportation be continued for four to six years, from July 1, 2028 to 2030. The motion CARRIED by voice vote.

Attached are forms noting the individuals who submitted a Speaker slip on the agenda items (Attachment D).

There being no further business, the meeting was adjourned at 1:21 p.m.

Respectfully submitted,

Tracey Gardner
Committee Secretary

(Audio recordings and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room 115. Audio archives are available at <http://www.azleg.gov>)



Arizona Department of Transportation **Performance Audits and Sunset Review**

Presenters: Monette Kiepke and Miguel Caro Mateus

Date: January 4, 2024



Arizona Department of Transportation

- Established in 1974
- 9 divisions, including Motor Vehicle Division (MVD)
- Jennifer Toth serves as director
- Auditor General conducted Department's 2015 sunset review

Presentation overview



- Background information
- Problems identified
- Why the problems matter
- What led to the problems
- Key recommendations



Motor Vehicle Division's (MVD) Oversight of Third Parties

August 2023

MVD responsible for driver and vehicle services



- Issuing title certificates, vehicle registrations, driver licenses, and identification cards, including Travel IDs
- Conducting skills tests for driver license applicants, including for commercial driver licenses (CDLs)
- Authorized to contract with third parties to provide some services

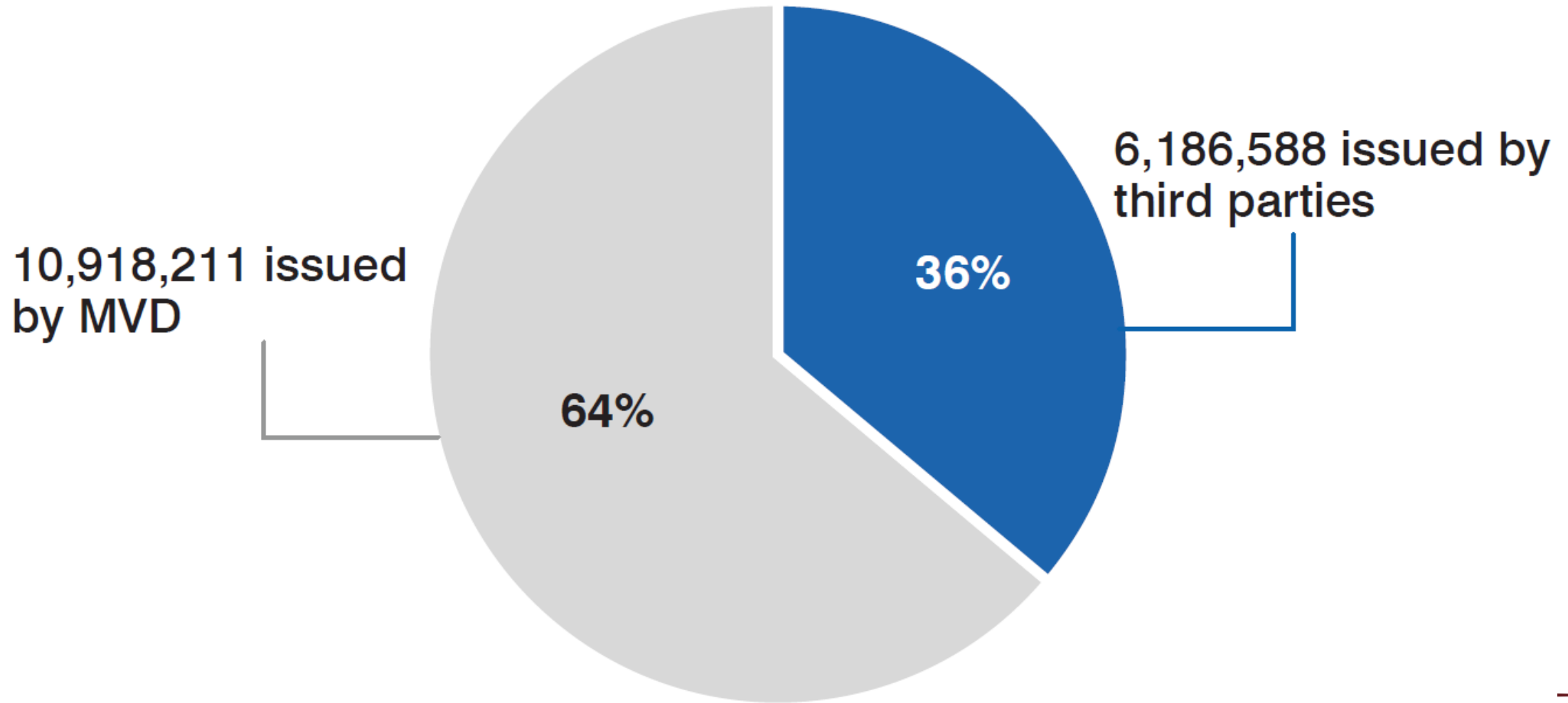
MVD's oversight of third parties



Responsible for overseeing contracted third parties that:

- Issue titles, registrations, driver licenses, and ID cards
- Conduct CDL skills tests

36% of documents were issued by third parties in FY2022



Problem identified



MVD failed to ensure third parties consistently issued vehicle titles, driver licenses and identification cards only to qualified and/or authorized individuals and entities

Third parties lacked documentation for some vehicle titles, driver licenses, and ID cards

- Third parties are required to follow all federal and State laws, retain documentation, and conduct self-reviews to identify and correct errors
- 25 of 130 transactions lacked documentation demonstrating individuals/entities who obtained vehicle titles, driver licenses, or ID cards were qualified/authorized to receive them

Third party transactions contained high-risk errors



22 transactions contained high-risk errors:

- 10 individuals/entities received vehicle titles without documentation proving lawful transfer of vehicle ownership
- 8 individuals received driver licenses without documentation proving they were qualified to safely operate a vehicle
- 4 individuals received driver licenses or ID card without sufficient identity or residency documentation

What led to these problems



- MVD quality assurance process requires third parties to review and provide results of self-reviewed transactions
- Some third parties :
 - Did not self-review transactions for accuracy
 - Inaccurately reported that transactions were error free
 - Identified but did not timely correct errors

What led to these problems



MVD did not:

- Routinely monitor whether third parties completed self-reviews and corrected errors.
- Hold third parties to same standards as its employees
- Take enforcement action against third parties that failed to complete self-reviews and correct errors

Why this matters



- Unqualified drivers who receive driver licenses pose safety risks on public roadways
- Unauthorized and/or fraudulent vehicle title transfers increase the risk of financial hardship for victims
- Fraudulently obtained identification documents, including the Travel ID, may facilitate criminal activity, including fraud, identity theft, and terrorism

Key recommendations



- Implement policies and procedures to ensure third parties issue vehicle titles, driver licenses, and ID cards only to qualified and/or authorized individuals/entities
- Train MVD staff who support the third-party quality assurance process and all third parties to ensure adherence to established oversight policies, procedures, and guidance

Key recommendations

Conduct initial analysis of transactions dating back to February 2022 to assess third-party compliance with quality standards and the quality assurance process, and:

- Identify the lowest performing third parties, review their transactions, and work with them to resolve errors
- Work with its Assistant Attorney General to take appropriate enforcement action against noncompliant third parties
- Continue to complete monthly analysis until process revisions made

MVD's oversight of CDL examination providers and examiners



- MVD licenses commercial motor vehicle drivers
- Contracts with third party providers and certifies their examiners to test CDL applicants
 - Federally required to inspect CDL providers and their examiners at least once every 2 years
 - Contracted with 53 providers (such as public school districts) and certified 152 examiners as of December 2022

Problems identified



- MVD did not inspect within the required 2-year time frame or extension period:
 - 19% of on-site provider inspections 33 to 356 days overdue
 - 56% of overt examiner inspections 63 to 640 days overdue
- MVD did not conduct any unannounced provider inspections or covert examiner inspections

What led to these problems



- MVD reported that lack of inspection staff and work location contributed to untimely inspections but did not make changes to address issue
- MVD reported system limitations contributed to untimely inspections and it lacked processes for tracking and monitoring inspections
- MVD's inspection procedures are inconsistent with federal regulations

When MVD did conduct inspections, it failed to hold some providers/examiners accountable

For some provider/examiner inspections, MVD:

- Did not receive provider response for 26 of 37 inspections to demonstrate how violations would be addressed/prevented
- Did not require 7 of 8 examiners to retake the training as recommended, conducting over 700 skills tests thereafter

MVD has not established a comprehensive process to administer enforcement actions that address identified violations

Why this matters



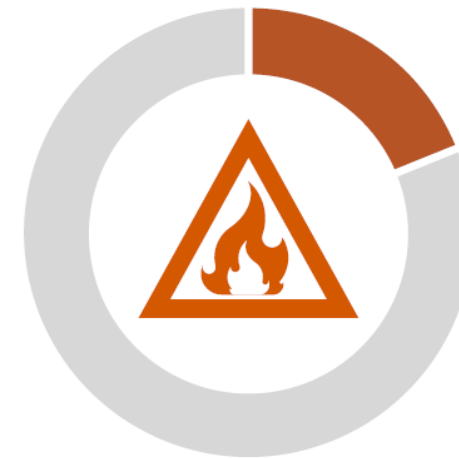
8%

of 5.2 million nonfatal
crashes in the U.S.
involved large trucks and
buses.



13%

of 35,700 fatal crashes in
the U.S. involved a large
truck or bus.



19%

of 2,958 truck crashes
resulted in cargo being
released, such as
flammable liquids, gases,
or corrosives.

Why this matters



Failure to timely inspect and hold CDL providers and examiners accountable for violations could:

- Allow unqualified or potentially unsafe individuals to receive a CDL
- Jeopardize driver, passenger, and pedestrian safety

Key recommendations



- Assess the impact of its current number of inspectors on its inspection timeliness and take actions to ensure timely inspections are conducted
- Inspect CDL providers and examiners at least once every 2 years using all inspection methods as required by federal regulations, including covert inspections
- Ensure CDL inspection violations are corrected and enforcement action is consistent and appropriate



Arizona Department of Transportation

Sunset Review Report
September 2023

Arizona Department of Transportation key statutory responsibilities



- Conducting State transportation planning, including developing the 5-year Transportation Facilities Construction Program
- Designing, constructing, and maintaining the State highway system
- Operating the State's motor vehicle fleet

Department has developed processes and/or taken steps to meet several responsibilities

- Operating State vehicle fleet, including recovering costs through various fees
- Sustained improvements related to MVD field office wait times
- Developed processes for designing and constructing State transportation facilities
- Identifying highway maintenance goals

Problem identified



Department did not address instances of fraudulent patterns related to its MVD IT system and did not conduct required investigations of potential security incidents

Department identified and did not report or investigate fraudulent activity



- Department identified fraudulent pattern, including unauthorized access to MVD customer accounts, in 2019
- Did not report incident to authorities until 2022
- Did not conduct required investigations to determine whether IT system breach occurred

Department did not identify all potentially fraudulent activity



- Department identified more than \$382,000 in fraudulent activity and 177 customer accounts potentially impacted
- We identified 83 additional customer accounts with similar fraudulent pattern

What led to these problems



Department did not:

- Follow its policies for tracking and reporting suspected security incidents
- Establish procedures for reporting fraud
- Implement a risk management process
- Conduct a comprehensive review of fraudulent activity

Why this matters



Failure to conduct required investigations and take timely action, may have resulted in:

- Unaware customers unable to mitigate potential identity threats
- \$198,358 of unrecovered public monies
- Department hampering authorities from fulfilling their responsibilities to address risks, potential fraud, and suspected security system breach

Key recommendations



- Comply with State laws for reporting, investigating, and notifying customers of security incidents
- Review account data from 2019 through 2022 to identify any potentially fraudulent patterns and security incidents and conduct related investigations
- Establish a documented process to effectively manage MVD fraud risk

Department identified issues with transportation project cost estimates

- Department develops initial transportation project cost estimates
- Department identified issues with its initial project cost estimates in October 2020
- Initial transportation project cost estimates did not always include inflation, causing some transportation project actual costs to be higher than estimated

Bids for projects were not within 5% of Department's cost estimates



- Department established a target that bids for project construction be within 5% of original cost estimates
- Our review of 18 transportation projects found that 16 of 18 awarded construction bids were not within 5% of the Department's cost estimates:
 - 8 awarded contract bid amounts were more than 5% over initial cost estimate
 - 8 awarded contract bid amounts were more than 5% under initial cost estimate

Department had not addressed issues with cost estimates



- Contract bid awards for the 18 projects totaled \$182 million, which exceeded initial cost estimates by \$8 million
- Department reported it was developing a new tool to standardize cost estimates and make them more accurate but did not provide documentation related to these efforts

Key recommendations



- Continue to develop and implement a cost-estimation tool to standardize transportation project cost estimates, including accounting for inflation
- Once implemented, analyze whether cost estimates are more accurate and make any necessary changes to its cost-estimation tool

Additional areas and recommendations

- Implement staff training to help ensure purchasing card and travel policy compliance
- Comply with open meeting laws and develop and implement open meeting law policies and procedures
- Implement its conflict-of-interest policy

Department carries out legislatively-appropriated transportation projects

- Department reported that it initiates transportation projects when the Legislature appropriates monies to it for specific purposes
- Between the 2019 and 2022 legislative sessions, legislation included 77 appropriations to the Department for specific purposes

Department has not developed a process for obtaining necessary project information

- Department reported that some transportation projects' scopes lack details necessary to initiate projects
- Department reported that appropriated monies were not always consistent with project costs
- Department had not developed a comprehensive process to proactively obtain project information

Department is not required to report all legislative projects' status



- Annual capital outlay appropriation bills have required the Department to provide quarterly status reports to JLBC on legislative appropriations for specific transportation purposes
- However, these laws only require reporting for some of the legislative projects

Providing additional information could help improve transparency



Providing the Legislature with additional information could help improve transparency for and communication with the Legislature related to projects and appropriations, including:

- Project budgets
- Project status
- Estimated completion dates

Key recommendations



- Implement stakeholder education process for Legislature-directed transportation projects to help ensure it receives sufficient project scope information and funding
- Expand reporting to the Legislature to periodically provide information about all legislative projects



Arizona Department of Transportation **Performance Audits and Sunset Review**

Presenters: Monette Kiepke and Miguel Caro Mateus

Date: January 4, 2024



Arizona Department of Transportation

Sunset Audit Review Hearing

Jennifer Toth

Director

Arizona Department of Transportation

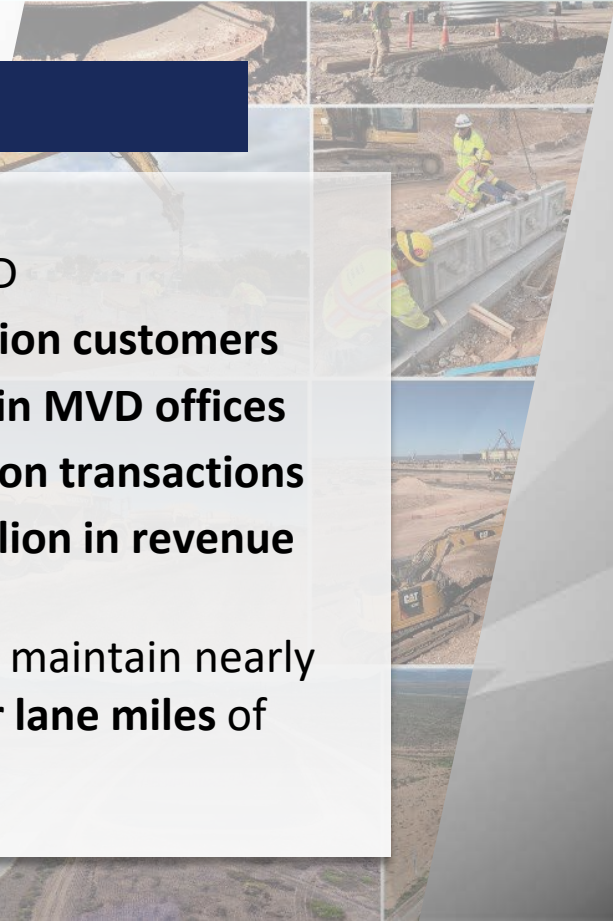
ADOT by the Numbers



FY 2023 MVD

- **2.8 million customers served in MVD offices**
- **14 million transactions**
- **\$1.8 billion in revenue**

ADOT teams maintain nearly **7,000 center lane miles** of roads.



Overview of Auditor General Reports

- Sunset Review Report 23-110: Arizona Department of Transportation
- Performance Audit 23-105: Motor Vehicle Division oversight of Authorized Third Parties
- Performance Audit 23-106: Motor Vehicle Division oversight of Commercial Driver License examination providers

Progress on Auditor General Recommendations

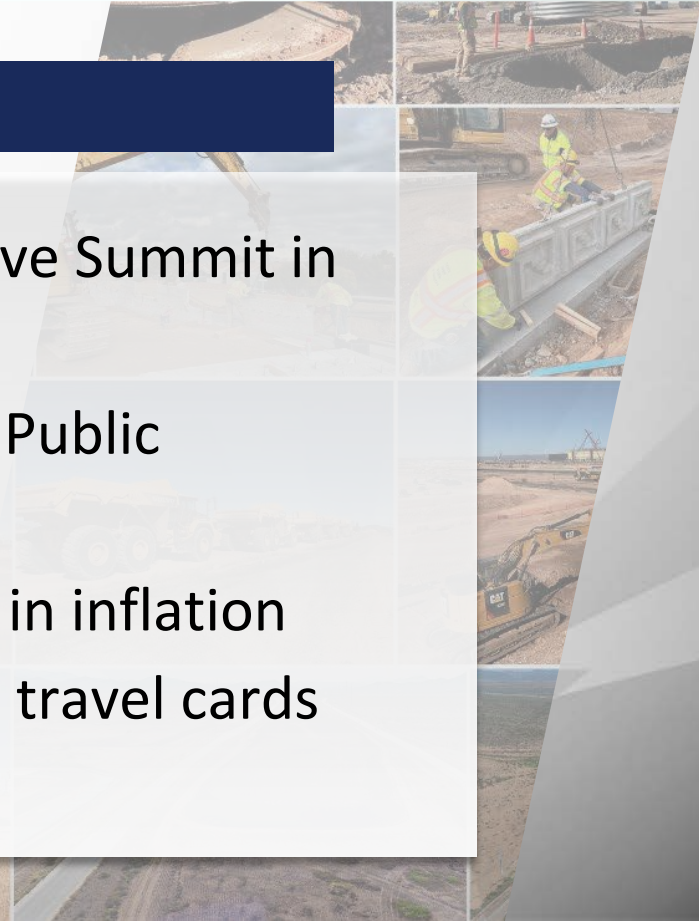
49 total recommendations

- 43 items are 90-100% complete
- 6 items are 50-75% complete



Progress on Auditor General Recommendations

- Legislative outreach, including Legislative Summit in November
- Stakeholder education, including Local Public Agencies
- Cost Estimation Tool updated to factor in inflation
- Employee training — purchasing cards, travel cards and conflict of interest training



Creating a Fraud Task Force

Fraud Task Force was developed specifically to

- Implement policy related to timely reporting of fraud, internally and externally.
- Assist with employee training.
- Inform risk assessments and controls to prevent fraud.



Creating a Fraud Task Force

Where we are right now

- **Security Incident Response** training delivered to IT, MVD, OIG and Finance (FMS).
- **New policy and procedures** implemented within agency.
- **Criminal investigators** embedded with MVD, IT and FMS to enhance notifications, collaboration and to expedite response.



Sunset Review Report 23-110

Findings and Factors — Fraud, Security, Access, Services

Response:

- OIG review of all 260 cases.
- Formalized a Risk Management Plan.
- Enhanced MVD IT disaster recovery and contingency plans.
- TeleMVD is being rolled out in rural and underserved locations.
- Authorized third-party complaint tracking in place.

Performance Audit 23-105: MVD Oversight of ATPs

Finding — Improve Oversight of Authorized Third-Parties (ATP)

Response:

- MVD has rolled out an improved Quality Assurance (QA) review for all ATPs, including a regular check of ATP self-review.
- Contracts are being updated during this renewal cycle to formalize the new QA requirements, including formalization of enforcement actions.
- Internal Audit is engaged to review ATPs both retrospectively and prospectively in addition to the QA program.

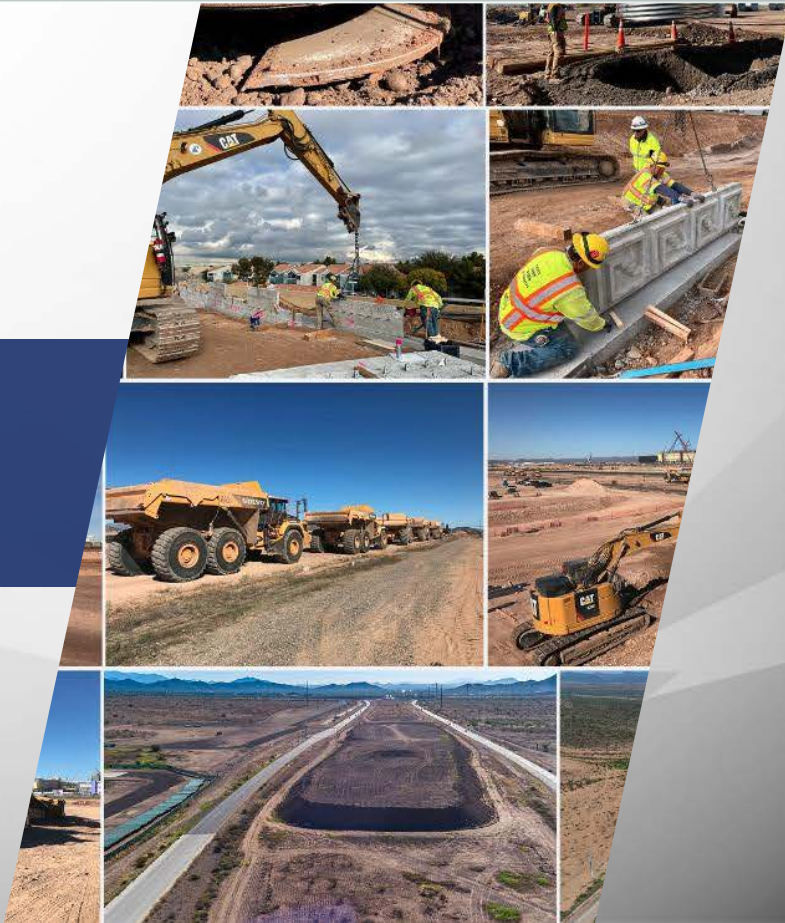
Performance Audit 23-106: MVD Oversight of CDL Examiners

Finding — Improve Oversight of CDL Examiners

Response:

- All authorized third-party providers and all but 3 third-party examiners have been reviewed.
- MVD examiners were trained and utilized to assist in inspections.
- A covert inspection protocol (in addition to the existing overt inspection) has been established and reviewed by FMCSA.
- MVD has leveraged national CSTIMS system to more effectively plan and track inspections.

Questions?





Arizona State Legislature

1700 West Washington

Phoenix, Arizona 85007

June 29, 2023

Director Jennifer Toth
Arizona Department of Transportation
1655 W. Jackson Street, MD 111F
Phoenix, Arizona 85007

Dear Director Jennifer Toth:

The sunset review process prescribed in Title 41, Chapter 27, Arizona Revised Statutes, provides a system for the Legislature to evaluate the need to continue the existence of state agencies. During the sunset review process, an agency is reviewed by legislative committees of reference (CORs). On completion of the sunset review, the CORs recommend to continue, revise, consolidate or terminate the agency.

The Joint Legislative Audit Committee (JLAC) has assigned the sunset review of the Arizona Department of Transportation (ADOT) to CORs comprised of members of the Senate Transportation and Technology Committee and the House of Representatives Transportation Committee. JLAC has directed the Auditor General to conduct a performance audit of ADOT.

Pursuant to A.R.S. § 41-2954, the COR is required to consider certain sunset factors in deciding whether to recommend continuance, modification or termination of an agency. In addition to the sunset factors, which are addressed in the Auditor General performance audit, please provide your agency's written response to the required factors as listed below:

1. The extent to which the agency potentially creates unexpected negative consequences that may require additional review by the COR, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.
2. The extent to which the agency has addressed deficiencies in its enabling statutes.
3. The extent to which the agency has determined whether the Attorney General or any other agency in Arizona has the authority to prosecute or initiate actions.
4. The consequences of eliminating the agency or consolidating it with another agency.

Your response should be received by September 1, so that we may proceed with the sunset review and schedule the required public hearing. Please submit the requested information to:

Kiyahna J Araza
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

Thank you for your time and cooperation. If you have any questions, please feel free to contact me at (602) 926-3387 or Kiyahna Araza, the Senate Transportation and Technology Research Analyst, at (602) 926-3171.

Sincerely,

A handwritten signature in black ink that reads "David C. Farnsworth". The signature is written in a cursive style with a large, prominent "D" and "F".

Senator David Farnsworth
Senate Transportation and Technology Committee, Chair

cc: Representative David Cook, House Transportation Committee, Chair
Jeremy Bassham, House Transportation Committee, Analyst

August 30, 2023

Senator David Farnsworth
Arizona State Senate
1700 West Washington
Phoenix, AZ 85007

Dear Senator Farnsworth:

In your letter dated June 29, 2023, you directed the Arizona Department of Transportation (ADOT) to respond in writing to four sunset factors. Please find the factors, and ADOT's response to them, enumerated below.

Sunset Factor 1: The extent to which the agency potentially creates unexpected negative consequences that may require additional review by the COR, including increasing the price of goods, affecting the availability of services, limiting the abilities of individuals and businesses to operate efficiently and increasing the cost of government.

ADOT does not create negative consequences for the State of Arizona or its citizens. Rather, ADOT works to ensure that people and commerce are able to travel across all corners of the state safely and efficiently.

ADOT was established by Laws 1973, Chapter 146 (A.R.S. Title 28) when the Highway and Aeronautic Departments were abolished and ADOT was established as a single department with six divisions: Motor Vehicle, Transportation Planning, Highways, Aeronautics, Public Transit, and Administrative Services. Laws 2010, Chapter 202 enables the ADOT director to establish additional divisions and reorganize and consolidate the department. In order to enhance the efficiency and communication throughout the agency, ADOT has been reorganized into the following divisions: Administrative Services, Alternative Deliver/Major Projects, Enforcement and Compliance, Financial Management Services, Infrastructure Delivery and Operations, Information Technology, Multimodal Planning, Motor Vehicle, and Transportation Systems Management and Operations.

ADOT's mission is: "We provide highway infrastructure and transportation services" ADOT's vision is: "To safely connect people and empower our economy." The Department has identified three strategic focus areas that will deliver meaningful outcomes while improving safety, innovation, and customer service:

1. Integrate multi-year planning priorities from across the agency into a comprehensive view of resources and commitments.
 - a. Goals include: increased stakeholder and public understanding of state transportation system priorities; enhanced safety and reliability; organizational efficiencies to boost agency capacity, save funds, and help increase investment in the system.
2. Establish ADOT as a modern leader and employer of choice.
 - a. Goals include: empower our workforce with top tier growth and development opportunities; leverage job seekers who want to make a positive contribution to their communities, but may not actively think of the public sector; catalyze a compelling case for working at ADOT - impactful work, often at the cutting edge of technology, opportunities for

- advancement, work-life balance.
3. Improve and innovate business practices to stay ahead of changing customer needs.
 - a. Goals include: strengthen our ability to provide excellent, memorable service to internal and external customers; create an enterprise-wide understanding of customer value; modernize ADOT systems.

Finally, though the ADOT Director is responsible for ADOT's administration, the Arizona State Transportation Board ("Board") has been granted certain policy powers and serves in an advisory capacity to the ADOT Director. The Board is responsible for establishing a system of state routes, determining which routes are accepted into the state system, and which state routes are to be improved. The Board has final authority on establishing the opening, relocating, altering, vacating or abandoning any portion of a state route or a state highway. The Board also awards construction contracts and monitors the status of construction projects. With respect to aeronautics, the Board distributes monies appropriated to ADOT from the State Aviation Fund for planning, design, development, land acquisition, construction and improvement of publicly-owned airport facilities. The Board also approves airport construction. The Board has the exclusive authority to issue revenue bonds for financing needed transportation improvements throughout the state. Finally, as part of the planning process, the Board determines priority planning with respect to transportation facilities and annually adopts the five-year construction program.

The Board consists of seven private citizen members appointed by the Governor and confirmed by the Senate, representing specific transportation districts. Board members are appointed for terms of six years each.

Sunset Factor 2: The extent to which the agency has addressed deficiencies in its enabling statutes.

Though ADOT believes its enabling statutes are sufficient to meet its statutory objectives, ADOT continually works to improve its enabling statutes to help us better serve the citizens of Arizona. Each year ADOT develops legislative proposals that enhance ADOT's ability to fulfill its mission and vision. Since the last sunset audit, ADOT has requested the following legislative measures:

Laws 2022, Chapter 364

Much of the bill made administrative efficiency changes, including:

- Streamlining the driver license renewal process for customers over the age of 60 by allowing ADOT to issue them credentials valid for five years.
- Modifying commercial driver license (CDL) regulatory requirements, including extending commercial learners' permits from six months to one year, to facilitate more commercial drivers being able to obtain credentials.
- Improving business processes by:
 - Staggering renewal dates for aircraft registrations to improve cash flow for aviation grants.
 - Eliminating unnecessary regulatory requirements related to aircraft registration.
 - Correcting a drafting oversight from 2018 to set the vehicle license tax (VLT) for all off-highway vehicles (OHVs) to \$3.00.
 - Continuing to bring parity to VLT for alternative fuel vehicles and traditional vehicles by clarifying and standardizing the minimum VLT across both vehicle types.

Laws 2021, Chapter 93

Improved business processes by allowing the parent or guardian of a permanently disabled child to obtain a license plate with a disability plate on behalf of the child.

Laws 2021, Chapter 170

Closed a loophole in the mandatory revocation statute which could have allowed a person charged with a third driving under the influence offense to not receive the mandatory three-year revocation. The bill also addressed a statutory discrepancy as it related to restricted driver licenses.

Laws 2021, Chapter 257

Created efficiencies by repealing unnecessary rulemaking and regulatory requirements, including:

- Alleviating a regulatory burden on fuel suppliers passing through the state by removing the requirement that the fuel supplier pay an excise tax on the fuel and request a refund of the tax, despite the fact that the motor fuel was already statutorily exempt from the excise tax.
- Saving taxpayer dollars by eliminating the annual audit requirement of the Highway Expansion and Extension Loan (HELP) Fund if there is no activity in the Fund.
- Repealing rule requirements for regulations regarding child restraint systems and motorcycle noise limits, which ADOT has no enforcement over and are already addressed in federal law.

Laws 2021, Chapter 335

Much of the bill made administrative efficiency changes, including:

- Increasing consumer protection by requiring written or electronic disclosure of a vehicle's salvage or restored salvage title prior to sale.
- Protecting the public by providing a lifetime disqualification for a commercial driver license (CDL) holder who is convicted of using a commercial motor vehicle during the commission of sex trafficking or human trafficking offenses.
- Continuing to protect citizens' personal identifying information by removing confusing "opt-in" provisions related to the release of personal information on various departmental application forms.
- Improving business processes by clarifying the process for a towing company to receive reimbursement payments for towing abandoned vehicles.

Laws 2021, Chapter 351

Allowed ADOT to enter into agreements with a public or private entity to use, manage or operate state-owned telecommunication facilities. The bill also included a permitting mechanism to allow providers to have access to ADOT right-of-way and outlined requirements for the agreements and compensation for access. One of the primary objectives of this legislation was to expand broadband services in underserved rural areas across the state.

Laws 2021, Chapter 413

Formally transferred the responsibility for the oversight and management of the state motor vehicle fleet from ADOA to ADOT. The fleet had been managed by ADOT for the previous two years, via an inter-agency service agreement (ISA).

Laws 2019, Chapter 102

Continued the State Certified Rest Area Program and the Rest Area Sponsorship Sign Program for 8 years until July 1, 2027. ADOT operates and manages a statewide system of 18 rest area facilities. These facilities provide various services and amenities to the traveling public and commercial drivers along

Arizona's state highway system. In addition, the Rest Area Sponsorship Sign Program allows ADOT to contract with a private entity to install sponsorship signs and generate revenue for the maintenance and operation of rest areas.

Laws 2019, Chapter 307

This bill brought Arizona into "Full Participation" with the federal Performance & Registration Information Systems Management program and allowed ADOT to deny initial registration and suspend or revoke existing registration for a commercial motor vehicle owned by a motor carrier that is prohibited from operating by the federal government.

Laws 2018, Chapter 81

Created a civil traffic violation for driving the wrong way on a controlled-access highway, and required an individual found guilty of said offense to pay a civil fine of \$500 and attend a mandatory Traffic Survival School course. The bill also created a new aggravated DUI offense for any individual who drives the wrong way while impaired on any public highway or road. The DUI offense established under this bill is a Class Four felony that could result in up to 2 ½ years in jail and up to \$150,000 in surcharges, with a guaranteed minimum of 4 months of incarceration.

Laws 2018, Chapter 166

Allowed ADOT to establish a process to allow customers to receive notices or other correspondence via email, to set up secure, online financial accounts, and to comply with vision and photo update requirements for the purpose of applying for a credential via digital means. The bill also allowed ADOT to implement digital versions of credentials (driver licenses, registration cards, license plates) and to consult with the Arizona Medical Board and Arizona Optometry Board when setting vision or other health standards for those seeking a driver license. In addition, the bill allowed a vehicle owner to apply for a credit for unused vehicle license tax (VLT), weight fees or other payments which can then be deposited in an online financial account, and made other various changes.

Laws 2018, Chapter 260

Created efficiencies and modernized statute by repealing unnecessary rulemaking and regulatory requirements, including:

- Repealing the Parkways, Historic & Scenic Roadways Advisory Committee and the ADOT Medical Review Board.
- Repealing various antiquated authorities of the Director.
- Eliminating the cap of three tests per year for driver license applicants.
- Repealing outdated renewal by mail statutes, eliminating obsolete reporting requirements and making other various changes.

Laws 2017, Chapter 44

Made various statutory changes concerning ADOT, including:

- Clarifying when the State Procurement Code and ADOT'S own procurement code, respectively, are used in construction or highway development processes.
- Allowing ADOT to enter into a Memorandum of Understanding with the Federal Highway Administration to take over that agency's responsibilities for certifying the proper completion of environmental work under the National Environmental Policy Act on projects involving federal funding or the National Highway System.
- Removing the indefinite suspension of an individual's driver license for nonpayment of a reinstatement fee.

- Repealing Highway User Revenue Fund (HURF) Maintenance of Effort reporting requirements for 23 counties, cities, and towns across the state.
- Removing the requirement that a light rail transit operator pay for ADOT's administrative costs resulting from its safety oversight responsibilities.

Laws 2017, Chapter 253

Expanded the affirmative defense statute available to government entities by bifurcating a trial in which there is an issue of fact surrounding whether the government adhered to generally accepted engineering and safety standards, which allows the question of adherence to be decided separately from the individual facts of the case.

Laws 2016, Chapter 52

Conformed various state statutes regarding gross weight and length restrictions for commercial vehicles to federal laws and regulations and modified requirements for the disqualification of a commercial driver license or instruction permit.

Laws 2016, Chapter 66

Allowed ADOT to establish a program to lease or sell advertising on non-highway assets and allow monetary sponsorship of ADOT facilities and other assets. The bill restricted the ADOT Advertising and Sponsorship Program to only advertising and sponsorship of motor vehicle and motorist-related goods and services. Monies collected from the program are deposited into the State Highway Fund (SHF).

Laws 2016, Chapter 116

Required employees of authorized third parties (ATPs) who, on behalf of the state, conduct motor vehicle inspections and who have access to personal information from motor vehicle records or collect monies to provide a full set of fingerprints to ADOT for the purposes of a state and federal criminal records check.

Laws 2016, Chapter 198

Modified expedited rulemaking conditions to allow a state agency to amend or repeal rules that are outdated, redundant or otherwise not necessary for the operation of state government.

Sunset Factor 3: The extent to which the agency has determined whether the Attorney General or any other agency in Arizona has the authority to prosecute or initiate actions.

Arizona Revised Statutes § 28-333 designates the Attorney General as legal adviser to the Department. As such, the Transportation Section of the Attorney General's Office (AGO) provides legal services to ADOT on a wide variety of matters. These include litigation and advice related to acquisition of real property needed for highway purposes, highway construction contracts, motor vehicle registration, and driver licensing issues. The Transportation Section also provides legal advice related to operation of the Grand Canyon Airport and Arizona Highways Magazine.

Representation and advice are provided on procurement matters, intergovernmental agreements, grant agreements, property management, public records, right of way permits, encroachments and open meetings.

The Tax Section of the AGO provides counsel in regard to fuel tax and aircraft license tax appeals, rental vehicle surcharges and other matters. The Employment Law Section of the AGO provides representation to ADOT in personnel matters. The Liability Management Section defends the State/ADOT against claims for damages in civil tort actions.

ADOT has not experienced any roadblocks or difficulties in prosecuting or initiating actions through our AGO counsel.

Sunset Factor 4: The consequences of eliminating the agency or consolidating it with another agency.

Since ADOT's last sunset audit, the Legislature partially consolidated the duties of the former Arizona Department of Weights and Measures into ADOT with positive results. ADOT took over the statutory regulation of for-hire transportation companies, including taxis, limousines, livery vehicles, and transportation network companies. Through that effort, ADOT worked closely with industry partners to draft legislation and rules to achieve parity in the regulatory environment among all regulated parties.

Though that effort was met with success and satisfaction from industry partners, eliminating ADOT or consolidating ADOT into another agency would harm public safety and welfare. ADOT provides a benefit to the state that no other agency has the experience or capacity to provide.

Federal law requires states to have transportation departments equipped and empowered to adequately maintain transportation improvements funded by federal monies. If ADOT were terminated, alternatives would be needed for other duties including planning, constructing, maintaining, and operating the State's transportation infrastructure, including highways and airports. Furthermore, failure to maintain Arizona's highway infrastructure, including roadways and bridges, would directly impact public safety. ADOT engages in several activities such as snow removal, public engagement, and development of a Strategic Highway Safety Plan that serve as a roadmap for improving the safety on Arizona's highways.

Termination of the Motor Vehicle and Enforcement and Compliance Divisions would harm the public safety and welfare due to the service, law enforcement support, and revenue collection functions performed by the divisions. MVD licenses Arizona drivers, both passenger and commercial, which is important for a safe, secure public. MVD and ECD provide services to help ensure the safe operating condition of passenger and commercial vehicles, and their movement on Arizona's roads and highways. MVD maintains driver license records that are accessed by law enforcement to help track and prosecute serious traffic offenders. MVD works closely with public sector and private industry associates to ensure laws are obeyed and actions taken are in the public interest. ADOT is responsible for the collection and distribution of both the Vehicle License Tax and the Highway User Revenue Fund revenues, which totaled \$1.268 and \$1.749 billion, respectively, in FY 2023.

Sincerely,



Jennifer Toth
Director
cc: Kiyahna J. Araza