

**MINUTES OF THE
SENATE COMMITTEE ON ENERGY, INFRASTRUCTURE AND
TRANSPORTATION**

**Seventy-fifth Session
April 7, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:18 a.m. on Tuesday, April 7, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Michael A. Schneider, Chair
Senator Maggie Carlton, Vice Chair
Senator John J. Lee
Senator Shirley A. Breeden
Senator Randolph Townsend
Senator Barbara K. Cegavske
Senator Dennis Nolan

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Laura Adler, Committee Secretary

OTHERS PRESENT:

James B. Gibson, Mayor, City of Henderson
John Griffin, LKQ
Robert Compan, Farmers Insurance Group
Jason Geddes, Ph.D., Environmental Services Administrator, Public Works, City of Reno
Kristy Wahl, Utility Analyst, Public Utilities Commission of Nevada
Monica Brett, Southwest Energy Efficiency Project
Helen Foley, Pardee Homes

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Leah Bradle, Executive Director, Nevada Powersport Dealers Association;
Cocoordinator, Off-Highway Vehicles Working Group
Farrokh Hormazdi, Deputy Director, Department of Motor Vehicles

CHAIR SCHNEIDER:

We will start by opening the hearing on Senate Bill (S.B.) 360.

SENATE BILL 360: Revises provisions governing the sale and title of salvaged vehicles. (BDR 43-1244)

SCOTT YOUNG (Committee Policy Analyst):

Under the tab of the work session handout for S.B. 360 is proposed amendment 3906 (Exhibit C). This incorporates amendments proposed by Mr. Gibson at our March 26 hearing.

JAMES B. GIBSON (Mayor, City of Henderson):

I talked with Troy Dillard of the Department of Motor Vehicles (DMV). We elected not to include a reference to U.S. citizens and citizenship. We also removed from the list a provision that would have required the car pools to keep track of sales of two or more vehicles and report those sales to the DMV. In place of those provisions, we ended up with a new provision in section 2.7 of the amendment, Exhibit C, which authorizes the Department to adopt regulations to carry out the provisions of this amendment to the *Nevada Revised Statutes* (NRS). In section 5, subsection 4, paragraph (a), we determined that rather than keeping track of and reporting on sales of more than two per individual, it would be more appropriate to limit the number of vehicles in any calendar year that could be purchased by the public to three vehicles. This corresponds to the licensing requirement in another statute requiring that someone who sells three or more vehicles in a year must present himself for licensing as a rebuilder. Since three is in the statute, it seemed to make sense to limit this to no more than three vehicles in any calendar year.

As mentioned, I have discussed this with Mr. Dillard and we are in agreement that this, in the current condition, fairly represents the things we think need to be addressed.

SENATOR TOWNSEND:

What is the public-policy issue today requiring a change in the statute?

MAYOR GIBSON:

One issue is that the public has had opportunity to get hold of these vehicles for a long time, but there has been no way of tracking that. What has been happening is the licensees authorized to bid at salvage auctions have been buying these vehicles and then flipping them to individuals in the public for an average fee of approximately \$1,500. The second issue is most often these vehicles did not wind up in the hands of hobbyists, but rather with people looking for a vehicle they can fix and drive. Given what has happened in the marketplace and this economy, since these people are buying these cars anyway and no one was keeping track of it, this appeared a way of keeping track of the vehicles that are getting into the hands of the public for the most part. Those who are unscrupulous and flipping these vehicles will no longer be doing that. This appeared an appropriate solution to address those problems.

I would add that when we did the research—there was testimony in the last hearing—that this will lead to fraud and unsafe vehicles on the road. The provisions of the statute that require the vehicles to be inspected by licensees that are body-shop operators and garagemen, has not been changed. Any licensed vehicle still has to be inspected and that inspection report has to be submitted to the DMV. Utah adopted a provision similar to this a week ago, allowing the purchase of five vehicles in a calendar year. In the 36 states that have experience, we were not able to find evidence in producing fraud or issues related to the safety of vehicles on the roadway.

SENATOR CEGAVSKE:

There was a gentleman testifying last time who had concerns. Were you able to meet and work with that person who was with a salvage company?

MAYOR GIBSON:

The gentleman was from LKQ which is a wrecking yard. We did not talk with him but with representatives from that community. Mr. Mills, for instance, is one of the individuals who has wrecking yards in the Reno area, and Mr. Ellis has had repeated discussions with Mr. Mills. The gentleman raised two principal concerns of the safety of the driving public because these vehicles would be repaired by individuals. There is potential for fraud to switch vehicle identification numbers and other things of that nature. We did what we could to address that issue. There has not been any increase in the incidents of those kinds of activities in any of those states that have statutes like this. We have

not spoken to him in detail about any of this since last week when we were here.

CHAIR SCHNEIDER:

Committee, Mr. Mills of Reno Auto Wrecking has signed in as neutral on S.B. 360, as is Chuck Callaway of the Las Vegas Metropolitan Police Department.

JOHN GRIFFIN (LKQ):

I was recently hired by LKQ Corporation to represent him and have just gotten involved with this bill. I have not had a chance to speak with Mayor Gibson, but would be happy to do so. My client's position across the country, in general, is that this is basically a market-share bill. Copart is a move going across the country to loosen up these otherwise heavily regulated areas for individuals and smaller companies. Generally, LKQ is opposed to that across the country.

CHAIR SCHNEIDER:

They are a large national company opposed to these cars being sold off because they want to dominate the market more, or what is their reason?

MR. GRIFFIN:

We are talking about three vehicles a year. Obviously, there are environmental concerns, including criminal concerns. In general, three vehicles a year are going to drive up prices for a large company. Some concerns are safety. These are auctions and the prices do get driven up.

SENATOR CARLTON:

My concerns are eliminated with the way they are going to register with the DMV. The business has been taken out of registering documents. I do not see three vehicles as an issue. I believe they can still part them out, if I am not mistaken.

CHAIR SCHNEIDER:

Staff checked, and there is no fiscal note on this bill.

SENATOR TOWNSEND:

In section 11, subsection 1, [Exhibit C](#), the time to forward a certificate of title has been changed from 60 days to 180 days. What is the need for that change?

MAYOR GIBSON:

Here is how settlements happen. An insurance company determines there is coverage and pays a settlement to the owner for the vehicle which then becomes the property of the insurance company. The problem is, and this has been borne out over years of experience, an incredibly high number of insured vehicle owners do not know where their title is. The law requires the title be received within 30 days, and within 30 more days the insurance company has to apply for the salvage title. What has been happening for years is the title cannot be secured within the allotted time of 60 days. We worked with DMV to determine what amount of time is appropriate. In fact, we had to work with the DMV just to process vehicle titles up to this point, and we all need relief. The conclusion is 180 days, even though it is a tripling of the current timeline, it is what is required. It is not extraordinary simply because it is taking that long now, but there is no way to process them if you miss the 60-day deadline. We need to have up to 180 days to give us the opportunity to do everything necessary to get the title work in place. Those vehicles are sitting at the pool. They cannot be sold until the salvage title has been received by the pool. Essentially, this solves the problem as it turns out this is the time required to address it. The 60 days was an arbitrary number inserted at the end of the discussion on A.B. No. 266 of the 74th Session, and it turns out not to be workable.

SENATOR TOWNSEND:

I am fascinated by this dialogue which is independent from the bill that an insurance company purchasing a vehicle would give anyone a check without the title. Just because the vehicle owner cannot find it for whatever reason, it is not these gentlemen's fault if the insurance company is willing to give somebody money without the title; that is amazing to me.

ROBERT COMPAN (Farmers Insurance Group):

We will execute documents with a guarantee of title with a lien holder on a vehicle. In many cases it takes 30, 60, sometimes 90 days before we get the actual document to forward to the DMV to process the title. It is a timely process we deal with. We do have cases where the insurers have title and they cannot find them. In Farmers Insurance case, we do not execute settlement without the title. Mostly it takes time to process the authorization and guarantee of title when dealing with the lien holder.

SENATOR CEGAVSKE:

I want to give Mayor Gibson time to respond to the S&L Salvage representative.

MAYOR GIBSON:

The principal concerns are as evidenced by LKQ's representative. When we changed the bill this last week to cap the sales to the public at three vehicles, we believe this whole notion of it having an undermining effect on the market was addressed. That is the long and short of it. When it comes to the fraud and potential for safety violations, we believe we have already addressed that.

I would like to comment on Senator Townsend's question about the 180 days. In California, there is no 60-day provision. The A.B. No. 266 of the 74th Session was modeled after the California law, which reads "a reasonable period of time." So, there are not a specific number of days within which these applications must be submitted. In Nevada, it was deemed to be too open-ended. In the past, the insurance company or its representative has been authorized to submit such things as a statement of facts, which is, effectively, a sworn statement as to the circumstances in which the title is found during the period of time the settlement is occurring. That facilitated settlement and the processing of the title paperwork is a different way from what we are faced with today. Today we do not have the ability to submit those affidavits. In order for the pool to move that vehicle out of its inventory, as always, the salvage title has to be received, but we no longer have the ability to do the salvage title work on the strength of an affidavit. The time constraints are the problem. Not in every case, but there are a large number of vehicles every year where either the lien holder or the individual is not able to yield up the title and many insurance companies settle these claims. There are hundreds of vehicles in inventory at the salvage pool where there has not yet been produced sufficient documentation to get the salvage title, and the cases have been resolved by the insurance company.

CHAIR SCHNEIDER:

The Nevada State Law Enforcement Operatives Association signed in favor of the bill. Committee, what is your pleasure?

SENATOR CARLTON MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 360.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:
We will now open the hearing on S.B. 327.

SENATE BILL 327: Provides incentives for certain electrification projects.
(BDR S-377)

MR. YOUNG:

The proposed amendment 3555 was prepared by the Legal Division on March 26 ([Exhibit D](#)). There are two proposed amendments that are not in writing. One amendment is from Senator Cegavske who sent an e-mail indicating she would like to see the Public Utilities Commission of Nevada (PUCN) be allowed to review and generally promote all technologies which generate more power without any increase in air emissions. That particular language is not in the amendment, but it can be added in an appropriate place, if that is the Committee's desire.

Secondly, Ray Bacon had requested the Committee add "waste heat" in section 1. In discussing this with Committee Counsel, waste heat could already be used for the truck-stop electrification, where there are plug-in hybrid recharging stations. Mr. Bacon also requested that waste heat be included in the provisions that allow portfolio energy credits. However, that was not included in the bill because that would require changing the definitions throughout the chapters on renewable energy and quite an extensive revision of the portfolio energy-credit provisions as they presently exist.

In summary, you have Senator Schneider's proposed amendment 3555, and Senator Cegavske's suggestion, and I covered the issues raised by Mr. Bacon.

By way of explanation, the amendment was supposed to have been part of the original bill, but because of drafting constraints, in order to get the bill out, sections 2 through the end of the bill were not in the original bill. Those sections create, essentially, a demonstration project for plug-in hybrid cars. That is similar to what we have done in the past with solar panels, wind and water power. The idea behind the amendment is to allow the PUCN to establish a rebate program. It would be left to the PUCN to determine the appropriate level

of the rebates. There is a system of eligible years, if you will, with eligibility categories. You will see that on page 5, [Exhibit D](#). Essentially, it starts out with 100 vehicles in each of the 4 categories in the first year. It increases to 125 vehicles in each category in the second year, and in the third year it increases to 150 vehicles in each category. The categories are set out on that page, and they are essentially for schools, for other public entities, for private persons and for businesses. Again, the rationale behind this is to help to give a boost to the deployment of renewable vehicles, and I believe part of this parallels with something President Obama suggested a few weeks ago in trying to have one million plug-in hybrids and electric cars on the road by, not sure of the date, but it was fairly soon.

SENATOR CEGAVSKE:

There was no fiscal note in the bill. Does the amendment create a fiscal note?

MR. YOUNG:

I do not believe it does other than whenever we ask the PUCN to undertake one of these programs, they will have to hold a series of workshops on regulations. So, their typical cost for holding a regulation process would be the only fiscal note.

SENATOR CEGAVSKE:

I know in reference to some of our bills they have talked about when they get something passed on to them that is mandated or suggested, they just pass it on to the ratepayers whatever that would be. I am wondering if that is the scenario.

MR. YOUNG:

Because this is a rebate program, it would work in the same way as the solar, wind and water power. Those rebates do get reimbursed to the utility through rates.

CHAIR SCHNEIDER:

Senator Cegavske, remember when we had the article about San Diego Gas and Electric doing this same program in San Diego that is already started. They are doing it heavily with government fleets, including the military fleets in the area. They are setting up charging stations around San Diego to encourage usage. Also, large private fleets are putting in charging stations. This program will not only spur the electric plug-ins, but it also allows the power company to see the

demand and see when that demand comes when they are charging their vehicles. It is a learning experience.

SENATOR CEGAVSKE:

Did they realize any increases? How did they pay for their rates?

CHAIR SCHNEIDER:

They are just getting started in San Diego.

SENATOR CEGAVSKE:

There is no history?

CHAIR SCHNEIDER:

No history. They are also learning.

SENATOR CARLTON:

On page 5, [Exhibit D](#), is the limit on the purchase of vehicles. One hundred for schools and Clark County schools are guaranteed to get one hundred unless the charter schools go for it. One hundred for other public entities, and I am not sure how we are going to define public entities. There are 100 for businesses, which makes sense if we want to incentivize businesses. But then, there are 100 for private persons. If I am the 101st person, I am out of luck. Those ratios seem to be a little unfair to the public. We are competing with everyone else, yet we only get 100, and then it goes up, but then there are another 125 vehicles for the schools. It seems that by trying to get the public involved in this by limiting to 100, I am not sure that is workable, because last year they gave away all electric lawnmowers in Clark County within 15 minutes, if you traded in your old mower. I do not know if 100 for all the private persons is correct.

Am I going to an object that looks like a parking meter and insert quarters to charge this electric vehicle?

CHAIR SCHNEIDER:

The numbers are flexible. You can adjust the numbers any way you want.

SENATOR CARLTON:

The private sector are ratepayers like everyone else as far as the rebate program goes.

SENATOR TOWNSEND:

Does the incumbent utility have to resubmit or amend their resource plan based on this? I would not think so, it cannot be that big. That is a cost.

MR. YOUNG:

I am not certain, but I suspect they would not have to. Maybe in future years the PUCN in looking at the move to more electric vehicles might ask the utilities to submit information about potential impact on the utilities of an increasingly electrified transportation section. I do not believe the numbers in this bill would necessarily trigger that.

CHAIR SCHNEIDER:

We are looking at only 600 vehicles by 2012. By the numbers we have, that is not much at all.

SENATOR TOWNSEND:

I do not have a problem, but I do not know if Senator Carlton wants to change the numbers. Mr. Chair, whenever you are ready for a motion, I think Senator Cegavske's e-mail requesting the PUCN review the policy to generally promote all technologies which generate more power without increasing air emissions, ought to be in the statute. We have a long preamble in a number of bills, and it is already in the law, but that is probably something that would be beneficial somewhere in one of these bills, if not in this bill.

CHAIR SCHNEIDER:

We have several energy bills. Mr. Nichols, is there somewhere we can take care of Senator Cegavske's paragraph?

MATT NICHOLS (Committee Counsel):

I don't have a personal preference, of course, but if we want this to go into statute ... if the Committee wants this to go into statute, probably need to put it into a different bill, because this bill is all going to be transitory language.

SENATOR CARLTON:

If people are making the choice to purchase this vehicle to participate in this program, the way this is written, they would be approved by the program, then within 90 days buy the vehicles. Will there be enough vehicles available if this passes? You know they will be shipped to Nevada as fast as they can, because

people will want to buy them. I would like to see a top number as a group. I do not understand why it is broken down for certain entities to have a certain number. Is that an issue of fairness? I do not understand the logic behind 100 here and 100 there.

MR. YOUNG:

The numbers are somewhat arbitrary. The original goal was to have a demonstration project with some available. In our other demonstration projects such as solar, there are differential amounts in those categories. If you wished to increase the number of vehicles for the public, there is certainly precedent for that in the other demonstration projects. Again, this was an attempt to select some numbers, but there is no particular science behind those numbers. Anything the Committee thought was appropriate could be put in to any of those categories.

SENATOR CARLTON:

If the 100 that are going to the other public entities only get 50 applications, I hope they would allow members of the public to apply for the remainder. I would hate to see 400 possibilities, and because a certain group decided not to exercise their option and others did want to participate, that they would be eliminated because they had already given the 100 to private persons.

MR. YOUNG:

On the bottom of page 5 in the proposed amendment section 21, subsection 3, paragraph (b), it is possible to reallocate any unallocated electric vehicles in one category to another category. So, in your example, if only 50 cars were used by the public schools, the other 50 could be rolled to one of the other categories, including the public.

SENATOR CARLTON:

I apologize. I read that as just to the next year, not in that same year. So I misunderstood that. I was reading on page 6 that it would go to the next year.

MR. YOUNG:

That is correct. At the top of page 6 it does roll to the next year. So, you actually have double flexibility there.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 327 WITH THE PROPOSED AMENDMENT 3555.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:
Committee, we will go to S.B. 188.

SENATE BILL 188: Establishes the Solar Hot Water Heating Systems Demonstration Program. (BDR 58-379)

MR. YOUNG:

The original bill set out a program, again one of these demonstration programs designed to encourage the deployment of, in this case, solar hot water and solar air-heating systems. After the bill was originally brought out, interest was expressed by a number of participants to rework the bill and bring it back. Commissioner Rebecca Wagner was the lead person on that. She enlisted the assistance of Jason Geddes and worked with utilities and other interested parties and brought back proposed amendment 3984 that is in your workbook ([Exhibit E](#)).

JASON GEDDES, PH.D. (Environmental Services Administrator, Public Works, City of Reno):

The working group consisted of Rebecca Wagner, myself, Judy Stokey from NV Energy, Debbie Gallo from Southwest Gas, Russ Cartwright from Interstate Plumbing, Joe Johnson and Rose McKinney-James. What you have before you is the consensus language we came up with in the amendment. The big change from the other programs you have seen on the demonstration side is, instead of putting individual amounts and individual categories into the NRS, we put in a long-term goal of 3,000 systems installed by 2019. The PUCN will set up milestones and rebate levels to reflect how the market is responding to the installations, and adjust the rebate levels up or down as needed to reach the long-term goal of 3,000 systems installed.

One change that did not make it consistently through the bill was instead of just saying solar hot-water heating systems, we changed it to "solar thermal systems." That change made it in most places, but not all, so we will have to make that correction in the final version if you choose to move forward on it.

As mentioned, it is a long-term goal of 3,000 systems by 2019, which would be roughly 330 systems a year. That is the estimate we got from what was anticipated from industry and the utilities as what could be installed in a timely manner. Again, we did expand solar thermal systems to include the solar hot air, but at this time we are not sure the solar hot-air systems would be incentivized, because looking at the installed cost, they are about \$3,500, whereas the solar hot-water systems are between \$8,500 and \$18,000 installed. We do want to look at some low-cost options to put in for low-income people who may have gone through a weatherization program. That is still being discussed and would go through regulation.

SENATOR TOWNSEND:

In your proposed amendment, page 2, section 11, you have "'Public and other property means' any real property ... or occupied by: (a) A public entity; (b) A nonprofit" Then you are adding a church, and then "a benevolent, fraternal or charitable lodge, society or organization." That is pretty generic. That means anybody occupying a public building, because two people can call themselves an organization. The reason you wanted to call it public and "other property means any real property, building or facility which is owned, leased or occupied by ..." the world. That is not narrowing it down. Property is property as defined in statute. Why did you add all of that?

DR. GEDDES:

I would probably defer to the Legal Division on that. That was added because it is the language we have in the other incentive and demonstration programs where it was expanded previously by the Legislature, so those organizations would have an opportunity to apply for the rebates.

SENATOR TOWNSEND:

Committee, we ought to look at that because it is so open-ended. You said there needs to be a change regarding going solar thermal because of the change between heating the water and heating the air. That was not picked up?

DR. GEDDES:

In some places we made the language adjustment and in some places it did not get made, so it is not consistent language throughout the proposed amendment.

SENATOR TOWNSEND:

In negotiating with all the parties, you have stringent requirements here. On page 3, subsection 4, paragraph (d), lines 33-35 "Require that any solar thermal heating collector must have a warranty against defects and undue degradation of not less than 10 years." Is that what the marketplace has now?

DR. GEDDES:

The group brought that forward as what would be good language for a long-term investment. Those are the quality products the industry has out there, so we thought that was reasonable.

SENATOR CEGAVSKE:

Does this amendment change the fiscal note in our books? We have several different pages and they are not large, but again, this will be transferred to the ratepayers, correct? We have a fiscal note from the PUCN for \$57,000, and another from them for \$24,000. To everybody else, they say zero. Why? Does the amendment change the fiscal note up or down?

MR. YOUNG:

I think the answer would be similar to one I gave on the other bill. The PUCN will hold workshops and regulation hearings, and there is a certain cost to them of doing that. The amendment should not change that fiscal note in any respect. One thing that occurs to me, and I do not know if there is anyone present from the PUCN, but as far as I know, it should be feasible for the PUCN to combine the regulation hearings on several of these bills. Although you do have the cost of a transcript. Obviously, the longer a transcript, the more it costs. In terms of your travel and other setup costs, they can minimize that somewhat by combining these procedures.

SENATOR CEGAVSKE:

The other part would be on page 2, section 17, where it says there has to be "... 3,000 solar thermal heating systems in homes ..." Is that going to be where somebody else pays it or the demonstration program and all the utilities will have to take care of that? Who absorbs that cost for the 3,000?

MR. YOUNG:

Ultimately, the cost is passed through to the ratepayers as it is with all of these renewable programs. The 3,000 figure is a target figure. It could be reached before the 10 years, in which case the program would terminate. It could be the 3,000 is never reached and when the program expires, the Legislature could reconsider extending or abolishing it. Ultimately, these costs get passed through to the ratepayers and the utility is basically the conduit. They put the money up initially, and then the PUCN determines the amount the utility can recover in its rates that are spread over the years against all the ratepayers.

SENATOR CEGAVSKE:

In section 17, [Exhibit E](#), again it changed the language to strengthen it to, "the Commission shall ..." In the other parts of the bill they have taken out "created" and "established." Why did we put "shall" in section 17? Do we have to have that? Can we have it a "may?"

MR. YOUNG:

I may actually defer a portion of this to Mr. Nichols. If you say "may," my belief is the PUCN understanding the legislative intent would still go ahead and do this. The "shall" makes it mandatory; it means they must do that.

SENATOR CEGAVSKE:

In section 6, we say "established."

MR. YOUNG:

And I think there, since it is just definitional, we use the term "established" somewhat generically, whereas in section 17 there is actually a directive to the PUCN. That is why we have the "shall" language.

SENATOR CEGAVSKE:

The original language was "created," with the words "program created by," in the original section 17. Then you go to the proposed section 17 and put in the mandatory language.

MR. NICHOLS:

I think that the changes in section 6 and in section 17 reflect the change in the bill through the amendment from a program that is set forth primarily in statute to a program that is more at the discretion of the PUCN. So that if the program were established by

statute, all the program requirements would be in statute, but here the working group's proposal for the amendment is, essentially, that the PUCN has guidelines in the bill, but would set out specifics to the program on their own. So, it is just to reflect that distinction.

SENATOR CEGAVSKE:

Would it make a difference if the wording was "may?" How much difference would it be for the "may" and "shall?"

MR. NICHOLS:

"The difference between "may" and "shall" is significant."

CHAIR SCHNEIDER:

The problem we have with the PUCN is that sometimes they really do not get the message.

SENATOR CARLTON:

Senator Townsend took a lot of time over the years explaining to me what prudence was and we had debates on prudence. That language is within the bill and to me that is the safety net within this bill as far as making sure the decisions made are prudent and protect everyone involved.

SENATOR TOWNSEND:

The fiscal note provided us is somewhat confusing. On one hand, when you look at it signed by Mr. Clinger, the effect on future biennia is \$57,000; \$48,000 the first year, and then the fiscal effect of S.B. 188, quarter-time regulatory economist was \$24,000. Maybe this is a longing for the old days when you got one number, and if you want it broken out, you could have it. Then it goes on with schedule of budget adjustments necessary for addition of a quarter-time regulatory economist. I cannot figure out whether this fiscal note is \$57,000 for the biennium or it is \$24,000 additional to that. Do we have anybody from the PUCN who might explain what their fiscal note means?

KRISTY WAHL (Utility Analyst, Public Utilities Commission of Nevada):

Unfortunately, most of our representatives are in Las Vegas for the consumer hearing. I could call the PUCN and see if I can get someone here to answer your questions.

SENATOR TOWNSEND:

No. Do not drag them away from their work. But at some point, they ought to explain this to us, because it is confusing. We want to know the impact on the agency because it does eat into the mill tax every time we do that. Maybe it is a good time to hire people; there could be some positives here. At their convenience, if they could send an explanation, because you are using three or four different types of sheets, so you cannot match them up.

MS. WAHL:

I will do that.

SENATOR TOWNSEND:

Dr. Geddes, since this has to do with the Renewable Energy & Energy Conservation Task Force as much as anything, how do we establish the best group of people to encourage making applications? These programs are not there to encourage only those who could afford to do this on their own. I do not know how to politically put that better. But how do we better define and encourage? Section 17 is quite clear; they will establish this demonstration program to carry out the intent of the Legislature to promote the installation of 3,000 systems. What is your plan in working with the PUCN to come up with a specific targeted plan for those people who really need a solar thermal hot-water heater?

DR. GEDDES:

I do not have that answer for you today. We would work with the PUCN and the utility to go in that direction. As I mentioned on the solar hot-air systems, because they are relatively cheap compared to the solar water, we were looking at the low-income side of that program as something we could establish through regulations to make sure that was available out there. But we have not gotten to that point.

SENATOR TOWNSEND:

Mr. Chair, I think perhaps a letter from you depending on the Committee's pleasure, encouraging the PUCN as they process this in the regulatory environment, to focus on those people who truly need the help, because there is only so much money that the PUCN is going to accept as part of the program because they spread it throughout the rates. Put it towards those people who need the help the most. I do not think the average person, particularly in Las Vegas, is going to want to subsidize someone who lives in a \$10-million

home just because they want a really cool hot-water heater. That is not the goal of this program, and it would help if you sent a letter.

DR. GEDDES:

We would look at structuring like the other demonstration programs where we had opportunities for schools and public buildings. We could put them on fire stations and gymnasiums where there would be a general public good as well. We will definitely craft in that direction.

CHAIR SCHNEIDER:

I will direct staff to craft a letter that nudges the PUCN in the proper direction.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 188 WITH PROPOSED AMENDMENT 3984.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

We will now take up S.B. 242.

[SENATE BILL 242](#): Enacts provisions relating to energy efficiency, renewable energy and building construction. (BDR 58-378)

MR. YOUNG:

In your work session book is proposed amendment 4015 for S.B. 242 that was prepared by the Legal Division at the request of Senator Schneider ([Exhibit F](#), original is on file in the Research Library). The amendment is based on comments garnered during testimony on the bill. There are recommendations from Dr. Wiel on behalf of Southwest Energy Efficiency Project (SWEET) at the beginning on the appliance sections, and I will return to that in a minute. There is also a provision requested by Mr. Rosinski of EV-Charge America regarding the plug-ins that could be installed in residences. There is a clarification regarding the continuing-education requirements for the real estate professionals, such as the real estate agents and the appraisers. There was a provision for Mr. Wadhams on behalf of Southern Nevada Home Builders

Association who had concerns about the broad language regarding assisting people with mortgages and I can point those out in the bill. Also, for S.B. 242, there were comments and recommendations submitted by Mr. Lazareck of Home Energy Connection. Those were not incorporated in the amendment. Although staff does not comment on the pros and cons, I believe the rationale was that the bill itself is rather permissive. The list of things that are mentioned in terms of what should be offered as options by builders, is open-ended. The list of things there is not exclusive, so many of Mr. Lazareck's suggestions could well be done by the builders themselves.

I will return for a moment to the appliance sections that were requested by SWEEP, and they begin on page 3 of the proposed amendment. Just in general, the explanation for these is that the federal government does establish standards for certain appliances and for others it does not. It has become customary for a number of the states, particularly in the West, to adopt additional standards for appliances to, again, increase energy efficiency. Although these sections are rather long and look formidable, essentially what they do is to say that the director of our energy office could, in essence, piggy-back on the efforts of the surrounding states as they adopt additional appliance standards; Nevada could follow suit. There should not be a big work impact on the director in the energy office, because, essentially, they would accept what has been done in the other states. Because the other states surrounding us generally are larger markets, to the extent they adopt these standards, the appliances that would be available in Nevada would pretty much be the same appliances that the manufacturers would supply in the California, Oregon, Washington and Arizona markets, so it is not like we would be doing something that would require the appliance manufacturers to turn out models specifically for Nevada.

Dr. Wiel did ask me to note two technical corrections. On page 3, line 16, we have a date of not later than October 1, 2010, when the director would adopt regulations. Then the following dates that go throughout these appliance sections should be a year apart, but they inadvertently got placed as January 1 of succeeding years. In order to give the full-year time frame, if you adopt the proposed amendment, those should be changed to October 1 of each year instead of January 1. That can be done easily by the Legal Division. There was also a provision Dr. Wiel suggested be put in on page 5, subsection 6, lines 33 through 42. He would like to see language that says the director may adopt

updated test methods as they come along. It is not a requirement, but if new methods become available, it gives the director flexibility to pick those up.

Mr. Chair, if you would like, I can show you where the changes are for EV-Charge America from Mr. Wadhams.

CHAIR SCHNEIDER:
That would be good.

MR. YOUNG:
On page 9, line 22, we added an electric vehicle charging station. That was Mr. Rosinski's request. These are items that builders would offer as options. They are not required, but it seemed appropriate to place that in since we were emphasizing the connection between energy and transportation. As we did in one of the other bills where we have the plug-in hybrids, this dovetails with that. On page 9, section 5, lines 26 through 40, is the language that addresses Mr. Wadhams' concern that if the contractor offers to provide financing, then they would need to offer it as an option. Their lending arm would provide information on green-energy mortgages and offer that as an option. In subsection (b), starting on line 32, page 9, there is additional language so that if the builder does not arrange financing for the homes, the builder would then simply provide information to a prospective purchaser about the U.S. Department of Energy ENERGY STAR programs, and the information about green mortgages. In other words, they would simply download it from the Internet and provide it so people would be made aware that is an option as they seek their own financing.

There is a change on page 12 repeated through several successive sections. These are the educational requirements for real estate agents, mortgage brokers and appraisers. This is an attempt to clarify that the continuing-education requirement that is in the amendment is not additional hours. It would just become a part of the existing curricula that is offered to agents, so that over time they would all be exposed to information about energy efficiency and green mortgages, in an effort to educate them, so they, in turn, could educate the people they work with.

SENATOR LEE:
Regarding page 10, lines 3 to 7, is this new verbiage, "energy efficient mortgage?" The way it is written, is this really viable? Do the mortgage lenders

in Nevada have to do this or are encouraged to do this on the debt-to-income qualifying ratios?

MR. YOUNG:

My understanding is that "energy efficient mortgage" is a term that is current in the industry. They are often abbreviated as EEMs. This section is definitional as we often have to do in our statutes to indicate what it is we are referring to. In this section, the "energy efficient mortgages" are defined as those crediting the energy efficiency of the home into the mortgage. The theory behind this is that if your utility bills are less each month, some mortgage lenders will allow you to either purchase a more expensive house or lower your mortgage payment in the sense that they realize you have a certain amount of funds available each month to meet all your obligations. If your utility bills are lower, they feel comfortable in allowing you to make a somewhat larger house payment because you will have the resources to do that.

SENATOR CARLTON:

I have concerns on page 3 of S.B. 242 about these regulations for all these different appliances. The last thing I want is my neighbor knocking on my door next year saying they went to buy a new appliance, but could not because now they have to buy this other appliance, and it costs an extra \$200. With these regulations, am I going to have to replace my pool pump? There are so many things in this bill, and I do not even know what they are.

CHAIR SCHNEIDER:

You do not have to replace anything. If the pool pump burns out ...

SENATOR CARLTON:

Then, when I go to buy the next one, you are going to force me to buy something I may not want.

CHAIR SCHNEIDER:

It will save you money. It will be more energy efficient.

SENATOR CARLTON:

But if I cannot afford to buy it, my pool goes green with algae; if it is \$300 more than the other one sitting on the shelf or the one I can buy in Utah or Arizona Why I am uncomfortable with this is because I fight those water-saving shower heads every day, I feel the shower is just spitting. I look at

this the same way I look at that water-saving shower head and I wonder if I am saving energy. Let us talk about the multiple-flush toilets. Those are the concerns I have. It is June and the pool pump goes out and you have to buy the other one. The cost of these things, if they know they are the ones on the market, is going to get you.

MR. YOUNG:

In general, whether Nevada were to enact this bill or not, most of the surrounding states are doing similar things, as I understand. So, the appliance producers, because, obviously, it would be too costly for them to prepare one model for Nevada, another model for California, they are going to produce what is required by the largest markets in the region. Essentially, we would probably get it anyway. I would note that on page 3, line 22, part of the requirement is that these would be cost-effective for consumers who purchase and use such new products. Again, I would not be in a position to assure you there would not be an increased cost. There usually is some cost increase with new technologies. However, the requirements here are that in looking at what to adopt, the director would specifically look at the cost-effectiveness, so that, as Senator Schneider was suggesting, in the long term you would save the money. One other thought I could offer by way of recall for the Committee; when Senator Schneider presented the original, one of the exhibits was the per capita energy usage in Nevada, and, unfortunately, for a variety of reasons, Nevada has the highest per capita energy consumption in the West. I believe part of the intent behind the bill, and the intent behind the provisions such as these appliance-efficiency provisions, is to help Nevada lower its per capita energy usage, and, presumably, trigger additional benefits from lower energy cost.

SENATOR CARLTON:

I remember tossing out a suggestion a few years ago about turning off those marquees in southern Nevada between 4 a.m. and 6 a.m., and you should have seen the people come out of the woodwork on that one. That was an interesting day in Committee. This would mandate that those have to be sold in this State, and, if I understand this, the other inventory that is still available, that might still be on the shelf, will be pulled, and I will no longer have that option to buy that item. So Sears would send the Kenmore brand of the new stuff to every Kmart. Does this mean that the one sitting next to it that may be within my price range, but not quite as energy efficient, will be taken out of the stores, and I would not have the option to buy that anymore?

MR. YOUNG:

I believe that is a correct assessment. Over time there would be increasingly fewer inefficient machines. To the extent there is a cost differential, that could be a result.

CHAIR SCHNEIDER:

The effort is to reduce our carbon footprint and reduce the amount of watts we use. Going forward, there is a cost in this new green energy; we know that. We are addressing these costs. With any new thing right out of the chute, it may be a little higher, but as we see with computers, all this electronic stuff gets more efficient and the cost comes down rapidly. It is like a 30-year-old refrigerator that actually costs more in adjusted dollars than the cost of the newer, more efficient refrigerators today. Prices do fall.

SENATOR CEGAVSKE:

I am tagging along with Senator Carlton on some of the concerns. What all of these bills are bringing to mind for me is what we are doing to the low-income seniors. We are passing on rates to them. We are now going to mandate that they have to buy items not so easy to purchase, and I do have concerns about that. I am reading this, looking at the amendment and thinking that we are going to have to explain this to the citizens of Nevada. I am looking at page 4, line 45 about the televisions. If I do not get that, how is everybody else going to understand about the screen area, the wattage, all of these things that we are putting into law. We even have penalties of a \$250 fine in S.B. 242. Then I go to page 10 of the amendment, section 8, where we are telling the utilities that they have to put out all these pamphlets. I am wondering if we have to mandate them to do that. I do not know if the energy-efficient mortgages and financing of green homes and certification programs are within the utilities' expertise. Is that something they are supposed to know about putting these pamphlets together? If there are pamphlets they already do distribute and you leave in the "shall," but take paragraphs (d) and (e), subsection 1, section 8 and make those a "may," it would help. I do not know who else would do it, but I am concerned about where we are going and who is required to do what and how we are going to get our constituents up to speed on this.

CHAIR SCHNEIDER:

First of all, the pamphlets, as you may recall from the hearing, are already produced.

SENATOR CEGAVSKE:

But paragraphs (d) and (e) are not by the utilities. To my knowledge, they do not do those two yet; the mortgage and financing organizations do.

CHAIR SCHNEIDER:

The mortgage and financing is something different the home builders would do.

SENATOR CEGAVSKE:

Right. That is why I ask if paragraphs (d) and (e), should state "may" instead of "shall," because I do not think that is the utilities' area of expertise. They already do the rest of them; but those were the two I was concerned about.

CHAIR SCHNEIDER:

The mortgage companies are very aggressive in getting mortgages. They go out and market their companies all of the time. They provide those brochures.

SENATOR CEGAVSKE:

We are asking in this amendment that they be prepared by private utilities. I do not mind that the mortgage industry puts it out, but what I am asking is if the utilities can have the "may." If you want to keep "must" for mortgage and financing that is fine. But, my concern is that it is not the utility's area. If they put out the brochures and they cannot explain to the customer about something they are putting out, I would hate to put them in that position. The mortgage companies and financing companies would be able to explain those, but I do not know that the utility company would be able to. Maybe I am wrong, but that is how I look at it. Are we going to senior centers to explain this to the seniors?

CHAIR SCHNEIDER:

Actually, in S.B. 358 coming up, there is a provision for the PUCN to make an adjustment for the lower-income seniors. There is a piece in there where the PUCN has to look at that.

SENATOR TOWNSEND:

The way this amendment is drafted in section 8, page 10, the Division is the Real Estate Division of the Department of Business and Industry, and it talks about "...information prepared by a public or private utility that are designed to assist a person in the identification, evaluation and selection of energy efficiency and conservation features in a residential property." The question is, who is going to pay for the pamphlets? Is the utility going to pay, or the

Division or are the local boards of Realtors going to pay for them? Just because they have a bunch of these does not mean they have a ton of them, because that is going to be a lot to hand out. Senator Cegavske's issue is on point; the utility has nothing to do with paragraphs (d) and (e) of section 8, and probably it should be removed from that component and put in another section.

The next is section 4, page 8, which says, "A contractor shall offer a choice of upgrades for renewable energy and energy efficiency to a person who negotiates to purchase a single-family residence which is built by the contractor ..." That language needs to be rewritten. How do you offer something if you have already built the house? It should say, "the single-family residence which is to be built," then the builder could offer them all kinds of things. I would be concerned that someone would say they like that house on that street that is already built and the law says you have to offer me all these great things. But, the house is already built.

CHAIR SCHNEIDER:

The house was not wrapped with the extra insulation.

SENATOR TOWNSEND:

I think we can adjust that language so we are not putting a builder in a bad position.

SENATOR CARLTON:

Mr. Nichols said that was fine.

SENATOR TOWNSEND:

With regard to Senator Carlton's articulation, I think it has some merit. In the Governor's bill there is a portion about appliances or equipment for the State. Does it relate to this, so that we do not have two different standards?

MR. YOUNG:

I believe in the Governor's bill, S.B. 395, that applies to ENERGY STAR and applies to those items purchased by State government.

SENATE BILL 395: Makes various changes regarding renewable energy and energy efficiency and alters the composition of the Commission on Economic Development. (BDR 58-1219)

SENATOR TOWNSEND:

Lastly, and most important, in discussing this with the PUCN, the utilities and all of the energy groups interested, there is a significant amount of detail in the bill regarding technology. Technology changes rather rapidly. Is there a better way to do this? Look at the regulations starting on page 3, line 16, "Not later than October 1, 2010, the Director must adopt regulations setting forth minimum standards of efficiency for the products listed in subsection 2." It continues, "In considering such new or amended standards, the Director must set efficiency standards upon a determination" It also says, "... standard will not become effective until one year after the adoption of any amended regulations establishing such increased efficiency standards." Am I to understand that regulation would not go into place until October 1, 2011?

MR. NICHOLS:

My interpretation is your interpretation, that regulations adopted by October 2011 would go into effect one year later. Any amendment to the regulations that changes the standard would also be delayed in its effectiveness. I think the intent there is to give people time to comply with the regulations; the manufacturer, so that the product is not going to be immediately available because there is an increased standard they have not met.

SENATOR TOWNSEND:

Back to the amount of technology that is in the bill; that is generally left to the regulatory process, because it changes so much. In looking at other jurisdictions, is there language they have put in and then simply gone to the regulatory process and got caught up in the most recent changes? Because the second we put this in, it is in for two years and some of this stuff may change and that could be problematic. I do not know if there is language that you have seen in other jurisdictions that would allow us, and I am not trying to eviscerate the Chair's bill, but we could easily draft the regulation now. When you pass the bill, you can pass the regulation and give it to the regulatory body that would hold a hearing. They could adopt that, and then if things change between now and the time this group meets again, they could still make an adjustment in the regulation. I am offering that, because, generally, we do not put so much technical stuff in the statute.

Lastly, I have never seen the details that are in this bill in this manner with regard to page 4, lines 45-49 of the proposed amendment [Exhibit F](#), "For

televisions, which must use not more than $(0.20 \times \text{screen area (in square inches)} + 32)$ watts in on mode and no more than one watt in standby-passive mode." If the television is turned off, it can only use one watt. Is a standby-passive one watt in this? "On and after January 1, 2013, televisions must use not more than $(0.12 \times \text{screen area (in square inches)} + 25)$ watts in on mode and no more than one watt in standby passive mode." Are those federal standards that are being worked on or are those industry issues? Are those groups trying to help us move into a different place? My concern is we are putting a lot of stuff in here that is generally left to the regulatory process. I think all of this is terrific. I just do not know if it belongs in statute.

CHAIR SCHNEIDER:

These are good questions. Of course, we are bringing this forward for SWEEP in trying to be progressive.

MONICA BRETT (Southwest Energy Efficiency Project):

For those questions, I can make a call right now to Dr. Wiel who is watching and get back to you in a few minutes, if that is alright?

SENATOR CEGAVSKE:

Is there any place in this bill that addresses what we do with the disposal of the old lights and everything that we are now telling everyone to get rid of? Do we have a landfill for this? What are we going to do with everything? I know I have asked this several times, and we never respond to it. I am really concerned we are bringing in all this new stuff, but what are we doing with all the old stuff? The other thing I would like explained is the penalties. Is this for just manufacturers? When somebody attempts to put in this new equipment and the electrician did not know he was supposed to put in that wattage or that brand or whatever it is, does he get these fines? This is a lot to absorb in one sitting. There are a lot of different things going on in this bill. I am cautious and concerned about that. If I could have staff explain that, I would be appreciative. I do not have those things in my house. Are we not looking down the line and seeing the green-energy police or someone coming to check our houses out?

First there was the disposal of the old fixtures and all the other stuff. Do we have an answer or have we done anything with that? My other question was about the fines. I am concerned about the penalties. Are those penalties to the manufacturer, to the builder, to the guy I hire that is an electrician who puts in a light fixture? I am going to take his word that he knows he is putting in the right

equipment. I will bring this bill home and when the electrician comes, I will ask him if he knows about this. I just got a television and I have no idea if I am in compliance using that television.

MR. NICHOLS:

I do not think the fines were intended to apply to an individual who installs these appliances ... installs items in their home that do not comply with these standards. But it would apply to someone that you paid to come into your home and install those appliances. And it would apply to a manufacturer or a retailer.

SENATOR CEGAVSKE:

It says, "Any manufacturer, distributor or retailer or person who installs a product" If I bought it and gave it to the installer, he would be fined if he put it in and it was not in compliance?

MR. NICHOLS:

He would be fined and so would the person you purchased it from, if you purchased it in Nevada.

SENATOR CEGAVSKE:

I am trying to figure out how the Attorney General gets involved in this issue, and how they find out I have the wrong item.

SENATOR TOWNSEND:

Ms. Brett was going to call Dr. Wiel. The persons from the Nevada State Office of Energy (NSOE) are here. I like S.B. 242. I think what is put forward has merit. What concerns me is the technical detail that will change every time we have a consumer electronic show. Perhaps if we could get the Governor and staff from the NSOE on the record, then we could put it in the bill that they will draft for these regulations. We will draft the regulations, give it to them and they will have to adopt it within the first 60 days after the signing of the bill. The NSOE will go to one hearing in the north and one in the south and you know what is in it, everybody knows what is in it and you adopt it. That way the NSOE can change it anytime technology changes. That would certainly give me more comfort, because I have a hard time putting this technical stuff in the law even though I think the idea in the bill is terrific.

MS. BRETT:

I agree we need to have this flexibility in the bill to make sure that we are updated. According to Dr. Wiel, he feels with that language in the bill, there is that flexibility to update. The detail is fashioned after other amendments in other states so we do not have to invent anything. It is a fundamental issue for the Committee to decide on the detail. I do agree that we need to have that flexibility so we can update as we see fit.

SENATOR LEE:

Senator Cegavske brings up an issue, and I see her point. If you are complicit, if you go somewhere and buy a garbage disposal or even 100-percent solder with lead in it, and you go out of your way to use those products as the plumber, you can get in trouble. But if you buy that from the wholesaler or someone hands it to you and you were hired to put that thing in and you do not know, they will never fine you. You were not complicit in trying to get around the law or give something to someone that you knew was illegal. It is a good point though, and there probably should be some verbiage and change on that, but your electrician would not get fined because of that, unless he was complicit with you to do something illegal.

SENATOR CEGAVSKE:

I have asked about this several times, but what we are doing as a state to take care of the items that we are getting rid of? The lightbulb issue was a huge issue because they are telling us there are all of these horrible things for our environment in it, but I still have never gotten an answer. Could I have somebody, at some point during this Session, tell me what we are doing? If we are doing nothing, can we start thinking about doing something, because I am getting the feeling that we are not doing anything about recycling and disposal. We are putting in all these requirements, but we are not taking further steps and meeting our responsibility of taking care of these unused products. I do not want them just thrown in the landfills. I want us to be proactive in taking care of the things we are trying to get rid of that are no longer efficient.

CHAIR SCHNEIDER:

Staff will get that for us. They will have a comprehensive look at what we are doing with our recycled products. It is a good point that we should be looking at. That is part of our footprint we are leaving.

Senator Townsend had a good theory on how we could move this and separate it out.

HELEN FOLEY (Pardee Homes):

Pardee Homes is one of the largest home builders in southern Nevada and in the western United States. On Earth Day, they plan to announce that for the western United States, they are going to be offering in all of their homes as an option, integrated solar roof tiles, and also radiant roof barriers as standard features, which will dramatically reduce the amount of heat in their homes. I know that Pulte Homes has been offering the radiant roof barriers. You have to do that only in new homes. You cannot do that for retrofits. It has a great ability to reduce the amount of heat in the homes, and will have a wonderful effect. This is just one of the living-smart features that Pardee Homes is going to be launching on Earth Day.

The federal tax credits have been a tremendous help with many of the abilities for reduction and allowing many of the different living-smart features in the homes. It is important that you can wrap these features up in the mortgages. When Pardee started a few years ago with the smart homes, I know Senator Townsend attended the showing of one of the zero-energy homes. We had a lot of features on that home. Actually, they were returning more energy than they used. It was a great idea. I do not think there were any other homes that were actually built that way in southern Nevada. You have to be able to wrap that home into the mortgage. They started some other homes that had trellises, but if people left the home they could take that trellis with them, so some of the mortgage companies were fearful of wrapping those features into the mortgage of the home. But when you have these integrated tiles in the roof, it is much easier to include that in the mortgage. It is hoped that you can offer credits for that in the mortgage. Otherwise, it is far too expensive to have someone purchase these; it does not make economic sense. Pardee is doing their part, and we hope that many other home builders will follow.

CHAIR SCHNEIDER:

I think what Pardee is doing is progressive and will go throughout the entire western United States. This bill and what we are doing with our clients and mortgages and everything else, just mirrors what Pardee is doing. I know Pardee is coming in with all the smart appliances that are becoming the standard now in their homes.

SENATOR TOWNSEND:

We have seen a few of the integrated solar roof tiles. I was hoping this Committee could view a couple of these things to see what is actually in the marketplace. Are we going to be able to see that, or is this an Earth Day rollout thing?

MS. FOLEY:

Those can be made available. We could set up a tour.

SENATOR TOWNSEND:

For those who did not get a chance to see this zero-energy-use home, it was remarkable. It is not about plugging a bunch of solar panels on, it is about how the home is designed, how it is faced relative to the sun and the type of materials used. It was a remarkable experience to see the kind of ingenuity that is available in the marketplace, if people take time to take advantage of a lot of smart people and great technology.

CHAIR SCHNEIDER:

Senator Townsend talked about doing the section in the bill on appliances as a regulation.

SENATOR TOWNSEND:

We have done this in the past, but not often. We understand the NSOE is under a lot of pressure to do a lot of things without much revenue. We need to deal with that in the budget. We are dealing with that with Senator Horsford's bill on how to manage some of the requirements. I would suggest we take all of the things that are in section 1, all of the detail that is more aptly placed in a regulation, and draft a regulation for the NSOE. It is called the director in S.B. 242. Place in it a statement that would be written by the author of the bill that talks about the importance of moving Nevadans into the next phase of reducing our carbon footprint, and giving the authority to the director to draft regulations dealing with energy-efficient appliances. We would already draft the regulation which, in essence, would be this bill. We would say, "the Director shall adopt these regulations within 90 days of passage of the bill." Therefore, when the bill gets signed into law, they have 90 days to go to hearing, but the language has already been drafted and handed to them, authorized by the Legislative Counsel Bureau. They know the PUCN is going to accept it and they just go to hearing. That is what I would recommend in that section to deal with

the technology problem that changes every day. There are some mandated issues in the bill that give some discomfort to individual members.

Mr. Chair, you should consider that when this is removed, if that is what you decide to do, page 6, subsection 10, states "The Director must investigate ...". They do not have enough people now to even come here, so I do not know how they are going to investigate anything. We need to think through what is the best process to help people do the right thing. I do not have an answer to that right now, but I do know we could put this in the law or you could put it in a regulation, and they are not going to do it anyway. I do not think they are going to be running to our houses to see what kind of appliances we have. We have to think through this with the Executive Branch and the Attorney General, because the Attorney General is in there. How do we want to encourage this behavior? If fines are the best way, then we need to figure out the best way to do the fines.

In section 8, "The Division shall select, and make available for distribution ... brochures or packets" If the Division is going to pick them, I think they know where to get them. I do not want to put the onus on the utility, because a public utility will include phone companies and a number of others like gas, electric and telecommunications, including cable operators, because they also are qualified as a utility. We might want to leave that up to the discretion of the Division. In this case it happens to be the Real Estate Division. Obviously, we should put something in here that says, "the best and most updated available information." Then, we have to decide who is going to pay for that, because it is not going to come free when talking about many thousands of brochures. The gas and electric utilities brought us 10 to 15 brochures apiece, that is a lot of printing. I know ad companies are getting all ginned up because they think they are going to get a big contract, but that is a serious issue. If you just left it generically, it would take away the problem of placing the burden on the utility for paragraphs (d) and (e) of subsection 1 of section 8, because they are not in the mortgage business or anything else. They can get that from other entities, depending on what revision is decided.

In all fairness, I know the Chair and a couple of other members are real estate licensees. And for the record, my wife is a licensee. It is important to help these licensees to understand what is in their best interest in sharing the value with their clients. I was in southern Nevada a week ago to go on a home tour, and all I asked about was if this home was energy efficient; what are these lightbulbs;

why is it designed this way? I drove those people crazy, and I can tell you they are not all prepared to answer these questions. Granted, I have an interest in it, and maybe most consumers would not have that level of interest. The Chair has made an excellent point in that this is an education and we have to bring these people up to speed to let them know what is going on in the marketplace.

Lastly, we need to clean up the language in section 4 about "A contractor shall offer ..." You cannot offer something if the house is already built. It needs to be offered on houses to be built, and provide information if the house is already built what is available from a retrofit perspective. At least say that if we build your new house, here is what we offer. If this is the house you want to buy, here is what is available to make it more energy efficient, so it is clear and understandable to the consumer.

SENATOR TOWNSEND MOVED TO AMEND THE PROPOSED AMENDMENT 4015 TO S.B. 242.

SENATOR CEGAVSKE SECONDED THE MOTION.

CHAIR SCHNEIDER:

This amendment would come back to the Committee for total review, because of the extensive changes to the amendment.

SENATOR CEGAVSKE:

On section 8, as Senator Townsend had said, on line 14, if we deleted "prepared by a public or private utility" that would take care of that language in the amendment.

SENATOR CARLTON:

I appreciate what the amendment is trying to do by taking those appliances and putting them in the right relationship, but I get wary about regulation. Unfortunately, with all of this and having to deal with the purchase of this and explain to people why they have to buy one thing rather than the other, I cannot support this. I supported your move last Session on the lightbulbs. It was one thing, it was one bite, it was a good thing to do and now everyone is buying them, but this is taking every other appliance, including the lightbulb, to the next level and it is too much. The problem with the lightbulbs is the disposal.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.)

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CHAIR SCHNEIDER:
We will go to S.B. 394.

SENATE BILL 394: Makes various changes to provisions relating to off-highway vehicles. (BDR 43-501)

MR. YOUNG:
Committee, I would ignore what is in your binder because last night we received a proposed amendment, version 4, which you have ([Exhibit G](#), original is on file in the Research Library). It is rather lengthy. My understanding from Ms. Bradle is that all the parties are in agreement. There is also a copy of a revised fiscal note which is clipped to the back of your packet. Perhaps, because this is a significantly different document than we have had before, Mr. Chair, you may want to have Ms. Bradle and the DMV people come up and let us know whether or not this, in fact, is acceptable to everyone.

CHAIR SCHNEIDER:
Committee, this amendment came in last night because DMV worked diligently with the groups to get it together. While you peruse the amendment, we will consider S.B. 73.

SENATE BILL 73: Revises provisions governing energy conservation and efficiency standards. (BDR 58-438)

MR. YOUNG:
In your binders under S.B. 73 ([Exhibit H](#)) is the Nevada State Office of Energy's one-page amendment that they showed us before. Also under S.B. 73 is an amendment from Mr. Shaver on behalf of the City of Henderson. There is a reference to tab C. We were expecting a new amendment that would incorporate a revolving program, but this morning Mr. Vander Poel indicated to me that they were going to work on that in some other legislation. My understanding is that tab A and tab B representing the Office of Energy's amendment and Mr. Shaver's amendment are acceptable to the Office of Energy and to Mr. Shaver. Those would be the two documents that the Committee would take action on.

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CHAIR SCHNEIDER:

The first amendment on S.B. 73 under tab A, [Exhibit H](#), was presented by the Office of Energy. Are there any questions on that amendment? The bill is amended as a whole.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 73 WITH THE OFFICE OF ENERGY AMENDMENT AND THE CITY OF HENDERSON AMENDMENT.

SENATOR CEGAVSKE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SCHNEIDER:

Committee, let us go back to S.B. 394. I know there are some people here on S.B. 358, but we will work on that the first thing in the morning, as we are expecting an amendment that Senators Townsend, Horsford and I have been working on.

[SENATE BILL 358](#): Revises provisions related to energy. (BDR 58-1146)

Again, Committee, it was supposed to be a unanimous agreement by everybody on this amendment, [Exhibit G](#). It was agreed to by all the trails, off-road people, rock climbers and other interested parties, and DMV has also agreed to this amendment.

LEAH BRADLE (Executive Director, Nevada Powersport Dealers Association; Coordinator, Off-Highway Vehicles Working Group):

After working closely with DMV, we came up with the amendments to S.B. 394. It is hoped this will alleviate many of the fiscal problems encountered with the language of the original bill. The mock-up version 4 includes the amendments negotiated with DMV, and the Off-Highway Vehicles (OHV) Working Group. It also incorporates previously proposed amendments for a single concise document. It has been agreed upon by our entire OHV Working Group and the DMV. You will see on DMV's fiscal note that aside from the initial start-up cost, which we are confident we can obtain, the program will serve as a revenue generator for DMV as well as the State. The DMV and I have

agreed to continue working together on the bill and the program should you choose to move forward with the bill.

The main amendments to the bill, the reason it is so large in size at this time, is because we added provisions for DMV to regulate OHV dealers, and do authorization of those dealerships. The amendment also creates a new fund for DMV allocations to get away from the constitutionality issue of associating it with the Highway Funds. It increases the percentage of fees allocated to DMV for the first year. It changes the effective date of the bill from January 2010 until July 2010. The amendment makes a few other changes regarding non-registration citations and fees. Grant applications will be vetted directly through the advisory committee to address those issues of how it would go through that process. One other change is that DMV would have the authority to design the identification decal. Senator Lee's amendment is not included, but we are fine with that.

SENATOR LEE:

This amendment seems to be one of the best-crafted amendments in this building today, and it should be approved. I am prepared to make a motion.

CHAIR SCHNEIDER:

We would need some time to review this amendment to see if it is constitutional.

MR. NICHOLS:

I am sure that Leah and the DMV and all the other interested parties worked diligently on that, but I would like to clear it with my boss before we give our stamp of approval to the amendment as proposed. There are very specific requirements about where money collected by DMV has to be allocated and how it can be spent; and so subject to the Legislative Counsel signing off on it, we draft the amendment and bring it back to the Committee for review.

CHAIR SCHNEIDER:

What we have to do is bring it back to make sure Brenda Erdoes, Legislative Counsel, gives her okay that this is constitutional the way the money is collected and distributed. Ms. Bradle, how does this amendment change what we heard last week?

MS. BRADLE:

Essentially, the main difference in the majority of the pages in the amendment is that it creates regulation licensing and bonding of the dealers, which my association supports. That allows people to go directly to the dealerships to do vehicle identification number inspections as well as submit paperwork for titling and registration that is then forwarded on to DMV, so they would be taking on the majority of that workload. Again, it is similar to those regulations of automobile dealers that have been put into this amendment. And, as I mentioned, there are a few other changes to try and make it easier on DMV and avoid some of the constitutionality issues that they were seeing.

CHAIR SCHNEIDER:

Has Senator Rhoads seen this amendment?

MS. BRADLE:

I sent a copy to Senator Rhoads last night, and had a conversation with him yesterday to let him know that we were coming to consensus points with DMV to amend the bill. He is aware of this.

SENATOR CEGAVSKE:

On page 34, subsection 1, [Exhibit G](#), you talk about "...the Department may impose an administrative fine, not to exceed \$2,500, for a violation" How did you come up with \$2,500? Is that similar language to another regulation?

MS. BRADLE:

That language is similar to NRS 482 in regard to automobile dealers, but I would defer to DMV to answer that question.

SENATOR CEGAVSKE:

Would you leave it as the same amount as for automobiles, even though the value is different?

MS. BRADLE:

Yes. I believe so.

SENATOR CEGAVSKE:

Even though the value of a car is a lot more than the value of an off-road vehicle?

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FARROKH HORMAZDI (Deputy Director, Department of Motor Vehicles):
The fine is the same level, even though prices are different.

SENATOR CEGAVSKE:
My question is why would you have the same fine for a more expensive car than an off-road vehicle?

MR. HORMAZDI:
I am sure there is a reason, and I will check with the person who wrote it and get back to you. If that is okay with the Committee?

CHAIR SCHNEIDER:
The \$2,500 was in the bill we saw last week.

SENATOR CEGAVSKE:
I understand that. I was asking why it popped up in this amendment.

CHAIR SCHNEIDER:
We are working to get this done by Friday.

SENATOR CEGAVSKE:
I know, but we do not need bad legislation.

CHAIR SCHNEIDER:
Right. This has been an eight-year process for Senator Rhoads.

SENATOR TOWNSEND:
I understand the uncomfortable nature of the Committee having not seen the amendment, and having the amendment gone way past the original concept of the bill; although I respect the effort that went into it, and you were right in moving forward. Unfortunately, the Committee faces a problem with the deadline, so I will offer this as a solution. By 5 p.m. on Friday, we have to have voted on an amendment. That does not mean the amendment has to be physically in our hands, because many times the staff is unable to do that. In order to meet the deadline, perhaps we should amend the bill, do pass it, with the caveat that the amendment come back to the Committee. Upon further review, Committee members can choose to support it, recall it, amend it again when it gets to the Senate Floor or reject it. That is up to the Committee members. I offer this as an opportunity to get us by the deadline, because

I remember what it was like the first time we put these waivers in and the Chair had to go to leadership to ask for a waiver; I do not want to put our Chair through having to ask for a waiver if we do not have to do so. This amendment is likely to take a minimum of a week to draft because of all the others ahead of this one. When we get it back again, we can go through to verify it was drafted correctly, and identify where we do or do not want to make further changes. I am willing to support getting the amendment moving, and we can decide later if we like what we did.

MS. BRADLE:

Your suggestion would be appreciated. Overall, the concept of the bill has remained the same. Most of the changes were to address the fiscal impact on the bill. I just received word from someone who visited with Senator Rhoads, and he has seen the amendment and he is okay with it.

CHAIR SCHNEIDER:

We have a theoretical motion by Senator Townsend. When it comes back, our Committee Counsel will have talked with Brenda Erdoes to see if this is constitutional or not regarding the money.

SENATOR TOWNSEND MOVED TO AMEND AND DO PASS AS AMENDED S.B. 394 WITH THE CAVEAT THAT THE AMENDMENT COME BACK TO THE COMMITTEE FOR FURTHER REVIEW AFTER BEING AMENDED.

SENATOR LEE SECONDED THE MOTION.

SENATOR CARLTON:

If this amendment was e-mailed to Senator Rhoads last evening, I would like an answer to why I did not also receive it last night. Instead of wasting my time on the one that is in the book, I could have focused on the actual document that we did work from.

SENATOR LEE:

I want to include the association membership in your motion, if that is possible?

SENATOR TOWNSEND:

Absolutely.

SENATOR LEE REVISED HIS SECOND TO INCLUDE MEMBERSHIP OF THE BACKCOUNTRY HUNTERS AND ANGLERS ASSOCIATION IN THE MOTION.

CHAIR SCHNEIDER:

Senator Lee's amendment is in there, and Senator Townsend agreed. We are amending the amendment and it will come back to the Committee for review. The Legal Division will give us an opinion at the same time if this is constitutional the way the money flows on this.

SENATOR CARLTON:

Is it a do pass or without referral?

CHAIR SCHNEIDER:

It is a do pass. But it has to come back here for our review first.

SENATOR CARLTON:

Does it have to be a do pass to keep it alive?

CHAIR SCHNEIDER:

I think we do.

SENATOR CARLTON:

Without referral?

CHAIR SCHNEIDER:

Mr. Young is saying it has to be a do pass.

SENATOR CARLTON:

We cannot refer without recommendation?

CHAIR SCHNEIDER:

We are doing a do pass, though.

SENATOR TOWNSEND:

We are going to bring the amendment back. Mr. Young, I do not know whether you can amend and refer without recommendation to the Senate Floor and keep it alive. That is my question. I do not believe we can do that.

MR. YOUNG:

In order to keep it alive, it would have to go from the Senate Floor to a money committee. So, the only way to keep it alive from this Committee is to do a do pass or an amend and do pass.

SENATOR CARLTON:

I thought as long as it got out of the Committee, even without recommendation, it would go to the Senate Floor for a vote, so it had been passed by the Committee.

CHAIR SCHNEIDER:

Mr. Nichols, could you clarify that.

MR. NICHOLS:

I can't clarify that question, but I can give the Committee an answer on the constitutional issues before Friday. So, the Committee could, I guess, consider a vote on the bill as amended with a comfort level on the constitutional issue without seeing the language of the bill as amended before Friday, if that is something that would work for the Committee.

SENATOR TOWNSEND:

I am willing to stand by my motion, but I also want to support the Committee with regard to, not just the issues of constitutionality, but the issue of the bill. I will take whatever staff gives us as an answer. I do not know if you can send a bill out, and you may be able to amend and refer to the Senate Floor without recommendation. I have been on a number of committees where we did not recommend. I think there was a tax bill that was sent to the Senate Floor without a recommendation. I do not know if that gets it out of the Committee. I do not want to hurt that potential which would mean we would have to come back in here and revote in order to save it. I do not know the details. I am willing to stand by my motion because I am going to get the amendment back and see it anyway. Then if we decide we did not like it, we can rescind the action by which we amended and do passed that bill and take another motion.

CHAIR SCHNEIDER:

Great. For clarification, Mr. Young has something to share.

MR. YOUNG:

This is an e-mail that Mrs. Clift sent out on Monday. It says:

With the committee passage deadline for Senate bills and joint resolutions fast approaching, please keep in mind that a committee action to amend a bill or a joint resolution is not a final action. The motion to amend must include one of the following continuation actions for it to be considered a final action. Those options are "amend and do pass, amend and rerefer, amend but without recommendation." So, the Committee could do one of those three things and the bill would not expire on Friday.

CHAIR SCHNEIDER:

I would go with amend and do pass. I think we are fine with that because we are going to bring S.B. 394 back here and look at it anyway. Like you said, we can rescind our action if we do not like it.

SENATOR CARLTON:

Then I will have to vote no, because I cannot vote on something I did not get an opportunity to read.

CHAIR SCHNEIDER:

All those in favor?

SENATOR CEGAVSKE:

I totally agree with Senator Carlton concerning voting without being able to read it. I would just as soon not vote on it at this point, and be nonvoting. I understand what we are doing, but there is a lot of stuff in here. The concept and everything we talked about, I agree with, but will not just be slammed with something, so I will do nonvoting.

THE MOTION CARRIED. (SENATOR CARLTON VOTED NO.
SENATOR CEGAVSKE ABSTAINED FROM THE VOTE.)

SENATOR NOLAN:

After Committee members have had a chance to look at this amendment and get the effect of it, we will have a few days before it actually comes to Senate Floor, and we can still hold a Committee meeting on the Senate Floor

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and bring an amendment at that point, as long as it is out of Committee and on the Senate Floor.

CHAIR SCHNEIDER:
Rescind our action?

Mr. Young:
That is right.

CHAIR SCHNEIDER:
Thank you, Committee. With that the Senate Committee on Energy, Infrastructure and Transportation is adjourned at 10:47 a.m.

RESPECTFULLY SUBMITTED:

Laura Adler,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____