

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

**Seventy-fifth Session
April 17, 2009**

The Senate Committee on Energy, Infrastructure and Transportation was called to order by Chair Michael A. Schneider at 8:44 a.m. on Friday, April 17, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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

GUEST LEGISLATORS PRESENT:

Assemblyman David P. Bobzien, Assembly District No. 24
Assemblyman Jerry D. Claborn, Assembly District No. 19

STAFF MEMBERS PRESENT:

Matt Nichols, Committee Counsel
Scott Young, Committee Policy Analyst
Josh Martinmaas, Committee Secretary

OTHERS PRESENT:

Tom Roberts, Lieutenant, Las Vegas Metropolitan Police Department
Michael Geeser, AAA Nevada
Tim Kuzanek, Washoe County Sheriff's Office
Tiffany Hunter, People First

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Carol Hunter, People First
Walter Cuculic, Director, Strategic and Consumer Marketing, Pulte Homes
Jack Fleming, J.J. Fleming and Associates
Gail J. Anderson, Administrator, Real Estate Division, Department of Business
and Industry

CHAIR SCHNEIDER:

We have two bills today and then a presentation by Pulte Homes. We will open the hearing on Assembly Bill (A.B.) 407.

[ASSEMBLY BILL 407](#): Increases the fee for reinstatement of a driver's license or commercial driver's license. (BDR 43-515)

ASSEMBLYMAN DAVID P. BOBZIEN (Assembly District No. 24):

I started looking into the issue of administrative license revocation (ALR) fees last summer during our various special sessions as the money problem was becoming acute. I came across some information about the ALR mechanism we have in State law. I have provided a packet about what these are and what they are intended to do ([Exhibit C](#), original is on file in the Research Library).

If someone is arrested for driving under the influence (DUI), in the interest of public safety and getting them off the road quickly, there is an administrative mechanism for taking their license away. A fee then has to be paid to get the license back afterwards. Our fees seem a little low when looking at other states. I did some math and came up with some numbers. You have a revenue worksheet ([Exhibit D](#)) showing, if the fees were raised according to this bill, how much money we could reasonably expect—these are completely projected numbers—to go to our Highway Fund. The driver's license fee was last increased in 1993, while the commercial driver's license fee was set in 1987 and has not been raised since. I ask for your support in raising these fees for the first time in a long time.

SENATOR CARLTON:

What is the process on the revocation? If the person is found guilty, it is revoked, and once the revocation is over then they can reinstate their license?

ASSEMBLYMAN BOBZIEN:

I would refer to Committee Counsel on how the conviction aspect works because this is the administrative side of once your license is revoked. I think

after you have been through the judicial process you are eligible for getting your license back.

SENATOR CARLTON:

Would this apply to folks who had their license suspended but ended up not being found guilty? Does that fee apply to them now? If it does, then this increase would apply to them, too.

ASSEMBLYMAN BOBZIEN:

I am not sure if you still have to pay to get your license back if you go through the ALR and are not convicted.

SENATOR CARLTON:

It is a question of process. I just need a better understanding.

TOM ROBERTS (Lieutenant, Las Vegas Metropolitan Police Department):

We have no position on this bill, but I can answer part of Senator Carlton's question. The revocation hearing is a separate hearing from the court case. They have a hearing that examines the case and makes a determination of whether to suspend or revoke your driving privileges in the State. I had cases where I have lost the revocation hearing and won the court case and vice versa.

SENATOR CARLTON:

If someone gets a ticket for possible DUI or under the influence of a controlled substance, there are two hearings. One is the criminal hearing and the other is the administrative hearing. Within the administrative hearing, the driver's license is suspended. Where is the assumption of guilt along the way? Just because you get a ticket does not necessarily make you guilty. Where does the administrative process stop for people who are not guilty? Is it before the suspension process, or do they have to prove it after the suspension process? What are the steps?

LT. ROBERTS:

The court cases usually take longer to adjudicate than the administrative hearing. Generally, when you make the arrest and you have illegal per se, such as they blow over the legal limit or the blood comes back over the legal limit, you issue a temporary driver's license for 30 days, and that is pending a revocation hearing. You would have the hearing prior to the court case. Generally, the court cases would never move that swiftly. I do not think you

would have one without the other. In some of the cases I was involved in, I do not know if there would be a different outcome. Sometimes in the administrative hearings, the level of proof is less than for a criminal case. There could be an instance where somebody could get fined and then found not guilty in a criminal hearing.

SENATOR CARLTON:

That is where my question was going. Someone who has proven their innocence, but receives this ticket, will still have to pay. And now, pay this reinstatement fee and increase.

LT. ROBERTS:

Correct, but those are probably few and far between.

CHAIR SCHNEIDER:

This is a simple bill. The fees have not been raised in 20 years.

SENATOR NOLAN MOVED TO DO PASS A.B. 407.

SENATOR TOWNSEND SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

We will now open the hearing on A.B. 412.

ASSEMBLY BILL 412: Makes certain changes concerning the towing of occupied vehicles. (BDR 43-111)

ASSEMBLYMAN JERRY D. CLABORN (Assembly District No. 19):

This bill makes it lawful for an operator of a tow truck to tow a vehicle occupied by a person with mobility restrictions, provided that person is properly restrained and if it is required by law to wear a seat belt.

MICHAEL GEESER (AAA Nevada):

I will walk through the bill and how this came about. When we are called for a service request and the person making the call has some kind of restricted mobility or is physically handicapped, they cannot actually get in our tow cab.

We have to stay with them on the side of the road until a paratransit vehicle or one of their own personal vehicles could get them. This does a service to no one. It would be easier if we could pass this bill, allowing us to take them off the road safely in their own vehicle.

On the Assembly side, the issue was raised if we can do it for those folks, why not for a large family or group of people who would not fit in the tow truck's cab. We could, but in order for law enforcement to be comfortable, we had to set some parameters. These parameters are included in the amendment ([Exhibit E](#)). The amended language is in bold type at the bottom of the page. This language would allow us to render assistance to a person with restricted mobility, or to a group of people who are in an extreme or hazardous situation. The operator of a tow car could tow a vehicle to the nearest, safest location with the person or persons inside the vehicle, if they are properly restrained. All we are trying to do is get people safely off the road. It is what people who are physically handicapped want, what large groups want, what we want and what law enforcement wants. With these parameters in place, which speak to dangerous situations and inclement weather that people encounter in this State, we can make life better for the motorists of Nevada. On the original bill, on page 1, line 4, it says, "... an operator of a tow car may tow a vehicle" It does not say "shall." If either party at the service request is uncomfortable with the situation, it does not have to be done. It is simply an option for us to get people safely off the road.

SENATOR CARLTON:
Could you talk about the issue of liability?

MR. GEESER:
The liability for the tow-truck operator and tow company solely lies with them when it comes to property or personal injury. Nothing changes in this bill. The liability is still on us if some sort of injury or damage were to happen, whether the person is in our tow cab or in their vehicle on the back of the tow truck.

SENATOR CEGAVSKE:
This is an excellent piece of legislation. I am happy Assemblyman Claborn has brought it forward.

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS A.B. 412.

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SENATOR NOLAN:

I agree with my colleague's comments. There is a real need for this.

LT. ROBERTS:

We are in support of this legislation. It is a simple piece of legislation that is common sense, allowing tow-truck companies to clear the roadway of broken-down vehicles and get folks to a safe location in an expeditious manner.

TIM KUZANEK (Washoe County Sheriff's Office):

We are also in support of this legislation with the amendment.

TIFFANY HUNTER (People First):

This bill is important to me because I travel a lot in Carson City and Reno. If my accessible van needs to be towed, I would be left stranded on the side of the road. We support this bill.

CAROL HUNTER (People First):

We live out in Stagecoach, a very rural area, and we drive on some desolate roads. When we go into Reno, a lot of times we have to take State Highway 95A between Silver Springs and Fernley to get on Interstate 80. There is nothing on the road except sand and sagebrush. If you break down there, there are no accessible taxis or buses. We would be stranded on the side of the road which is one of my major concerns. If this law goes into effect, it would make it easier on us to be able to stay in the vehicle, be towed to the nearest garage and then get transportation from there. Please support this bill.

SENATOR CARLTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR SCHNEIDER:

Mr. Young has provided us with some articles again today ([Exhibit F](#)). The first is a more detailed article about NV Energy meeting their solar-energy mandate. It states, "Nevada utility finally meets state's solar-energy mandate." I do not think they got that right; it is just the renewable-portfolio standard which could be about anything. The second article is from <www.rgj.com> and is about an Italian firm, Enel North America, opening two geothermal plants this week;

one at Stillwater and the other at Salt Wells near Fallon. The 2 plants produce a total of 65 megawatts and have 25 full-time employees. The next article is about U.S. Senator Harry Reid announcing that \$12 million of the federal stimulus funds will be used to explore for more geothermal near Hawthorne and Fallon. The goal is to produce geothermal wells with a generating capacity of 30 megawatts at each location. If they are successful, the new plants would employ about a 100 workers during construction and 10 to 15 on a permanent basis. The final article, [Exhibit F](#), is about the Public Utilities Commission of Nevada (PUCN) ruling yesterday allowing NV Energy to transfer unused solar-generation capacity from prior years to new applicants. This will help address the situation we have discussed where since the beginning of the program, only 2 megawatts out of the 35 megawatts allocated have been installed. There is a provision allowing this in [Senate Bill \(S.B.\) 358](#) which is in the Senate Committee on Finance right now. We are waiting for an amendment so it can come back.

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

Today on General File we will have the opportunity to pass [S.B. 242](#). One of the important components of this bill is the requirement that real estate agents, real estate appraisers and mortgage brokers take continuing education classes in energy efficiency and renewable energy. This Committee has done a lot this Session to advance these two concepts.

[SENATE BILL 242 \(1st Reprint\)](#): Enacts provisions relating to energy efficiency, renewable energy and building construction. (BDR 58-378)

When I learned what recently happened to Pulte Homes, I realized the Committee needed to hear about this as well. It is a perfect situation for us to discuss. It is unfortunate this has happened to Pulte with the appraisal situation and it stresses why we need [S.B. 242](#). When the State undertakes the licensing of a profession, it has a responsibility to see that licensees are capable of serving the public in a way that both protects and benefits the citizens of the State. That is the primary reason we regulate anything. Based on what you hear this morning from Pulte, it is apparent that Nevada has a long way to go in assuring that energy efficiency and renewable energy become part of the fabric of our lives and business practices. You may recall the survey yesterday that 50 percent of those surveyed could not name 1 renewable resource and 40 percent could not even name a fossil fuel. The quote from Scott Bittle in the

article titled, "Americans Give U.S. Low Grades on Key Energy Challenges" ([Exhibit G](#)) states, "Of the barriers to progress, the most notable may be a serious knowledge deficit among the public. This knowledge deficit may be the greatest challenge the nation faces on energy, greater than the economic or technical problems."

With that, Walter Cuculic from Pulte Homes will explain some of the energy-efficiency and renewable-energy options Pulte offers on its homes and what has occurred in regard to appraisals of those homes.

WALTER CUCULIC (Director, Strategic and Consumer Marketing, Pulte Homes):
I will start today with a presentation about Villa Trieste, a community we are currently building in the Summerlin area of Las Vegas. Pulte Homes is building a 185-unit single-family detached project in Summerlin, a highly desirable area. There are five floor plans. They range in square footage from 1,487 to 1,960 square feet. For the Summerlin area, it is a pretty affordable product and price range. It goes from the low \$200,000s to the mid \$200,000s. The homes, as a standard, are 60 percent more energy-efficient than code requires. We are partnering with a number of different partners. These include the Center for Renewable Energy at the University of Nevada, Las Vegas, NV Energy, the federal Department of Energy (DOE), Summerlin and the solar provider SunPower.

The homes come with solar as standard. It is just under a two-kilowatt system. In addition, they come with tankless hot water heaters and air-conditioning units that have a seasonal energy efficiency rating (SEER) of 15. The current standard is 13 SEER. They also come with 92-percent efficient furnaces. These homes utilize an advanced insulation and building envelope system. We use blown-in cellulose insulation as well as foam insulation for all the air gaps and penetrations. They are insulated with a method referred to as cathedral-attic insulation, where the home is insulated from the roofline down rather than the ceiling up. It makes the whole house the conditioned space and is a much more efficient way to insulate a house. For those of you who live in Las Vegas who do not have conditioned attics, you know how hot your attic gets during the summer. On a typical summer day where it is 110 or 115 degrees, I would not be surprised if unconditioned attic spaces get to about 150 degrees. Conditioned attics are required on commercial construction but currently not required in residential attics.

SENATOR TOWNSEND:

I understand the 92-percent efficient designation for the furnaces, but how is it rated? What is the size, and how would the average consumer know to ask for this?

MR. CUCULIC:

They probably would not know to ask. As Chair Schneider said, one of the biggest challenges we face is consumer education and awareness. There are a number of ways, as a society, to better improve our knowledge on the energy efficiency of homes.

Other features include compact fluorescent lights throughout the homes. We also do many water-conservation techniques such as high-efficiency or dual-flush toilets, aerators on the faucets, smart irrigation and xeriscape landscaping. We are also including an eco-concierge dashboard which helps the owner monitor and control the energy usage as well as show the solar generation of the home. I call it a computer for your house. One of the things they have begun doing in electric cars is instantaneously showing the miles per gallon (mpg). Evidence shows the more you know about your energy usage, the less you will use and the more you will conserve.

SENATOR TOWNSEND:

As you went through your design, build and all the econometric models, did you look at real-time pricing as an option for some of your consumers?

MR. CUCULIC:

As part of our long-term partnership with NV Energy, we are working toward that. One goal with this project is to reduce peak demand by 65 percent in the home. We have started out well by building the homes great to begin with. But again, this is more of a pilot project than what we can do as standard today. We are learning from this so we can get better at doing this on a mass scale.

These homes have a home energy rating system (HERS) score of 43. I refer to it as mpg for your home. If you built a home today, you would have a HERS score of 100. Our homes, just based on the way they are built, are 57 percent more energy efficient than code, so they have a HERS of 43. Each point on the scale is worth one percentage point. A zero-energy home would be a home that creates as much energy as it uses, and it would have a HERS index of zero. Most existing homes today, because they were built to previous code, have

HERS scores in the range of 120 to 140. An ENERGY STAR home, which is 15 percent better than code, has a HERS of 85. It is a straight, nationally recognized scale the DOE and Residential Energy Services Network have come up with. It is a very simple way to communicate to consumers what the mpg for their home is. We have started to put placards in our homes to try to educate people.

SENATOR CARLTON:

Is there a way to distinguish what a 35-year-old house would be using? I am guessing my house is probably around 200.

MR. CUCULIC:

You can have an energy audit performed; they call them HERS raters. NV Energy probably has a list of HERS raters they could recommend. It is probably around \$200 to \$400 to get an energy audit done. They come in and do blower-door tests and use infrared cameras.

SENATOR CARLTON:

It is the same stuff that has been done in the past?

MR. CUCULIC:

Correct. A typical home built to the 2006 energy code, the existing code in southern Nevada, would score a HERS of 100. An older home has a typical score of a 130 to 140, depending on the quality of the windows and insulation. In addition to the home components, the homes have been certified by a number of third-party verifications. These homes are built to the standard of the Southern Nevada Home Builders Association Green Building Partnership and Southern Nevada Water Authority Water Smart Homes program, are ENERGY STAR certified and are Leadership in Energy and Environmental Design (LEED) for homes platinum certified. This is the largest LEED for Homes platinum project in the Country currently scheduled. Another third party is Environments for Living (EFL), which is a Masco Home program.

CHAIR SCHNEIDER:

Masco Corporation is a Fortune 500 company that provides different products such as Delta faucets and Aqua Glass. They have a special program?

MR. CUCULIC:

Their program is called EFL. It does not require specific products, but it requires specific measures similar to ENERGY STAR. ENERGY STAR does not say you have to use GE products just to build to a certain code level like the EFL program. It deals with more than just energy. It deals with things like moisture management too. In order to meet their highest level, which is either EFL green or EFL diamond, you have to be a minimum of 30-percent better than code, which is twice as energy-efficient as ENERGY STAR.

CHAIR SCHNEIDER:

When you build these houses and make them so air tight, how do you keep the air inside clean?

MR. CUCULIC:

There are fresh air ventilators installed in the heating, ventilating and air-conditioning (HVAC) equipment. It is an advanced construction and design technique. They are done by energy modelers and HVAC designers and engineers. They have fresh-air ventilation cyclers turning on every 15 to 20 minutes to exchange air. It creates a very comfortable environment. One cool thing about the EFL program is that it gives both a temperature and energy guarantee. The program guarantees your heating and cooling costs for three years. In addition, it has a comfort guarantee. Because these homes are well insulated and have a good building envelope, they guarantee the difference between the hottest room in the house and the coldest room in the house will not vary more than three degrees. This leads to better energy in your house because you are not keeping one area of the house super cold because the other area of the house is too hot.

CHAIR SCHNEIDER:

Can the cathedral-attic insulation be done in older homes?

MR. CUCULIC:

Yes, but you would have to speak to an insulation expert to know if that is the most efficient way to keep your house cool in terms of a remodel. In terms of new construction, I would not buy a house without the cathedral-attic insulation.

CHAIR SCHNEIDER:

Could you go into the appraisal situation?

MR. CUCULIC:

The appraisal situation is not just at Villa Trieste, it is a challenge we are facing across the Las Vegas Valley. One of the biggest challenges we face in terms of society is a lack of education. I do not know why people are not more interested in their homes. People will know more facts and technical information about their cars and stereos than their homes. When they buy a home, they do not get into the details of the information as much. Your average consumer does not know what SEER is, let alone to know to ask for a 15 SEER air conditioner. Your average consumer has never even heard of HERS, but when they go to buy a car, right on the front window next to the price is an mpg rating. When you buy a house, why do you not know the HERS rating before you buy it?

Las Vegas has the highest concentration of ENERGY STAR homes compared to any metropolitan area in the Country. It is approximately 60 percent. The home-building industry in Las Vegas has done an amazing job. There is a group called Energy Star Partners. They do a great job promoting ENERGY STAR. If I go online to search for an ENERGY STAR home on the resale market, though, I cannot because there is no way to search for it. I can search by square footage, bedroom count and bathroom count. It would be great if you could say, "I want to buy an ENERGY STAR home," and that would be one of the prefilters you would click on. Even if I want to do it, I cannot find this information.

On the appraisal side, the appraisers have a tough time, too. There are three ways to appraise homes. One is like-for-like value where you look at square footage, bedroom counts, zip codes, whether the home has a covered patio and those sorts of things. The second way is to do it by cost. What is the cost to build these things? Finally, you can do it by income. Currently, the majority of appraisers do it by like-for-like value. Well, as we start to build more energy-efficient homes, or you start to include solar or tankless hot water heaters, there are not any homes out there to do an appraisal on a like-for-like basis. You do not know what to compare it to. The appraisers are somewhat lost as well. If I am appraising an ENERGY STAR home versus Senator Carlton's older home, how do I figure out how much more that is worth in terms of energy efficiency? That is where the appraisers get stuck. What if Senator Carlton's home had solar panels on it and there are no homes in the area where Senator Carlton lives that have solar panels? How do I value, on the appraisal side, what the solar panels are worth? Appraisers are stuck right now

because there is not a lot of these green features out there in the general market, so they do not know how to appraise them.

Even if consumers want to buy these houses, they might not be able to get the loans they need; that is our challenge today. If I go to the bank to get a loan, and the house costs \$20,000 more, the appraiser will come in and say, "I know it cost \$20,000 more, but I cannot appraise it for \$20,000 more because I am comparing it to homes that do not have these great energy-efficient features." The home buyer would have to pay for it out-of-pocket. He cannot get a loan. I relate it to hybrid cars. Why can you borrow more money for a hybrid car than a standard car? Well, a hybrid car is more energy-efficient, and there is a certain value. It costs more. When I go to buy a hybrid home with solar panels, tankless hot water heaters and it is super energy-efficient, right now the banks will not lend me more money. Even if I convince the consumer to buy, oftentimes they cannot buy it. Now not all appraisers are challenged by this; some of them are finding ways. It is a huge challenge because even once you convince the consumers, nobody has the extra \$25,000 to take out of their pockets.

CHAIR SCHNEIDER:

My nephew is a commercial appraiser. I told him the situation Pulte and other builders are in. He said the problem is home appraisers, which he used to be, do not have the knowledge. He said they have to look at these from an income approach, which is what commercial appraisers do. Through the income approach they can do it, but those appraisals cost a little more. I guess the builder or seller has to provide an appraisal. Maybe we need to have the Real Estate Division require new education for home appraisers to take these things into account. Maybe they have to do some sort of residential income approach.

I understand the appraisers are chasing the home prices to the bottom. They are scared they will go to prison if they do a lot of appraisals too high, but those are older homes. What Pulte is doing with these new houses cannot be compared to the old homes. Maybe over the next few weeks we can work with the administrator of the Real Estate Division and come up with something for the appraisal industry to bring them up to speed. You pointed out that you cannot go into the multiple listing service (MLS) and search for energy-efficient homes. We have a bill coming up where the Realtors have to take a class because they do not know, either. They are just selling houses based on looks—and that is how people buy homes. The Realtors will have to get up to speed. Maybe we need to require MLS to put a function in where you can pull up ENERGY STAR

homes. Compared to what Pulte is doing, ENERGY STAR is not really that efficient.

MR. CUCULIC:

ENERGY STAR is a good first step, and the industry as whole has done a good job making ENERGY STAR homes. When I go in on the resale side, though, giving consumers information is our biggest challenge. Having a filter on MLS where you can choose ENERGY STAR or non-ENERGY STAR will help accelerate the change within the industry. It would even help appraisers in terms of like-for-like comparisons because if they know the home you are building is ENERGY STAR, then they would only compare it against other ENERGY STAR homes. Labeling is also important; similar to mpg on a car, if when you bought your home you had a label stating the HERS score, or something, that would help. It would not cost anything in terms of that additional label. The more information that is required to provide consumers and empower consumers is good because there is a movement out there. The consumers are aware. What you are doing is great, but we have to make that information front and center so when they buy a home, the people who do not know the questions to ask can become aware.

SENATOR CARLTON:

In comparing the ENERGY STAR home to the newly rated home, what would the price be for those two homes? What are these homes selling for?

MR. CUCULIC:

Our homes are selling from \$227,000 to \$269,000.

SENATOR CARLTON:

I am sure you did a cost-benefit analysis on the payback time for these efficiencies. How many years is the payback?

MR. CUCULIC:

Again this is a one-off deal because we have great partnerships with entities such as DOE and NV Energy. Villa Trieste is a true pilot program to understand how to do this and to try to educate consumers. We have had numerous open houses for appraisers, Realtors, consumers and home buyers. I do not want to necessarily use Villa Trieste. If I used an ENERGY STAR home, an estimate for the payback time would be around two to three years.

SENATOR CARLTON:

Is the payback two or three years for an ENERGY STAR home?

MR. CUCULIC:

Yes. I would estimate on a 2,000-square-foot house it would be somewhere between \$2,000 and \$4,000. You can make that money back in a short period of time. There are number of ways you can reach the ENERGY STAR level. If I am a home buyer, I would definitely buy an ENERGY STAR home; who does not buy an ENERGY STAR refrigerator?

SENATOR CARLTON:

Being a person who lives in an older home and has replaced the air conditioner, windows, patio doors, pool pump and garage door—the next chore is the insulation in the attic—when I list the 35-year-old house, how would I get the same bang for my buck in the MLS as the ENERGY STAR home? I will be competing with that home when I go to sell it. My house may almost be up to their level, but if I do not get to acquire that designation, I am at a disadvantage for all those improvements I have put in.

MR. CUCULIC:

With those older homes you need an energy audit. If you get that energy audit, you could qualify as an ENERGY STAR home. There are remodeling green programs, too; LEED for Homes might have one. We are probably not sophisticated enough to have HERS scores on MLS, but ideally that is where we would want to evolve. That way people could search by HERS scores to find a home 50 percent better than code. You could also have a filter for LEED for Homes, the SEER rating for air conditioners or a selection on solar. Currently, you can do word searches within the MLS, so maybe that is how you do it, but it is still a real challenge for resale.

The bigger issue for some homeowners is while all these great energy-efficient features add value to your home, when you want to finance it, your appraiser might not recognize them or have difficulty recognizing them. You could not get the value to refinance your home, even though you have these better features. Another issue is when somebody wants to pay more for your house because of everything you did; they might not be able to borrow the extra \$10,000 or \$20,000 on a \$200,000 or \$300,000 house to buy your home. It would cost more to buy your house than a less energy-efficient house. It is a home buyer

and homeowner issue because they have difficulty getting loans to buy better homes because they are not getting the correct appraised value.

SENATOR CARLTON:

These homes are \$227,000 to \$269,000; what was the square footage?

MR. CUCULIC:

The square footage is 1,487 to 1,960 square feet.

SENATOR CARLTON:

What would the comps on an ENERGY STAR home be as far as price and square footage?

MR. CUCULIC:

The additional cost would be around \$25,000. That includes the eco-concierge dashboard, solar panels, 15 SEER air conditioner, tankless hot water heater and other things in these homes.

SENATOR CARLTON:

So it would be around a two- to three-year payback on the ENERGY STAR homes if we do a quick calculation and seven or eight years for one of these Pulte homes?

MR. CUCULIC:

With the existing rebates that is correct. If there were bigger rebates, the payback period would be shorter. NV Energy is in the process of figuring out rebate structures for renewables. They are a great partner, and we are all trying our best to make better homes.

SENATOR CARLTON:

Is there a calculator available to consumers so they can figure out the payback on some of these items?

MR. CUCULIC:

Yes, I do not know where it is, but it is available on the Internet.

SENATOR CARLTON:

For neighborhoods like mine that are 35 years old, it would be very useful for the homeowners. They could see the money saved over a five-year period and then be more inclined to spend \$2,000 on a new patio door.

MR. CUCULIC:

The concern people have is if they put that money in today, and the payback is seven years but they will only live in the house for five, they will not do it because whoever is buying it cannot borrow the money. The appraisal-lender side is a real challenge. Another challenge is you have consumers who do not know or understand what I am talking about. If you fix the appraisal side and encourage consumer education, the market could be revolutionized and create a long-term impact.

SENATOR CARLTON:

Was this an issue before the credit crunch?

MR. CUCULIC:

A lot of stuff went on prior to the credit crunch. It was an appreciating market and people were not installing as many energy-efficient items. It was not as hot of a topic. You hear stories about appraisers going to home buyers saying, "What number do you want?" It is a different world today than before. The problem of education was still there, though.

SENATOR SCHNEIDER:

I like your comparison with hybrid cars. A used Toyota Prius sells for almost the same as a new one. The demand is that high. We have to get consumers into that same situation with housing; where if Senator Carlton and I do not upgrade our homes with these features, the buying public will severely discount our homes. We have to make the appraisers and real estate industry aware.

JACK FLEMING (J.J. Fleming and Associates):

I subscribe to everything Mr. Cuculic stated. I have been in the building and development business since 1950. We are building a green project on Kimmerling Road in Gardnerville called Kit Carson Village. I have provided a flyer ([Exhibit H](#)). One problem we have, like others, is the bank wants a reappraisal because of the depressed market. They sent out an appraiser, because we cannot hire our own commercial appraiser, and they dinged us \$30,000 per home because they did not understand what we were building. Exactly like

Mr. Cuculic stated, the appraisers do not know. We had to hire a consulting appraiser to coach their appraiser about our project's features. We were the first builder to use insulated concrete forms. They are 800-times stronger than a framed unit. We have an air conditioner that is 40 SEER. Even then, the bank is still not going to give us any more money.

When I testified before PUCN about four years ago, a representative from the federal Environmental Protection Agency (EPA) approached me because of all the energy-efficient features we were putting into this project. A team from the EPA then came out and, after looking at the project, selected us as the No. 1 pilot program in the Country to teach other builders how to reach an ENERGY STAR and LEED for Homes certified rating. At the time, we were the first in Nevada and California to achieve those ratings. We are now LEED silver certified and are probably really close to being gold certified. I am impressed that Pulte Homes got to platinum.

I started this project 15 years ago for Ellie O'Toole. I told her I would build the most energy-efficient project to house mentally and physically challenged, high-functioning people. We have been building this way since the 1970s; I have always been a conscientious builder. In the 1960s it only cost me \$80 to put in extra insulation in a house, yet, if I sell it to a young family and do not put the extra \$80 worth of insulation in, they will be paying more for the next 30 years. I could not live with that.

SENATOR CARLTON:

How large are these units and what are the costs?

MR. FLEMING:

We have a couple of plans close to 1,300 square feet up to 2,039 square feet. They range in price from the low \$200,000s to \$399,000.

SENATOR CARLTON:

Have you done a cost-benefit analysis to figure out where the paybacks are?

MR. FLEMING:

Yes, we have, but one of my associates could better answer that question.

GAIL J. ANDERSON (Administrator, Real Estate Division, Department of Business and Industry):

I am not an appraiser myself and I do not work in this field. The appraisers of real estate are one of our licensing groups regulated through the Real Estate Division. Appraisers operate under requirements for standards of professional practice in their uniform standards of professional appraisal practice. This is part of a federal program they operate under; the State is the administrator of that program. The purpose of the uniform standards is to establish requirements for impartiality, independence, objectivity and competent performance in preparation of an appraisal. An appraisal, simply, is the process of developing an opinion of value. Value is the monetary relationship between properties and those who buy, sell or use those properties.

The other consideration is, in appraisal practice, value must always be qualified. For example, market value is one of the value types. For the purposes of this discussion it is what we are focusing on. There are other value types such as liquidation value and investment value, but market value is what we are talking about today. It is stated as an opinion and presumes the transfer of a property. It presumes a certain date and under specific conditions. The conditions included in market-value definitions then establish the market perspectives for development of opinion.

The market value of a home is not the sum total of its parts. Speaking generally about home values, we can see in our own State where market conditions drive market value. In 2006, when we had a very low inventory of homes, prices increased dramatically. In 2009, the inventory of homes is very high; many of them are real estate-owned foreclosed properties. Because of this, property values and market values have decreased. In simple terms, the market value is what someone is willing to pay.

We are talking today about energy-efficiency features and ratings. There is no intrinsic market value in those features until the market gives them value. Mr. Cuculic referred to three appraisal approaches in determining market value. He referenced the cost approach, which would consider the actual cost new, or the cost to replace the components in a piece of real property. This approach would be used, for example, for insurance purposes if you are insuring a cost-replacement value. There are other uses as well; however, the cost approach is not going to be used to determine market value of a residential property for purposes of financing or pricing. It is a sum total of all the

components. If you watch an HGTV television program, you have seen examples where they assess and talk about improvements and what value you might get back. For example, if you put in a \$50,000 landscaped swimming pool, you are not necessarily going to add \$50,000 to the market value of your home. Again, the value is what someone is willing to pay. It is the sales-comparison approach that carries the most appropriate significance to determine market value for purposes of loan underwriting in residential sales markets. In the sales-comparison approach, the appraiser is considering your typical buyer. Energy-efficient features will have to become a significant factor to the typical buyer for there to be a value contribution. The market is not there yet, but there is certainly more awareness.

You have talked about education, consumer awareness and appraiser awareness. I completely agree with those things. There are increasingly more individual buyers who want this and look for it. The day will come when they demand it. When there is a demonstrable effect, then an adjustment can be made; it can be quantified. The appraiser has to be able to show and prove, by quantifiable means, that the marketplace is willing to pay more for certain features as compared to a home without those features. For example, if a developer builds a subdivision of 80 homes with 6 different models, and 40 of those are 4- or 5-star energy-rated homes and the other 40 are not, if the first 40 homes sell for \$20,000 or \$40,000 more, that then becomes a significant factor in consideration of market value. It becomes quantifiable evidence that those particular features add value.

Education is important. I have been informed there is a new class being offered by the Las Vegas Chapter of the Appraisal Institute next month on energy efficiency and green features. It is important for consumers and those who work in the industry. I have seen a number of real estate courses for continuing education as well. Some were just approved this week in a Real Estate Commission meeting that are informing about features. Appraisers have a competency rule in their uniform standards practice. They do need to know what they are looking at and what it is. They then need to take that knowledge and analyze what factors are giving contributory value to that subject property. The sales-comparison approach is not based on the sum total of the parts assembled or long-term energy savings. It is based on what the market is willing to pay and what the consumer demands and is willing to pay as a premium. That involves consumer motivation.

If energy-efficient features resulted in a home less expensive to build, we would not have this discussion. The cost would be less. The houses would be popular, and they would sell. I just want you to understand that appraisers only analyze and consider those things which can be, and are, significant factors to the typical buyer. When someone is willing to pay more for an energy-efficient home, those will become comparable sales with potentially identifiable features that become significant factors. Some of the early home sales with these features, where a premium sale price was achieved, are because the buyer understood what their long-term savings were. Maybe more citizens are becoming aware of the importance of reducing energy usage and the factors to our global environment, but it is not up to the appraiser to make the deal work with the bank. In fact, they are prohibited from doing that. It is going to take time for the market value to be quantifiable for these features.

Mr. Cuculic mentioned that he heard of appraisers asking, "What do you want the value to be?" Well, the Real Estate Division would like to know about that because they cannot do that. I agree that education and awareness is important for consumers and professionals in these fields, but the appraisers can only respond to what the market, as determined by consumers, is willing to pay for identifiable and quantifiable features.

There was also mention of the income approach which usually addresses the potential earnings capacity of a property to estimate the gross income potential of a property; it covers operating expenses, rate of capitalizations and projections of future rent. The income approach is usually not used on a primary residence; it could be used for investment properties. That would be an interesting approach, but the banks and financing institutions are looking for the market value of what the market will bear. That is their collateral, so that is what they are looking at.

SENATOR TOWNSEND:

Measurable value is where this Committee has their largest interest. In your example of an 80-unit subdivision with 40 homes having these energy efficiencies and 40 homes not having them, it is obviously measurable if a 2,000-square-foot home reaches certain energy-efficiency standards, such as paying \$200 less in energy bills than the house next door with the same design. I do not know why an appraiser cannot measure that. Anyone who is looking for a home today, whether new or preowned, who does not ask what the costs are—I have probably looked at a 100 homes, and one of the first things I ask for

is the summer and winter power bills. It is one thing how nice and wonderful a house is, but once you live there, you have to pay for the energy. A 40 SEER air conditioner, a 90-percent efficient furnace and these other items are measurable. The cost to install them and their return is measurable. They do not have to like this stuff, but their job is to measure it. There is a movement coming regarding this.

When you talk about the consumer, if you are writing a check for a home you can hire any appraiser you want. They give you a guideline, you go negotiate, decide a price, write a check and there is no third party involved. The vast majority of people do not do that, though, so they have a third-party lender. The third party then hires an appraiser. At the end of the day, they find an underlying value to the asset in case they get the asset back. They are not in the housing business, so they want to get rid of it as fast as possible if it becomes foreclosed. They lend the money to the customer based on their borrowing power.

As a car dealer, if someone comes in and trades in a car, I know the value of the car because I can call the franchised dealer and ask, "What will you pay for it today?" Appraisers do not have that luxury. They are not walking into the banks saying, "If we took this house back, what would you pay for it today?" I am trying to figure out where they fit in the scheme of things now. It seems to be a unique profession; perhaps archaic and slow to accommodate to the new world. What role do they play now, particularly if they do not want to be aggressive in changing the fundamental tenets of their own profession to accommodate a worldwide change in philosophy regarding energy efficiency and renewable energy? If they do not understand at this point in the evolution of this issue that these are measurable things, I am a little worried. If I was buying a home, and had two identical choices other than one having these environmental efficiencies, I am buying the energy-efficient one. Are appraisers relevant anymore? Why do they not understand these things are measurable?

MRS. ANDERSON:

I do not want to represent that appraisers as an industry and as a whole do not want to change, consider or learn. That is not true at all; education and their professional practice are important. I will be talking with the Commission of Appraisers about this subject and presentation, my comments and this Committee's input. As not a licensee myself, I will not get into more technical discussion because I am probably not capable of doing that, other than broadly

understanding what they do. One of the responsibilities of the Commission is to respond to issues in their markets.

We are just at the leading edge of energy efficiency. As consumers shop, demand and ask, that is going to change the market value of those products because they will be more valuable. Houses last longer than cars, so that kind of investment, including the resale of homes, will be a factor. A question asked by Senator Carlton was, is there some impact on the current market valuations? The answer is absolutely. It is not just energy-efficiency, it is just this market. We will continue to have conversations on this. Appraisers are not archaic. This is an area where there does need to be education and conversation with their leadership from the Division and from the Commission, and we will do so.

SENATOR SCHNEIDER:

I kind of think appraisers are archaic. What I think has happened in the appraisal industry is they are kind of historians. They are appraising what happened in the past. That is why they use the comparables. They go into the neighborhood and look at what everything sold for and that was yesterday's story. So now they say, "Your house is worth a \$100 per square foot because these 3 houses out there averaged out to \$100 per square foot." Then the builders have buyers who are making a choice to pay more for a house—but the appraiser are archaic and say, "No, because yesterday you could buy a house for \$100 per square foot, so that is what you buy it for today." They are not addressing the demand from the buyers who want to pay a higher price. The appraisers are standing in the way. They are stopping the builders from getting development loans and the home buyers from getting the loan to buy.

The appraisal industry needs to look at itself in the mirror and say, "Hey, what just happened in the Legislature the last 60 days?" We have just passed some huge things. We have passed S.B. 152, the Green Jobs Initiative, with Senator Horsford. We are going to do weatherization on older homes which will create more value. We are front loading this green economy we are going into, yet the appraisers are stuck in yesterday. We need to do something to get them to be more progressive in this market and work with these builders. I am not saying the appraisers should give the builders a \$150 per square foot, but they need to work with them and see what these are and then go out on a Saturday and talk to the willing buyers.

[SENATE BILL 152 \(1st Reprint\)](#): Enacts the Green Jobs Initiative. (BDR 58-172)

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SENATOR NOLAN:

Other states are facing the same thing. The appraisal industry has to—although it has not trickled out to Nevada yet—be addressing this on a much larger scale. Maybe we can request from the National Conference of State Legislatures some information on what other states have been doing in this area.

SENATOR SCHNEIDER:

With no more business before the Committee, I will adjourn the Senate Committee on Energy, Infrastructure and Transportation at 10:34 a.m.

RESPECTFULLY SUBMITTED:

Josh Martinmaas,
Committee Secretary

APPROVED BY:

Senator Michael A. Schneider, Chair

DATE: _____