

**MINUTES OF THE  
SENATE COMMITTEE ON JUDICIARY**

**Seventy-fifth Session  
February 19, 2009**

The Senate Committee on Judiciary was called to order by Chair Terry Care at 8:39 a.m. on Thursday, February 19, 2009, in Room 2149 of the Legislative Building, Carson City, 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 Terry Care, Chair  
Senator Valerie Wiener, Vice Chair  
Senator David R. Parks  
Senator Allison Copening  
Senator Mike McGinness  
Senator Maurice E. Washington  
Senator Mark E. Amodei

**STAFF MEMBERS PRESENT:**

Linda J. Eissmann, Committee Policy Analyst  
Bradley A. Wilkinson, Chief Deputy Legislative Counsel  
Janet Sherwood, Committee Secretary

**OTHERS PRESENT:**

The Honorable James W. Hardesty, Chief Justice, Nevada Supreme Court  
David Smith, Executive Secretary, State Board of Pardons Commissioners  
Rebecca Gasca, Public Advocate, American Civil Liberties Union of Nevada  
Diane R. Crow, State Public Defender

**CHAIR CARE:**

We have two Senate Joint Resolutions on the agenda today. We will take them in numerical order. Senate Joint Resolution (S.J.R.) 1 is sponsored by Senator Parks.

**SENATE JOINT RESOLUTION 1**: Proposes to amend the Nevada Constitution to replace the State Board of Pardons Commissioners with the Clemency Board appointed by the Governor and to require the Legislature to provide for the organization and duties of the Clemency Board. (BDR C-552)

CHAIR CARE:

Last week, Chief Justice James W. Hardesty made a presentation to both committees in a joint hearing. Senate Joint Resolution 1 was one of the recommendations contained in the final report from the Advisory Commission on the Administration of Justice.

THE HONORABLE JAMES W. HARDESTY (Chief Justice, Nevada Supreme Court):

I will provide an overview of the reason for the Advisory Commission's recommendation of S.J.R. 1 and some information about the Pardons Board in the State of Nevada.

The State Board of Pardons Commissioners is created under Article V, section 14, paragraph 1 of the Nevada Constitution. Its operation is governed by Nevada Revised Statutes (NRS) 213.005 through 213.100. Under section 14 of Article V, the Pardons Board consists of the Governor, the Justices of the Supreme Court, and the Attorney General. The authority of the Pardons Board is to grant pardons after convictions, to commute punishments, to address and remit fines and forfeitures, and other actions relating to pardons. There is an exception in the sentence of death or a sentence of life imprisonment without the possibility of parole. Those sentences cannot be commuted to parole. The Advisory Commission, as part of its work, evaluated the Pardons Board's role in the overall criminal justice system. It can provide a relief valve for inappropriate cases for releases from prison, commute sentences or correct manifest injustices resulting from sentences that may have occurred.

As a member of the Pardons Board and the Supreme Court for the last four years, I have been concerned about the amount of applications we receive in relationship to the amount of work that we do. I do not want to suggest that my colleagues on the Court, the Attorney General or the Governor do not work hard on the Pardons Board when we convene. I am concerned that the Pardons Board only meets twice a year. The Board meets in the spring to consider community cases. These are cases in which someone has expired their term and seeks to have a restoration of their rights. In November or December of each year, we hear pardons in cases where a defendant seeks to either have a pardon

of consecutive sentences to become parole eligible or a direct pardon or commutation of sentence to be released.

The work of the Advisory Commission on the Administration of Justice is involved. The preparation that goes into a board hearing is substantial. With me today is David Smith, the Executive Secretary of the Pardons Board. He is also employed by the Parole Board. He and his staff will assemble a file providing much detail about the defendant's criminal history, involvement in the criminal system, the presentence investigation report relating to the crimes for which the defendant is in prison, the defendant's conduct during incarceration, and any other information associated with the crime and request for a pardon. Those hearings take an entire day.

To give the Senate Committee on Judiciary a sense of the work the Pardons Board did from 1990-2008, Mr. Smith has supplied us with this chart ([Exhibit C](#)). The first three columns show the number of community cases the Pardons Board considered, how many were granted and how many were denied. As I stated before, the community cases are people who are no longer incarcerated but seek their restoration of civil rights, such as the right to bear arms or the right to vote.

The next column of importance shows the number of inmate cases presented to the Pardons Board where an inmate seeks some form of relief against his/her judgment of conviction. Either the inmate wants to have a sentence commuted or pardoned or have consecutive sentences commuted or pardoned so time in prison can be reduced.

The remaining columns identify the number of requests granted or denied, the total cases heard for the year and the number of days we are in hearings as a result of these activities. In 2008, the Pardons Board had two days of hearings for the year. One dealt with community cases and the second with inmate cases. How does that square up with respect to demand? If you look at the paragraphs at the bottom of the chart, you will see that the Pardons Board staff has approximately 250 community cases on file. Many are not suitable for pardons, but quite a number of them are appropriate for consideration for restoration of civil rights.

We can estimate that in the past three to four years, we have received from 600 to 1,000 applications requesting pardons by inmates. Leading up to the

most recent Pardons Board meeting, the Justices, the Governor and the Attorney General received 300 detailed applications from inmates. It takes an enormous amount of time to go through the applications. Cases are placed on the agenda of the Pardons Board at the request of an individual Justice, the Governor, the Attorney General or on recommendation from the Department of Corrections.

For the past two decades, the Pardons Board has handled approximately 15 to 20 cases per year. In 2007, I made a request of the Pardons Board that we do more. In my investigation of the prison system, I discovered that a substantial number of inmates were on Immigration, Customs and Enforcement (ICE) holds. These are individuals who would be deported out of the country when they complete their sentence of imprisonment in Nevada. I sent an e-mail to Greg Smith, who at that time was the head of Classification for the Department of Corrections, and asked him that of the inmates who are on ICE holds, how many of them had no crimes of violence and no criminal history. He reported back 469 inmates.

Recently, the Immigration, Customs and Enforcement Department completed a thorough evaluation of those in prison and calculated roughly that of the 12,700 inmates in our prison system, 1,730 inmates have ICE holds. Why is that important to us? We are paying the cost of their imprisonment until their sentences expire and they may be removed from the system. In 2007, I asked the Pardons Board to look at those 469 cases and consider whether any of the people might be amenable to a conditional pardon, which means they would agree to deportation as a condition of release from the prison system. They would waive their deportation hearing and be subject to reincarceration upon returning to the United States. Upon review of these files, the Pardons Board determined that 108 of the individuals would be amenable to deportation on a conditional pardon. Of that group released from prison and deported from the United States, the system is aware of only one returnee. This is why you see the spike in 2007. The Pardons Board actually did something more than just hear community cases and inmate cases twice a year.

The problem for the Pardons Board and the State is this Board, which operates as an ultimate review for potential pardons or commutations, is made up of the nine busiest executive and judicial officers in the State of Nevada. The Governor, the Attorney General and the seven Justices of the Supreme Court sit on the Pardons Board. Speaking for myself and my colleagues on the Supreme

Court, we have a general reluctance to sitting on the Pardons Board from the standpoint of the appearance of the conflict of impropriety. In many instances, we heard these cases through the appellate process. Now these cases are presented to the Pardons Board, and in our capacity as Pardons Board members, this is uncomfortable.

I have offered to you a second chart ([Exhibit D](#)), taken from a book written by Margaret Colgate Love, *Relief from the Collateral Consequences of a Criminal Conviction*. The book documents the pardon practices throughout the United States. I chose this chart because I thought it was a quick summary of the alternatives that exist for Pardons Board configurations. Most people believe that pardons are only granted by the Governor. This is true in a small number of states. Most states have some form of direct board involvement in reviewing pardon considerations. As you can see on this chart, some states operate strictly by a governor who appoints an independent board. This is the model we are suggesting in S.J.R. 1. In the second model, the governor sits on a board of high officials. This is the model Nevada currently uses. Under our Constitution, no pardon can be granted unless the Governor votes in the majority. In the third model, the governor has an advisory board which must agree with his or her decision. The fourth model contains an advisory board which must be consulted, but the governor does not have to follow the advice of that board. The fifth model has an advisory board which may be consulted by the governor. The last model shows the governor and a non-statutory advisory system providing for pardons or commutations of sentences.

In the context of a prison overcrowding situation, we could improve our system dramatically by a Constitutional Amendment to section 14 of Article V, allowing the creation of a Clemency Board. This would be a board of professionals and lay people who deal with the criminal justice system. They would make evaluations about the appropriateness of pardon actions in certain circumstances. As you can see from the proposed amendment of S.J.R. 1, its membership would be a nine-member board, at least five of whom must have experience working in the criminal justice system, appointed by the Governor. The perceived advantages of this system are you will have a board which does not involve nine of the busiest executive and judicial officers in the State. You reduce or eliminate the conflict and concerns the Supreme Court Justices have about participating on the Board. You also have an expert board of people who are familiar with criminal justice issues and can make decisions appropriately about commutation and pardon as necessary. The Clemency Board would meet

at least four times a year. If approved by the people, a Clemency Board would offer a number of improvements to the entire process and greater accountability with respect to what is transpiring in this aspect of the criminal justice system.

I would like to offer some hypotheticals as to what a Clemency Board might do in relationship to what the Pardons Board did in November. I made a request of the Nevada Department of Corrections for a profile of all of the current 1,700 inmates who have ICE holds. I wanted to know how many of those people are without any prior criminal history or have no crimes of violence. We made the same request of those inmates who are not on an ICE hold. I wanted a list of those folks from both groups who are within a year of completing their minimum sentence. The most obvious target group is a mule who has just been given a 10- to 25-year sentence, who has probably served 8 1/2 to 9 years of that minimum sentence and who has no prior criminal history and no crimes of violence. It begs the question, should the State of Nevada continue to spend \$22,000 a year to incarcerate that individual, especially when that individual is on an ICE hold? After looking at their personal history, their criminal history and their background, is this an appropriate candidate for turning over to ICE for deportation? And similarly, if this individual is not subject to an ICE hold, is this person an appropriate candidate to consider for an alternative form of incarceration? Would we be better off putting this person on house arrest at a cost of \$6,000 to \$8,000 a year instead of an incarceration cost of \$22,000 a year?

Those decisions can only be made by a Pardons or Clemency Board. They cannot be made by the Parole Board because the Parole Board does not get jurisdiction over those cases until the individual has completed the minimum sentence. This will improve the system and add another tool in the panoply of options available in the criminal justice system to deal with these kinds of folks and the system as a whole. This is a better model and a better approach, providing more frequent meetings where consideration of these cases can be made. This by no means opens the floodgates to deal with inmates, but it assures a review of appropriate cases for consideration of commutation or pardon relief.

I urge the Committee to seriously consider S.J.R. 1. The Advisory Commission believes it to be a good measure and an appropriate step to improving the system.

CHAIR CARE:

Of those states that have these independent boards appointed by the governor, do you happen to know the structure of the members?

CHIEF JUSTICE HARDESTY:

I do not know that answer. From the chief justices I have spoken to, it runs the gamut. The Commission felt this configuration would allow both expertise of those in the criminal justice system and influence from different groups, such as those advocating victims' and inmates' rights who may not have that expertise.

CHAIR CARE:

Has there been any thought as to how this amendment would be presented to the voters? We have the benefit of your testimony and the report, but the voters can be fickle and not always as informed as we would like them to be. This may be a premature question but was any consideration given to that?

CHIEF JUSTICE HARDESTY:

We were not sure how receptive the Legislature would be to S.J.R. 1 so we thought we would take it one step at a time. The whole process of the Advisory Commission has been to avoid what is taking place in California. In the spring of 2007, Nevada was dangerously close to what is occurring in California today, and we could return to that same situation. We have an opportunity to seize the moment and make some significant changes that will address our prison overcrowding problem so we do not allow a federal court takeover of our prison system as is taking place in California. Are any of you familiar with the most recent order issued by the three-judge panel directing the release of 58,000 inmates from the California prison system over a two-year period?

CHAIR CARE:

Senator Parks distributed a newspaper article to members of the Committee that you may want to reference.

CHIEF JUSTICE HARDESTY:

I have a copy of the order. I will make that available to you for your information. We do not ever want to be in that situation. Given our current population in the prison and some measures advanced by the Advisory Commission, there is no reason for us to get into that situation. We have opportunities here to make some adjustments. I would like to throw out some numbers. If the Pardons Board could hear these ICE cases and other demographic cases, the

Board could probably reduce the prison population by an additional 200 to 250 people—not by giving them an outright release or in any way jeopardizing public safety, but by deporting those who have already spent a lot of time in the system and have no criminal history or criminal violence in their past.

As to those who are not under ICE holds, putting them under an alternative form of incarceration may put them into some plans. A good example is the Category E felons talked about last week. It is disappointing to have over 500 Category E felons who by legislative determination are supposed to get probation and did, but failed. Is their failure because of their own behavior or is their failure due to inadequate resources or alternatives to keep them out of prison? The latter is unquestionably the case. But when they have been in prison for six-eight months, are they more amenable to rehabilitation? In many cases, that is true. But we cannot get them out because they went in, in the first place, under an egregious sentence when the judge was trying to get their attention to keep them out of prison. The judge imposes a heavy sentence; they violate, they go to prison and they serve a lengthy minimum and maximum prison sentence that cannot be adjusted by the Parole Board. Only the Pardons Board can look at those cases on an individual basis, which requires much time and effort.

I must mention one final point on this area. We have positions frozen on the Pardons Board. We are being penny-wise and pound-foolish. If those positions were filled, the necessary data and information could be provided so the Pardons Board could begin hearing these cases. This requires an enormous effort by staff to develop the backup data, identify the disciplinary actions that have taken place in prison, notify victims and the like, so you can have these hearings on a case-by-case basis. We do not have the staff to call a Pardons Board meeting to do what we talked about in November.

I do not want any statement that I make here to in any way cast an aspersion on the Governor. Governor Jim Gibbons has been supportive of these efforts. He has done an outstanding job as a Pardons Board member. I have witnessed his preparation and his work effort as I did that of former Governor Kenny C. Guinn, who was a tremendous governor in this area. We need to change the way we do business, and it is better if we turn some of this over to professionals who work on it on a regular basis the same way the Parole Board does now.



SENATOR MCGINNESS:

I am looking for a definition that says the Clemency Board will consist of nine members who have experience working in a criminal justice system. That is a broad sweep. Could that be a parole officer or a deputy sheriff?

CHIEF JUSTICE HARDESTY:

As a Supreme Court Justice, I would want that broad because I want this Legislature to have the ability to carefully refine that in your enabling legislation. If this legislation passes, the debate of the configuration of the board should take place in this body. You might say, by statute, that it needs to be two cops, but the configuration is more effectively developed during the course of the Legislature's enactment of the statutes that develop this bill. You can bring in testimony about what model works best. This is an enabling Constitutional Amendment, and I would want to see the Legislature's hands as free as possible to better configure that. You might say they all should have criminal justice backgrounds, but that is a mistake because you want influence from lay people on a Clemency Board.

SENATOR MCGINNESS:

As stated in subsection 6,

The legislature is authorized to pass laws conferring upon the district courts authority to suspend the execution of sentences, fix the conditions for, and to grant probation, and within the minimum and maximum periods authorized by law, fix the sentence to be served by the person convicted of crime in said courts.

Will the Clemency Board have the ability to change a sentence set down by a judge?

CHIEF JUSTICE HARDESTY:

Yes, and we do now.

CHAIR CARE:

We are going to incorporate the Chief Justice's reference to the order from the federal court in California. When we get it, we will enter that into the record and distribute it to members of the Committee.

SENATOR PARKS:

Chief Justice Hardesty made reference to a mule. I ask that he provide you with further background as to how this individual ends up in prison for a lengthy stay and costs the state a lot of money.

CHIEF JUSTICE HARDESTY:

I was referring to a term used in law enforcement and the criminal justice system to characterize an individual who is carrying a trafficking quantity of drugs. For example, an individual who receives \$50 or \$100 to drive a car from Sacramento to Salt Lake City gets pulled over in Sparks for a burned-out tail light. The officer requests consent of the driver to inspect the vehicle. The driver says yes, a trafficking-level quantity of drugs is found in the car and the driver is arrested. In most drug-trafficking cases, the alternative is to determine whether this individual can provide substantial assistance. This individual cannot provide substantial assistance, but even if he could identify who gave him the money, it would not matter. The Legislature has imposed mandatory sentences in drug-trafficking cases. Trafficking is penalized based upon the weight of the drugs, and if the quantity puts him at the high level, he is now doing 10 to 25 years. We have to ask: Is this appropriate? Is this really the policy the citizens of Nevada want to have? This person has to serve ten years before being eligible for parole. Is this the best use of our money?

We need to look at some alternatives. One alternative is to take a look at those cases on a case-by-case basis. In 2007, the Pardons Board looked at cases where the individuals had spent eight and a half or nine years of their minimum sentence. Oftentimes, you will see no disciplinaries for these people in the file. It is hard to go through prison without a disciplinary. Do you know what that entails? You get a disciplinary if you use the wrong knife and fork. Lots of times, these people go through eight or nine years of incarceration with no disciplinaries. They have no crimes of violence, there is no criminal history. What are we doing hanging onto them for another two or three years, especially if they could be deported? That was the decision of the Pardons Board evaluated in that case. There are numerous other examples. The criminal justice system is not one size fits all. You need to give the judge, the Pardons Board and the Parole Board discretion in hearing these kinds of cases where justice can be achieved.

SENATOR WASHINGTON:

If the Clemency Board is enacted, would the Governor be consulted on this matrix, [Exhibit D](#) ?

CHIEF JUSTICE HARDESTY:

The Governor would not be on the matrix at all. I suggest Nevada take a new step away from this matrix. We create a board of professionals appointed by the Governor. We would not be on this matrix. We would have our own column. We would be addressing clemency and pardon issues through a separate professional board.

CHAIR CARE:

There are others signed up to testify in favor of the bill. Mr. Smith, since your name was mentioned, I have you down as not wishing to speak and neutral. Is that correct?

DAVID SMITH (Executive Secretary, State Board of Pardons Commissioners):

I signed in to answer any questions the members may have. I put down neutral because I am here on behalf of myself as Executive Secretary, not as a representative for the Governor's Office.

REBECCA GASCA (Public Advocate, American Civil Liberties Union of Nevada):

We are here today to express our support of this resolution. We want to thank Senator Parks for bringing it forward and Chief Justice Hardesty for being here to provide background along with his personal experiences. As you heard, the system is being overwhelmed by requests for pardons. Our office has received many complaints and inquiries from individuals who do not understand fully the pardon system. This is a great step to reforming the system, making it more equitable by adequately addressing the needs of those individuals who are seeking pardons. For individuals who are requesting their civil rights be returned, this is one of the most important reasons why a Clemency Board should meet quarterly to address these needs. We urge your support of S.J.R. 1.

DIANE R. CROW (State Public Defender):

My office supports S.J.R. 1. If you are going to ask the citizens of Nevada to amend their Constitution, I would suggest that instead of the Governor appointing the members of the Clemency Board, that the Governor appoint one, the Attorney General appoint one, and the Supreme Court Justices appoint the remaining members. Obviously, the Clemency Board needs to be an odd number

for voting purposes. I also support the idea of frequent meetings. If a person is to appear before the Pardons Board and does not hire private representation, my office represents the individual. I have two appellate deputies who handle these cases. They receive the information a week prior to the Pardons Board meeting and devote many hours visiting with the inmate and preparing their presentation. It is a lot of work, but each deputy can handle three to four cases. We have had some overload, and I have handled a few cases myself. I would support the idea that the Clemency Board meet, at a minimum, four times a year.

CHAIR CARE:

If you are proposing an amendment, we need it in writing. You can give your proposed amendment to our staff and discuss it with Senator Parks, the sponsor of the resolution. We will then schedule this matter for a work session.

SENATOR WASHINGTON:

Could you explain to me the benefit of having the entities that you mentioned selecting the members on this board as opposed to the Governor?

Ms. CROW:

The Nevada Constitution states that Supreme Court Justices, the Governor and the Attorney General sit on the Pardons Board. Those entities should remain involved in appointing the members of the Clemency Board. Giving the entire authority to the Governor to appoint who he/she chooses, makes the process more political. The board should be well-balanced with members having experience in the criminal justice system.

SENATOR WIENER:

If we entertain that amendment, I presume if an appointed member of the board steps down, the original appointing authority appoints a replacement?

Ms. CROW:

Yes, I would suggest that each entity have a specific number of members they appoint. If something happens to a Board member, that appointment still belongs to the original entity.

SENATOR WASHINGTON:

Would you envision that the Governor, at any point, would have the ability to override a decision made by this Board concerning or denying a pardon?

MS. CROW:

I would ask the Chief Justice to address that question.

CHIEF JUSTICE HARDESTY:

No.

SENATOR WASHINGTON:

My response would be, "Why?"

CHIEF JUSTICE HARDESTY:

My response would be, "Why?" The point the Commission discussed is these decisions are difficult to make. We agonize over them, and I want to emphasize this is in no way disparaging of Governor Gibbons or Governor Guinn who have done outstanding jobs. These issues are best addressed by people who develop an expertise in this area, who know what to look for, who know what kinds of traits and issues you want to evaluate and consider. You will get a more professional approach as a consequence. We are not suggesting any commutation of death sentences or any changes of life without parole. We did not change that at all. Those are not the kinds of cases we are talking about. We are talking about cases where a board can ask: Is this person now amenable to supervision, amenable to release or placement in a different environment with a better chance for rehabilitation into society? And can we do it sooner rather than later under the circumstances?

SENATOR WASHINGTON:

When you start amending the Constitution, the perception may be, as you already stated, that we are looking at pardoning or giving clemency to those who have committed heinous crimes. As Legislators, who have to give a reason to the people as to why we are suggesting the change to the Constitution, it gives us better ammunition to say we are expediting or creating some fairness within the system so that those persons who have legitimate reasons for pardons can receive them in an expeditious way.

CHIEF JUSTICE HARDESTY:

I could not have stated it any better. The comments you made are the motivating factors behind the language we used and the creation of the Clemency Board.

CHAIR CARE:

We will close the hearing on S.J.R. 1 and open up the hearing on S.J.R. 9 of the 74th Session.

**SENATE JOINT RESOLUTION 9 OF THE 74TH SESSION**: Proposes to amend the Nevada Constitution to allow the Legislature to establish an intermediate appellate court. (BDR C-661)

CHIEF JUSTICE HARDESTY:

I offer three points concerning S.J.R. 9 of the 74th Session. First, this is an enabling piece of legislation. If the court system can demonstrate a demand for it and the Legislature is satisfied it improves the efficiency and processing of cases on the appellate level, S.J.R. 9 of the 74th Session enables the Legislature, if passed by the voters, to create a court of appeals.

Secondly, I did not favor an intermediate appellate court until there was a plan. The Legislature never had a plan until now. In March 2007, the court provided to you a detailed plan as to exactly what cases would be heard by the intermediate appellate court, how it would be funded and what it would cost. We demonstrated one of the most significant, valid concerns about an appellate court: that it not create another bureaucracy in the judicial system. For cases heard by the intermediate appellate court, that ends the appellate process except in circumstances where a petition for a writ of certiorari—much the same procedure as used in front of the United States Supreme Court—would be presented to the Nevada Supreme Court. That is less than 1 percent of the cases heard by the intermediate appellate court so the intermediate bureaucracy argument under this plan does not exist.

Finally, under this plan, we propose to use the same clerks' office and the same central staff personnel. There will be no facility cost because we will locate the court in the seventeenth floor of the Regional Justice Center where chambers already exist and the courtroom has already been built. The Supreme Court would exercise dual usage with the intermediate appellate court. For all of those reasons, I would hope this Legislature would endorse S.J.R. 9 of the 74th Session and send this measure to the people of the State of Nevada in 2010 for their consideration.

MS. GASCA:

I am here to express support for S.J.R. 9 of the 74th Session. We receive many complaints about the process of individuals as they go through the judicial system. Many of them express frustration, and often their cases are shoehorned through the system. They feel they have not been given a fair trial with adequate time or preparation. We feel the appellate court will create a system in which targeted attention can be given to those cases in a more effective manner.

CHAIR CARE:

Since there is no opposition to S.J.R. 9 of the 74th Session, we will close the hearing. Five of us heard the testimony last Session. It is possible that S.J.R. 9 of the 74th Session may have passed out of the Senate unanimously last Session. Having said that, the Chair will entertain a motion.

SENATOR AMODEI MOVED TO DO PASS S.J.R. 9 OF THE 74TH SESSION.

SENATOR WASHINGTON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR CARE:

Senate Bill 51 was assigned originally to the Committee on Energy, Transportation and Infrastructure.

SENATE BILL 51: Revises provisions governing the subpoenaing of public utility records by a law enforcement agency. (BDR 58-337)

The Department of Public Safety requested the bill. While utilities can already be subpoenaed for records relating to the name and address of a person in the utility records, S.B. 51 would allow law enforcement to subpoena more information. Some Constitutional Fourth Amendment issues arose in the hearing. On that basis, Senator Michael A. Schneider wants the bill to come to Judiciary.

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We do not have anything further at this time. There is no further business. The meeting is adjourned at 9:36 am.

RESPECTFULLY SUBMITTED:

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Janet Sherwood,  
Committee Secretary

APPROVED BY:

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Senator Terry Care, Chair

DATE: \_\_\_\_\_