

# EX. 21

NORTH CAROLINA SENATE SESSION

NORTH CAROLINA GENERAL ASSEMBLY

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TRANSCRIPT OF THE PROCEEDINGS

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In Raleigh, North Carolina  
Monday, August 28, 2017, 5:00 p.m.

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1           SEN. BERGER: The Senate will come to order.  
2 The sergeant at arms will close the doors. Members,  
3 take your seats. Members and guests will please silence  
4 all electronic devices. Leading the Senate in prayer is  
5 Senator Norm Sanderson of Pamlico County. All members  
6 and guests, please stand.

7           SEN. SANDERSON: Thank you, Mr. President. I'd  
8 like to read just several verses of Scripture from the  
9 Book of Isaiah. Chapter 55, says "Seek you Lord while  
10 he may be found. Call ye upon him while he is near.  
11 Let the wicked forsake his way, and the unrighteous man  
12 his thoughts; and let him return unto the Lord, and he  
13 will have mercy upon him, and to our God, for he will  
14 abundantly pardon. For my thoughts are not your  
15 thoughts. Neither are your ways my ways" sayeth the  
16 Lord. Please pray with me. Lord, not our ways, but  
17 your ways. Not our thoughts, but your thoughts.  
18 Through and by the power of our Lord Savior Jesus  
19 Christ, Amen.

20           THE SENATE: Amen.

21           SEN. BERGER: Senator Pate is recognized for a  
22 motion.

23           SEN. PATE: Thank you, Mr. President. The  
24 journal of Friday, August 25, 2017, has been examined  
25 and is found to be correct. I move that we dispense

1 with the reading of the journal and that it stand  
2 approved as written.

3           SEN. BERGER: Without objection, the journal for  
4 August 25, 2017 stands approved as written.

5           Members, leaves of absence are requested and  
6 without objection are granted for Senators Barringer,  
7 Jim Davis, Ford, Jeff Jackson and Van Dunyn.

8           Courtesies of the chamber are extended to Karen  
9 Roche of Garrett Reporting Services. She is up on the  
10 dais next to the sergeant at arms.

11           Members, unless there's other business come  
12 before the Senate, we'll go straight into our calendar.

13           Senator Rabon, for what purpose do you arise?

14           SEN. RABON: Motion to address.

15           SEN. BERGER: State your motion.

16           SEN. RABON: Thank you, Mr. President.

17 Mr. President, I move that the rules be suspended until  
18 the end, that staff may accompany Senator Hise on the  
19 floor today.

20           SEN. BERGER: Without objection, so ordered.

21           SEN. RABON: Mr. President, I move that upon  
22 passage of third reading of Senate Bill 691, 2017 Senate  
23 Floor Redistricting Plan Second Reading be sent to the  
24 House by special message.

25           SEN. BERGER: Without objection, so ordered.

1 Senate Bill 691, the clerk will read.

2 THE CLERK: Senate Bill 691 2017 Floor  
3 Redistricting Plan, second reading.

4 SEN. BERGER: Senator Hise, could you step up  
5 here for just a moment?

6 Members, so you know, my understanding is that  
7 Senator McKissick had advised Senator Hise that there  
8 were a couple of amendments that were going to be  
9 offered and they are not available yet. What we're  
10 going to do is Senator Hise has an amendment that we can  
11 go ahead and run now. Once he runs his amendment, we'll  
12 take a recess waiting for the other amendments and then  
13 we'll proceed after that.

14 Senator Hise, for what purpose do you arise?

15 SEN. HISE: Send forth an amendment.

16 SEN. BERGER: Send forth your amendment. The  
17 clerk will read.

18 THE CLERK: Senator Hise moves to amend the  
19 bill.

20 Senator Hise is recognized to explain the  
21 amendment.

22 SEN. HISE: Thank you, Mr. President, Members of  
23 the Senate. As we're going through, we realize that  
24 there's going to be judges and others looking at these  
25 maps and we're trying to compact that and make as easy.

1 We had one of the original districts that is now  
2 numbered differently. I believe it was Senator Lowe's  
3 district. And just to avoid any confusion, it will  
4 change District 29 to District 32 and 32 to 29, so that  
5 the district numbers for that district will be  
6 consistent with the previous map to this map.

7 SEN. BERGER: Further discussion or debate on  
8 Amendment 7?

9 Hearing none, the question before the Senate is  
10 the passage of Amendment 7, Senate Bill 691. All in  
11 favor of the amendment will vote aye; all opposed to the  
12 amendment will vote no. Five seconds will be allowed  
13 for the voting. The clerk will record the vote.

14 (ELECTRONIC VOTE.)

15 SEN. BERGER: Senator Lee?

16 44 having voted in the affirmative and none in  
17 the negative. Amendment 7 passes and the bill is back  
18 before you.

19 Members, as previously indicated, we will take a  
20 recess until 5:40 --

21 SEN. BISHOP: Mr. President.

22 SEN. BERGER: Senator Bishop, for what purpose  
23 do you arise?

24 SEN. BISHOP: Before the body recesses, is it  
25 possible to ask Senator McKissick a question?

1 SEN. BERGER: Senator McKissick, do you yield?

2 SEN. MCKISSICK: Yes, I yield.

3 SEN. P. BERGER: He yields.

4 SEN. BISHOP: Thank you, Senator McKissick.

5 When we were last together, Senator, I had asked about  
6 what Senator Robinson referred to as a prospectus of  
7 information perhaps prepared by Dr. Creighton and  
8 understood in the course of some questions to you that  
9 you would provide that to the body. I sort of expected  
10 it to be here at the beginning of session today. Do you  
11 remember what I'm referring to? And do you intend to  
12 furnish that?

13 SEN. MCKISSICK: I'm not aware of any prospectus  
14 of information. The only thing there's been is dialogue  
15 and conversation. It's not as if there's been a  
16 compilation of documents that have been created that  
17 would be the type of thing that one could easily put  
18 into the record and disseminate. It's just the  
19 substance of the conversations that occurred. So  
20 there's not really a document that embodies all of those  
21 conversations and all that dialogue that's taken place  
22 over the last perhaps week and a half or so.

23 SEN. BERGER: Senator Bishop, for what purpose  
24 do you arise?

25 SEN. BISHOP: Ask a question of Senator

1 McKissick.

2 SEN. BERGER: Senator McKissock, do you yield?

3 SEN. McKISSICK: Yes, I yield.

4 SEN. BISHOP: Did you intend to offer something  
5 as to the time we had that colloquy last week?

6 SEN. McKISSICK: I think I provided the same  
7 response last week. That's consistent with my  
8 recollections. You might have understood what I said  
9 differently. But there is not a set of documents or a  
10 memorandum or anything that summarizes the substance of  
11 those conversations. There were many, many  
12 conversations but not a set of documents that resulted  
13 from it and summarized their content.

14 SEN. BISHOP: Thank you, Mr. President.

15 SEN. McKISSICK: Mr. President.

16 SEN. BERGER: Senator McKissick, for what  
17 purpose do you arise?

18 SEN. McKISSICK: So see if I could ask Senator  
19 Bishop a question.

20 SEN. BERGER: Senator Bishop, do you yield?

21 SEN. BISHOP: I do.

22 SEN. BERGER: He yields.

23 SEN. McKISSICK: Senator Bishop, do you have any  
24 type of compilation of documents or information that's  
25 not currently in the record that was used as a basis for



1 the plan that's been submitted by the redistricting  
2 committee as a preferred plan?

3           SEN. BISHOP: I have been blissfully uninvolved,  
4 Senator McKissick. I do not have any such thing.

5           SEN. McKISSICK: Thank you.

6           SEN. BERGER: Members, with that, we will take a  
7 recess until 5:45. Senate stands in recess until 5:45.

8           (The proceeding recessed at 5:30 p.m.)

9           (The proceeding reconvened at 5:47 p.m.)

10          SEN. BERGER: Members, a short announcement. My  
11 understanding is we are still waiting for some materials  
12 to be brought over here. Rather than have those  
13 materials being disseminated while we're trying to  
14 listen to the speakers, we're going to extend the recess  
15 until 6 o'clock. Senate stands in recess until  
16 6 o'clock.

17          (The proceeding recessed at 5:48 p.m.)

18          (The proceeding reconvened at 6:16 p.m.)

19          SEN. BERGER: The Senate will come to order.  
20 Members will return to their seats. Members, we are on  
21 the third reading, Senate Bill 691. Is there further  
22 discussion or debate?

23          Senator Robinson, for what purpose do you arise?

24          SEN. ROBINSON: To send forth an amendment.

25          SEN. BERGER: Send forward your amendment. The

1 clerk will read.

2 THE CLERK: Senator Robinson moves to amend the  
3 bill.

4 SEN. BERGER: Senator Robinson is recognized to  
5 explain the amendment.

6 SEN. ROBINSON: Thank you, Mr. President.

7 On last week Senator Hise asked if I would  
8 consider doing some additional amendments to the  
9 proposed Senate District 28. And what you have in front  
10 of you is actually the proposed changes to that. And  
11 what it basically does it has a little less compactness;  
12 however, it still keeps two specific things. One in  
13 terms of it does not double-bunk incumbents. It keeps  
14 separate districts for those. And then it also -- and  
15 one of the things we talked about was the current VAP is  
16 52 percent and it decreases. It still decreases at less  
17 than 45 percent down to 43 percent. So there's a better  
18 distribution in terms of population. And still, there  
19 are commonalities amongst the communities that are in  
20 both Senate District 28 and 27. So I'll stop right  
21 there.

22 Most of the explanation I gave last week is  
23 specific to this one. But this, I think, does a better  
24 job in terms of the districts, especially 27, Senator's  
25 Wade district, and my 28.

1           SEN. BERGER: Further discussion or debate on  
2 Amendment 8.

3           Senator Hise, for what purpose do you arise?

4           SEN. HISE: Speak to the amendment.

5           SEN. BERGER: You have the floor.

6           SEN. HISE: Thank you, Mr. President, Members of  
7 the Committee. You know, I think that we least had an  
8 opportunity to see something come forward that may have  
9 addressed some of the concerns. But what we see here is  
10 something where we continue to ignore the committee's  
11 criteria. This is still clearly a district drawn on the  
12 basis of race. Although, I will tell you, by the  
13 eyeball test, boy, these districts look a whole lot  
14 similar on these two maps. But I guess the claim is  
15 the eyeball doesn't apply when someone else drew them.

16           But there's only one purpose of this district.  
17 This is solely targeted at Senator Wade's district.  
18 It's an attempt to shave about eight points, depending  
19 on the race you're looking at, off of her race and try  
20 to change the balance of power so that there's more  
21 Democrats. That's what they're attempting to achieve in  
22 this amendment. That's what we're seeing come out over  
23 and over again. It also ignores the splitting of  
24 municipalities. As I understand, still splits  
25 Jamestown, still splits Summerfield -- two

1 municipalities that exist in the county and are now,  
2 contrary to the committee guidelines, broken up in the  
3 different districts.

4           So while I was hopeful at the potential we could  
5 have gotten from this draw, it seems like it was more  
6 important to make a political statement. So I will  
7 simply ask you that vote against this amendment.

8           SEN. BERGER: Further discussion or debate on  
9 Amendment 8?

10           Senator Robinson, for what purpose do you arise?

11           SEN. ROBINSON: To speak on the amendment.

12           SEN. BERGER: You have the floor.

13           SEN. ROBINSON: Thank you, Mr. President.

14 Contrary to what Senator Hise says is that there were  
15 split the same three split municipalities before. But  
16 just to back up a little bit. And this map is drawn on  
17 the basis of the 2010 elections and when I came in. And  
18 that was 2003 data in terms of what's -- and if you look  
19 at a comparison in terms of what it was then and what it  
20 has since become, is more aligned with the 2003. And  
21 that district did not target an incumbent.

22           So I would take exception to the fact that it  
23 targets anybody in this one except that my district was  
24 targeted in 2011 when it was redrawn. But this one  
25 gives the opportunity to both incumbents for election.

1 We have to run for it, but it still gives the  
2 opportunity for everybody to compete for the seats.

3 SEN. BERGER: Further discussion or debate on  
4 Amendment 8?

5 Senator Brown, for what purpose do you arise?

6 SEN. BROWN: To ask Senator Robinson a question.

7 SEN. BERGER: Senator Robinson, do you yield?

8 SEN. ROBINSON: Yes.

9 SEN. BERGER: She yields.

10 SEN. BROWN: Senator Robinson, there are two  
11 full districts in Guilford County and, at this point, I  
12 would say that one of them is pretty much a Democratic  
13 county and the other one is a very competitive -- one is  
14 a Democratic district and the other one is a very  
15 competitive district. Looking at this map, I think it  
16 generates basically two Democratic Senate districts.  
17 Was the intent to gerrymander Guilford County to do  
18 that?

19 SEN. ROBINSON: Mr. President.

20 SEN. BERGER: You may answer.

21 SEN. ROBINSON: The intent here was, Senator  
22 Brown, to do what Senator Hise asked. If you look at  
23 Greensboro and based on the population, how they vote,  
24 and most of 28 is Greensboro, it's more of a Democratic  
25 voting area. But the Guilford County area around it

1 tends to be more Republican voting.

2           So if you look at it in terms of that, then you  
3 can understand 28 being more of Democratic percentages.  
4 But the intent simply is to give voters an opportunity  
5 to vote. If you want to go back to 2003, which I would  
6 prefer, it would -- you know, it would be a very clear  
7 map as far as I'm concerned.

8           But that was not the intent here. The intent  
9 with Mr. Creighton when we took information from Senator  
10 Hise was to do the best job we could in terms of  
11 creating a map that did not double-bunk incumbents.

12           SEN. BERGER: Further discussion or debate on  
13 Amendment 8?

14           Senator Brown, for what purpose do you arise?

15           SEN. BROWN: One more question, if I could.

16           SEN. BERGER: Senator Robinson, do you yield for  
17 a question?

18           SEN. ROBINSON: Yes.

19           SEN. BERGER: She yields.

20           SEN. BROWN: So I guess you're saying then after  
21 talking to your consultant that, trying to create two  
22 Democratic Senate districts was never the issue.

23           SEN. ROBINSON: That was not the intent here.  
24 The intent was to create, based on what the courts said,  
25 fair voting districts where citizens could make a

1 decision in terms of whatever candidates, whether it's  
2 incumbents or anybody else.

3 SEN. BROWN: It just happened to have turned out  
4 that way, I guess.

5 SEN. BERGER: Senator Brown, is there another  
6 question?

7 SEN. BROWN: That's okay.

8 SEN. BERGER: Further discussion or debate on  
9 Amendment 8?

10 SEN. McKISSICK: Mr. President.

11 SEN. BERGER: Senator McKissick, for what  
12 purpose do you arise?

13 SEN. McKISSICK: To speak on the amendment.

14 SEN. BERGER: You have the floor.

15 SEN. McKISSICK: First, I'd like to thank  
16 Senator Robinson for seeing this amendment forward. And  
17 what you really have here is a plan that allows for far  
18 more compact districts and far more competition within  
19 the districts.

20 I know last week there was some question about  
21 whether if, you know, Trump or Clinton would have won  
22 these districts. If you look at those particular  
23 criteria, you would have seen one of these districts  
24 being strongly carried by Clinton, one of them only  
25 marginally carried by Clinton, by a 1.3 percent margin,

1 and the other two carried by Trump. That allows for  
2 competition. It allows for choice among voters. And  
3 that's really what voters want. They want the  
4 opportunity to elect the politicians.

5           Now it could be argued and perhaps persuasively  
6 argued that, had it not been for racial gerrymandering,  
7 you would have seen a different outcome in the  
8 legislative races from this district than what we saw in  
9 terms of results. But I think these are good  
10 districts. So I want to commend Senator Robinson for  
11 her work on studying what could be done to come up with  
12 a configuration that would be improved. I think Senator  
13 Hise had suggested that she give it some thought and  
14 reflection over this past weekend. Certainly a great  
15 deal of depth and analysis went into it.

16           And one thing which I would like to do for the  
17 record in case it's not in the record already, I  
18 requested statistical packages be put together based  
19 upon 2016 data. For the record, I'd like to reflect the  
20 fact that they are there and been distributed to members  
21 and should be considered as part of the consideration  
22 before this body as we deliberate on this amendment.  
23 Thank you.

24           SEN. BERGER: Further discussion or debate on  
25 Amendment 8?



1 Senator Robinson, for what purpose do you arise?

2 SEN. ROBINSON: To ask Senator McKissick a  
3 question.

4 SEN. BERGER: Senator McKissick, do you yield?

5 SEN. McKISSICK: Yes, I do.

6 SEN. BERGER: He yields.

7 SEN. ROBINSON: Senator McKissick, as you look  
8 at the proposed map SRN-2 and you look at the cluster  
9 here, can you identify for me based on the configuration  
10 the political parties currently in that cluster?

11 SEN. McKISSICK: Within the clusters here within  
12 your district?

13 SEN. ROBINSON: No.

14 SEN. McKISSICK: Within the entire cluster.  
15 What we would have in this cluster is Senator Tillman  
16 who represents a portion of what is now the newly  
17 configured cluster. We would have Senator Gunn  
18 representing a portion of this particular cluster and  
19 we'd have Senator Wade representing a part of this  
20 particular cluster. In addition to yourself, it would  
21 be three Republicans and one Democrat.

22 As I said earlier, perhaps had it not been for  
23 the racial gerrymandering that took place previously  
24 back in 2011, perhaps you might have seen a different  
25 outcome considering the way they voted in the

1 presidential elections back in 2016.

2 SEN. BERGER: Further discussion or debate?

3 SEN. ROBINSON: Just a follow-up question.

4 SEN. BERGER: Senator Robinson, for what purpose  
5 do you arise?

6 SEN. ROBINSON: To ask Senator McKissick a  
7 follow-up.

8 SEN. BERGER: Senator McKissick, do you yield?

9 SEN. MCKISSICK: Yes, I yield.

10 SEN. BERGER: He yields.

11 SEN. ROBINSON: Senator McKissick, in this  
12 particular cluster then, do all of those individuals you  
13 named in terms of representation have a part of Guilford  
14 County? They would represent a part of Guilford County?

15 SEN. MCKISSICK: They would indeed. And  
16 incumbency has been, in fact, respected as this plan was  
17 developed -- one of the criteria of this committee. Of  
18 course, these criteria were not ranked, so there's no  
19 way to know what criteria had priority. But the way the  
20 original plan was presented, it was a majority/minority  
21 district even today after the courts have asked us to  
22 really reflect upon that and to go back and not have any  
23 racial gerrymanders.

24 SEN. ROBINSON: Follow-up question, Mr. Chair.

25 SEN. BERGER: Senator McKissick, do you yield?

1 SEN. McKISSICK: Yes, I do.

2 SEN. BERGER: He yields.

3 SEN. ROBINSON: So for clarification purposes,  
4 in this cluster of Guilford, Randolph, Alamance where  
5 four senators, incumbents are in this cluster, then  
6 there would be three Republicans and one Democrat. Am I  
7 correct, based on how it's drawn?

8 SEN. McKISSICK: That is exactly correct.

9 SEN. BERGER: Further discussion or debate on  
10 Amendment 8?

11 Hearing none, question before the Senate is the  
12 passage of Amendment 8, Senate Bill 691. All in favor  
13 of the amendment will vote aye; all opposed of the  
14 amendment all vote no. Five seconds will be allowed for  
15 the voting. The clerk will record the vote.

16 (ELECTRONIC VOTE.)

17 12 having voted in the affirmative and 33 in the  
18 negative, Amendment 8 fails and the bill, Senate Bill  
19 691 is back before you.

20 Further discussion or debate?

21 SEN. CLARK: Mr. President.

22 SEN. BERGER: Senator Clark, for what purpose do  
23 you arise?

24 SEN. CLARK: To send forth an amendment.

25 SEN. BERGER: Send forward your amendment. The

1 clerk will read.

2 THE CLERK: Senator Clark moves to amend the  
3 bill.

4 SEN. BERGER: Let the record reflect that  
5 Senator Barringer is now in the chamber.

6 Senator Clark is recognized to explain the  
7 amendment.

8 SEN. CLARK: Thank you, Mr. President.

9 Senators, what this particular amendment does is  
10 it will modify the Hoke - Cumberland cluster which  
11 consists of Senate Districts 21 and 19. The major  
12 thrust of this modification is to move Fort Bragg into  
13 Senate District 21 as opposed to it being in Senate  
14 District 19. And I'll get to that in a moment.

15 But before I address that issue, I want to  
16 address a few other questions that might come my way.  
17 First of all, I see nothing illegal in this particular  
18 plan. And, secondly, race was not a consideration at  
19 all and it does not split any municipalities. As a  
20 matter of fact, I used the 2017 plan submitted by the  
21 Senate as a baseline in which there was only one  
22 municipality split and that was the city of  
23 Fayetteville. All of the other municipalities in  
24 Cumberland County as in the 2017 plan before us will  
25 reside in Senate District 19.

1           So back to the Fort Bragg issue. So why do I  
2 want to move that into Senate District 21 as opposed to  
3 Senate District 19? Well, I told myself -- well,  
4 apparently it's appropriate to use the Bishop criteria  
5 that was put forth by Senator Bishop back there. So  
6 although we're not considering communities of interest,  
7 we can and should consider cluster areas with interests  
8 that they hold in common.

9           And if you look at the layout of Cumberland  
10 County and where Fort Bragg is, you'll see that on the  
11 southern border of Fort Bragg you have several VTDs.  
12 Now these communities have a lot of in-common interests  
13 with Fort Bragg there. They share interests such as  
14 sporting, sustaining housing, entertaining the troops  
15 there. So it seems far more appropriate to group  
16 these -- to group Fort Bragg with these particular VTDs  
17 as opposed to connecting it to Senate District 19 which  
18 runs as we're making it now and then it goes out into  
19 the rural horses of the county.

20           And also, in addition, I looked at the House  
21 plan that was proposed by our counterparts in the House  
22 and they did conform with this idea of clustering areas  
23 with common interests. So if you look at the House plan  
24 you'll see that those VTDs right along the southern  
25 border of Fort Bragg are, in fact, clustered with it

1 within two House districts in the proposed plan. So  
2 that's why I believe Fort Bragg should really be linked  
3 with Senate District 21 as opposed Senate District 19.

4 Now the issue with this is Fort Bragg has about  
5 25,000 folks in it. So when you move that over into  
6 Senate District 21, that is going to require some  
7 adjustment elsewhere within Senate District 21.

8 Now one of the criteria that I gave to  
9 Dr. Creighton is I understand that another unwritten  
10 rule is that if we have a cluster that has at least two  
11 Senate districts within it and that one of those Senate  
12 districts if it's possible to elect a Republican, then  
13 we want to make sure that is the case is in the future.  
14 So I told him, I said, "I want to make sure that Senate  
15 District 19 remains competitive to the extent that a  
16 Republican as sharp as Senator Meredith there could  
17 still get elected there." And he has, in fact, done  
18 that on my behalf. So we can take that one off the  
19 plate. Senator Meredith -- I'm sure he's proven time  
20 and time again that he can get elected in a Democratic  
21 leaning district and nothing will change there.

22 So you'll notice that the district here, Senate  
23 District 21, is more compact than the version in the  
24 2017 plan. And as I indicated, it also protects Senate  
25 District 19 in the fact that a Republican can still get

1 elected there.

2           Let me see. Are there any other things I want  
3 to mention. So that's pretty much it in a nutshell. So  
4 if no one has any questions, I recommend that you  
5 consider supporting this particular amendment. Thank  
6 you.

7           SEN. BERGER: Senator Bishop, for what purpose  
8 do you arise?

9           SEN. BISHOP: To ask a question of Senator  
10 Clark.

11           SEN. BERGER: Senator Clark, do you yield?

12           SEN. CLARK: I yield.

13           SEN. BERGER: He yields.

14           SEN. BISHOP: Senator Clark, I read with  
15 interest a media account that the amendment to District  
16 21 that we saw in committee, quote, "Was something the  
17 Republicans wanted to keep him," ie., you "out of Senate  
18 District 19 held by Wesley Meredith."

19           Now my first question is, the previous amendment  
20 to District 21, you offered that, didn't you, sir.

21           SEN. CLARK: I sure did.

22           SEN. BISHOP: And --

23           SEN. BERGER: Senator Bishop, follow-up?

24           SEN. BISHOP: Thank you, Mr. President. Yes, I  
25 would like to ask another question.

1 SEN. BERGER: Senator Clark, do you yield?

2 SEN. CLARK: I sure do.

3 SEN. BERGER: He yields.

4 SEN. BISHOP: The extension out into the east  
5 there, that is a modified version of what you offered  
6 previously; correct?

7 It has a slight modification. It just moves the  
8 lines a little bit. Nothing substantial.

9 SEN. BISHOP: Further question.

10 SEN. BERGER: Senator Clark, do you yield?

11 SEN. CLARK: I yield.

12 SEN. BERGER: He yields.

13 SEN. BISHOP: One other approach would be just  
14 to undue that extension to the location of your new  
15 house; correct?

16 SEN. CLARK: If you would like to do that, you  
17 can send forth an amendment to do that.

18 SEN. CLARK: Further question.

19 SEN. BERGER: Senator Clark, do you yield?

20 SEN. CLARK: I yield.

21 SEN. BERGER: He yields.

22 SEN. BISHOP: Do you intend to send forth an  
23 amendment to that effect?

24 SEN. CLARK: No. The amendment I intended to  
25 send forth is the one you're looking at now.



1           SEN. BISHOP: All right. Further question for  
2 Senator Clark.

3           SEN. BERGER: Senator Clark, do you yield?

4           SEN. CLARK: I yield.

5           SEN. BERGER: He yields.

6           SEN. BISHOP: You preempted a number of  
7 questions you thought might be asked and I appreciate  
8 your having done that to save time. I can't recall --  
9 and as I've heard you say it, did you consider political  
10 data in the precinct changing that you did in this  
11 newest offered version of 21?

12           SEN. CLARK: I guess you could say that to the  
13 extent that I directed the gentleman working with me to  
14 make sure that Senate District 19 could still elect a  
15 Republican. So I guess you could say that, yeah, I did  
16 consider political data.

17           SEN. BISHOP: Follow-up for Senator Clark.

18           SEN. BERGER: Senator Clark, do you yield?

19           SEN. CLARK: I yield.

20           SEN. BERGER: He yields.

21           SEN. BISHOP: So do I understand then that the  
22 direction to Dr. Creighton was to make it so that a  
23 Republican could still win --

24           SEN. CLARK: That's correct.

25           SEN. BISHOP: -- but knowing that the district

1 was going to be less favorable to a Republican than as  
2 previously configured.

3           SEN. CLARK: That is not direction I gave, and I  
4 don't know whether it is less or not since I haven't  
5 looked at that. My main focus was I believe Fort Bragg  
6 should in Senate District 21, not Senate District 19.

7           SEN. BISHOP: Understood. Thank you.

8           SEN. BERGER: Further discussion or debate on  
9 Amendment 9?

10           Senator Hise, for what purpose to you rise?

11           SEN. HISE: Speak to the amendment.

12           SEN. BERGER: You have the floor.

13           SEN. HISE: Thank you, Mr. President, Members of  
14 the Committee. I guess this debate on this amendment is  
15 going to whether or not Fort Bragg should be in Senator  
16 Meredith's district or Senator Clark's district.

17           To a point, it does not raise any -- as the  
18 speaker said, it doesn't raise any racial issues, it  
19 doesn't raise any other -- just where the base should be  
20 located. I don't think when you look at the numbers  
21 that you're going to see that that's why this area is  
22 being moved to the state. But I do find them really  
23 interesting.

24           I think if you look at 2016 as District 19 was  
25 previously drawn, Pat McCrory carried 52.63 -- now a 2

1 percentage point -- 2.5 percentage point movement. But  
2 it appears that that's not competitive under this model.  
3 So what we have to do is then draw it at where Pat  
4 McCrory would have 48.3. So minus 2 Republican is  
5 competitive, but plus 2.5 is not.

6 As a matter of fact, if you go to the Trump race  
7 and you'll find that Trump in the previously drawn  
8 district carried 51.71 percent of the district -- 1.7  
9 over. Now that's not competitive; however, we've  
10 decided that now Trump carrying 47.37 percent coming to  
11 a 2.7 percent advantage, now that's competitive.

12 So this whole concept that we've been hearing  
13 about competitive. It is clearly a statement of where  
14 will Democrats win? That's what the amendments are  
15 looking for. And so we're going to use the ruse of  
16 where we're going to move a military base, probably a  
17 fairly strong Republican as our stance as a party for  
18 supporting our military, and I think if you look at the  
19 stance the other party has made on the military and  
20 others and their respect for it, I think you'll be clear  
21 to see why that favors Republicans. But we're going to  
22 use that ruse in this concept and say "Let's take a  
23 district and shift it more Democrat" with no good  
24 reasons coming in. So I will say that I see nothing in  
25 this that the courts would raise. It is not an issue of

1 race.

2           As we said, Senator Clark did ask that we extend  
3 this district out to pick up the new home that he had  
4 built, an address that we were not given prior to the  
5 consideration. And so we've accommodated that. But  
6 apparently that move was not enough. Now Senator Clark  
7 seems to want us to pick the areas that he wants to come  
8 with him to make sure that no one around him is  
9 competitive. So, again, I think it's important that we  
10 merely reject this amendment.

11           SEN. BERGER: Further discussion or debate on  
12 Amendment 9?

13           Senator McKissick, for what purpose do you  
14 arise?

15           SEN. MCKISSICK: Speak on the amendment.

16           SEN. BERGER: You have the floor.

17           SEN. MCKISSICK: I want to thank Senator Clark  
18 for setting forth the amendment. It makes total sense  
19 that you would have all of Fort Bragg in Senator Clark's  
20 district. There's no reason for it not to be there.  
21 Before the way the district line had been drawn, the  
22 only thing he got was an empty part of a field out in  
23 Fort Bragg. It didn't make any sense whatsoever. But  
24 by reconfiguring the district and the way that it's  
25 being configured today, it's within Senator Clark's

1 district. Yes, it is a somewhat more competitive  
2 district.

3           But these districts have the potential to flip  
4 back and forth depending upon the candidates who are  
5 running. If Senator Meredith is running and he appeals  
6 to a broad range of constituents, I have no doubts that  
7 he can prevail in the district that he has been provided  
8 with this plan. I have no doubts whatsoever. I also  
9 believe that Senator Clark with his district being  
10 configured the way it is, it relates more to communities  
11 of interest. You want to put all of Fort Bragg there.

12           To be quite frank, many of the people living in  
13 Fort Bragg probably vote absentee in other parts of the  
14 country. They don't necessarily vote in Cumberland  
15 County. And the actual number that do, to be quite  
16 candid with you, I'm not sure what that number would  
17 look like. Having said that, I think this is a valid  
18 amendment; one that really sets forth an alternative and  
19 I ask for your support.

20           SEN. BERGER: Further discussion or debate on  
21 Amendment 9?

22           Senator Brown, for what purpose do you arise?

23           SEN. BROWN: To ask Senator Clark a question.

24           SEN. BERGER: Senator Clark, do you yield?

25           SEN. CLARK: Sure.

1 SEN. BERGER: He yields.

2 SEN. BROWN: Senator Clark, is Fort Bragg all  
3 in -- I think it's all in Cumberland County, isn't it?

4 SEN. CLARK: No. Some of it's in Spring Lake,  
5 actually, and some of the training areas actually extend  
6 into Hoke County.

7 SEN. BROWN: But the majority of it is in  
8 Cumberland County.

9 SEN. CLARK: The majority of it is in Cumberland  
10 County. That's correct, sir.

11 SEN. BROWN: Follow-up.

12 SEN. BERGER: Do you yield, Senator Clark?

13 SEN. CLARK: Yes, I yield.

14 SEN. BERGER: He yields.

15 SEN. BROWN: So you think it's wise to take Fort  
16 Bragg which is mostly in Cumberland County and put it in  
17 a district that's mostly Hoke County?

18 SEN. CLARK: Actually, that's not correct. 75  
19 percent of the voting population within Senate District  
20 21 is in Cumberland County.

21 SEN. BROWN: On the map, though --

22 SEN. BERGER: Senator Brown.

23 SEN. BROWN: I'm sorry. Follow-up.

24 SEN. BERGER: Senator Clark, do you yield?

25 SEN. CLARK: I yield.

1           SEN. BERGER: He yields.

2           SEN. BROWN: On the map, though, most of Fort  
3 Bragg is in Cumberland County; correct?

4           SEN. CLARK: Actually, that might not be correct  
5 either if you consider the training area. Because if  
6 you look across the northern portion of Hoke County -- I  
7 haven't actually measured that area -- but much of the  
8 training area of Fort Bragg extends all the way clear  
9 across the top portion of Hoke County. As a matter of  
10 fact, y'all decided to give me all the training area in  
11 Cumberland County in Senate District 21, so you may as  
12 well give me the population as well.

13           SEN. BROWN: Speak to the amendment.

14           SEN. BERGER: Senator Brown, you have the floor  
15 to speak to Amendment 9.

16           SEN. BROWN: I think most of us know that most  
17 of Fort Bragg is in Cumberland County and I think what  
18 this amendment does is it takes Fort Bragg and put it in  
19 a district that's mostly Hoke County. I'm not sure why  
20 anybody would want to do that, and so I think this would  
21 be a bad amendment to do that.

22           SEN. BERGER: Further discussion or debate on  
23 Amendment 9?

24           Hearing none, the question before the Senate is  
25 the passage of Amendment 9, Senate Bill 691. All in

1 favor of the amendment will vote aye; all opposed to the  
2 amendment will vote no. Five seconds will be allowed  
3 for the voting. The clerk will record the vote.

4 (ELECTRONIC VOTE.)

5 SEN. BERGER: 12 having voted in the affirmative  
6 and 34 in the negative, Amendment 9 fails and the bill  
7 is back before us. Further discussion or debate on  
8 Senate Bill 691?

9 Senator Hise, for what purpose do you arise?

10 SEN. HISE: Send forth an amendment.

11 SEN. BERGER: Send forward your amendment. The  
12 clerk will read.

13 THE CLERK: Senator Hise moves to amend the  
14 bill.

15 SEN. BERGER: Senator Hise is recognized to  
16 explain Amendment 10.

17 SEN. HISE: Thank you, Mr. President, and  
18 Members of Senate, again. For clarification purposes  
19 and wind changes and others, I have come forward and as  
20 we've exhausted the amendments, I want to send forth the  
21 one that will change the title to 2017 Senate Floor  
22 Redistricting Plan Fourth Edition so we're clear as to  
23 when the changes occurred in this process. I'd ask for  
24 your support. It makes no substantive changes to the  
25 bill.



1           SEN. BERGER: Further discussion or debate on  
2 Amendment 10? Hearing none, the question before the  
3 Senate is the passage Amendment 10 to Senate Bill 691.  
4 All in favor of the amendment vote aye; all opposed will  
5 vote no. Five seconds will be allowed for the voting.  
6 The clerk will record the vote.

7           (ELECTRONIC VOTE.)

8           SEN P. BERGER: 46 having voted in the  
9 affirmative and none in the negative, Amendment 10  
10 passes and Senate Bill 691 is back before us.

11           Is there further discussion or debate on Senate  
12 Bill 691?

13           Senator Pate, could you come up here, please?

14           SEN. BERGER: Senator Cook, for what purpose do  
15 you arise?

16           SEN. COOK: To debate the bill.

17           SEN. BERGER: You have the floor.

18           SEN. COOK: I rise today to defend Beaufort  
19 County. The proposed North Carolina Senate  
20 redistricting map was my own county in a politically  
21 untenable situation. The new map moves Beaufort from  
22 District 1 to District 3 which would include Martin,  
23 Bertie, Warren, Vance, and Northampton. These counties  
24 are not compatible with Beaufort. The plan places  
25 Beaufort into a six-county pod that is strongly liberal.

1 This conservative leading county will be drowned in a  
2 sea of liberalism. The plan will dilute the interest of  
3 Beaufort to the point of insignificance.

4 Beaufort has been a part of the eastern coastal  
5 district for about 150 years, and now it will be coupled  
6 with counties that are to the north and west of it.  
7 Counties with which it has little common interest.

8 Most of the folks of Beaufort are very happy  
9 with this proposed pod except for my wife who has been  
10 urging me to quit the Senate for years, and, of course,  
11 the chairman of the Beaufort County Democratic Party.

12 I understand that this proposed Senate map the  
13 Senate is attempting to conform to the pod policy  
14 advocated by the courts which require grouping counties  
15 into pods with little discretion or the exercise of  
16 judgement; however, Beaufort, with this proposed pod, is  
17 not a good thing and it will cause it to wander in a  
18 political death for years.

19 SEN. PATE: Is there further discussion or  
20 debate?

21 Senator Berger, for what reason do you arise?  
22 I'm sorry. Senator McInnis --

23 SEN. McKISSICK: That would be McKissick.

24 SEN. PATE: Senator McKissick, I finally  
25 recognized you. For what purpose do you arise, sir?

1           SEN. MCKISSICK: I know Senator McInnis and I  
2 look so much alike. I guess we were brothers separated  
3 at birth. To speak on the plan.

4           The one thing that I'll essentially say is this.  
5 We've had a lot of debate. We've had a lot of  
6 discussion over the last several days, the last week,  
7 about what is right in terms of alternative plans for  
8 the North Carolina Senate and that's important and that  
9 is significant.

10           I think, unfortunately, one of the major  
11 criteria that were missed from the conversation when the  
12 redistricting committee set criteria was that fact they  
13 were sitting back and trying to correct an efficiency  
14 established by the court.

15           And the court basically said that race had been  
16 unconstitutionally used in a way that was used to draw  
17 these majority/minority districts. Somehow race was not  
18 considered at all. Now race should not have ever been  
19 a predominant factor that could have been used without a  
20 racially polarizing voting study. But race should be a  
21 factor that one could look at in terms of drafting and  
22 designing districts. That it could be one that is  
23 considered by this body. It was not one considered by  
24 this body, at least by the majority when plans were  
25 drafted.

1           When it comes to incumbency, it was not really  
2 established whether there was going to be a survey  
3 taken to find out who was running and who was not  
4 running to determine what that might do to the  
5 configurations of the districts.

6           We found out that several people weren't running  
7 and that certainly those districts within those clusters  
8 might have been designed differently. They might have  
9 been more compact. They might have been situated in a  
10 way that voters would have had a greater opportunity to  
11 pick a candidate of choice in a competitive race. The  
12 thing that shows up consistently when polls are done in  
13 this state is that people want competitive races. They  
14 want to be able to pick a candidate of choice.

15           They don't want maps gerrymandered in this state  
16 to give a single party, in this case, a particular  
17 Republican party, a leg up. They don't want to see it  
18 done for Democrats either. But the way to do it is to  
19 create competitive districts.

20           So I think we've missed an opportunity to really  
21 draw these maps in a way that allows more competitive  
22 districts to be drawn. Certainly there are going to be  
23 four open seats on this map as it's showing up today but  
24 based upon the topography of the districts that are  
25 open, three of them will certainly be Republican and

1 only one of them is likely to become a Democratic seat.

2           We can do better than this. We can make choices  
3 that people will embrace. We can come up with a way of  
4 working on both sides of the political aisle to create  
5 competitive districts so the voters have a choice. The  
6 voters can make decisions. And yes, the districts can  
7 be compact. Yes, we can avoid splitting precincts or  
8 voter tabulation districts. And, yes, we can make  
9 certain that when it comes to municipalities, we try to  
10 respect the boundaries when it's possible to do so,  
11 understanding the whole county provisions of the state  
12 constitution.

13           Unfortunately, this map which we've seen today  
14 is another opportunity to gerrymander. Only this time  
15 it's based upon incumbency. And those incumbents gain  
16 those positions as a result of maps that were drawn that  
17 were racially gerrymandered. So in my mind, many of  
18 those gains were illegal and improper gains. And the  
19 only way to correct them, the only way to go back and  
20 try to correct that wrong and that deficiency would be  
21 to consider race as part of the equation in redrawing  
22 the districts. And that we have failed to do. I think  
23 it's unfortunate that have we done so. I don't know  
24 what the courts will do when they have an opportunity to  
25 review things. Certainly the Democrats from Mecklenburg

1 County presented a viable alternative, a very viable  
2 alternative that allowed for competitive districts.

3 I know Senator Bishop said, "Well, Trump, might  
4 have lost. He'd only gotten 44 percent of the vote in  
5 some of those districts. Well, that depends upon the  
6 people in Charlotte and how they might vote in any given  
7 year. One could also argue that perhaps not all the  
8 members that were elected as a part of this body, as a  
9 party of the House, would have won those districts had  
10 it not been for the racial gerrymandered districts that  
11 were created down in Charlotte.

12 I know when Malcolm Graham came here, when  
13 Malcolm Graham was elected -- and so many of you that  
14 have been here for a while knew Malcolm -- he ran from a  
15 district that only had 28 percent African-American  
16 voting age population and he won against an established  
17 incumbent.

18 The only thing that any of us want to see are  
19 good, competitive districts, fair, reasonable and  
20 competitive. The courts have given us that opportunity.  
21 The courts have ruled that what was done before was  
22 illegal. It was wrong. It was unconstitutional racial  
23 gerrymander. The courts expect us to act responsibly.  
24 I'm afraid that we've negated our responsibility.

25 SEN. PATE: Is there further discussion or

1 debate?

2 Senator Berger, for what purpose do you arise?

3 SEN. BERGER: Thank you, Mr. President. To  
4 speak on the bill.

5 SEN. PATE: You have the floor.

6 SEN. BERGER: Thank you. Members of the Senate,  
7 I hear Democrats complain that they're not competitive  
8 in State Senate elections under the proposed maps  
9 because Republicans gerrymander the districts. Liberals  
10 in the media and academia have picked up on this theme  
11 and run with it. But in the publicly understood sense  
12 of the word, it is not truly a gerrymander.

13 Back in 2001, my first year serving in the  
14 Senate, I was one of only 15 Republicans elected to  
15 serve in this body. In a year North Carolina voted for  
16 George Bush for President by 13 points over the  
17 Democratic candidate Al Gore -- 56 percent to 43  
18 percent.

19 The Democrats promptly embarked on a  
20 redistricting scheme for the State Senate that was by  
21 any measure a severe gerrymander intended to preserve  
22 that 35-15 partisan advantage. That map known as NC  
23 Senate Plan 1C divided -- divided 51 counties. Smaller  
24 counties like Sampson and Iredell were chopped up  
25 between four Senate districts each. One western North

1 Carolina district stretched and wound across pieces of  
2 nine counties running from the Georgia border up through  
3 Asheville and into McDowell County.

4           This fracturing and severe gerrymandering of  
5 counties was a relatively recent occurrence. In fact,  
6 prior to 1982, no county had ever been divided to form a  
7 State Senate district in North Carolina.

8           The requirements that Senate districts be made  
9 up of whole counties dates back in different forms to  
10 our state's original 1776 constitution which allotted  
11 one senator to every whole county. It was not until  
12 1981 the U.S. Department of Justice decision that the  
13 North Carolina Constitution provision requiring counties  
14 be kept whole in drawing legislative districts violated  
15 the Voting Rights Act that our state began to see the  
16 sort of grossly gerrymandered districts like you see in  
17 the 2001 NC Senate Plan 1C.

18           These sorts of grotesque districts would  
19 probably still be the norm in North Carolina and,  
20 frankly, the Democratic party would probably still  
21 control the State Senate if not for a man from Beaufort  
22 County named Ashley Stephenson. Ashley passed away in  
23 2009. In 2001 Ashley Stephenson filed a lawsuit asking  
24 the state courts to enforce the whole county provisions  
25 of the state constitution. He argued that the state did



1 not have a binary choice between either the whole county  
2 provision of the North Carolina Constitution and the  
3 Voting Rights Act, that, in fact, the state constitution  
4 and federal law could be harmonized.

5           In the landmark 2002 Stephenson decision, the  
6 State Supreme Court agreed with him and laid out a  
7 specific method to keep counties whole while complying  
8 with federal law. The system for drawing legislative  
9 districts laid out in the Stephenson decision requiring  
10 districts to comply with the Voting Rights Act --  
11 required the districts to comply with the Voting Rights  
12 Act have roughly equal population, elect a single  
13 senator instead of multiple senators, and most  
14 importantly, create a process for grouping and keeping  
15 counties whole. They are the strongest  
16 anti-gerrymandering provisions for a legislature in the  
17 entire country. And the results of the decision are  
18 eminently evident.

19           The court ordered 2002 State Senate map  
20 following the Stephenson decision divided just 16  
21 counties as opposed to 51. The 2003 State Senate map,  
22 again, adopted by the Democrats to comply with the  
23 Stephenson decision, divided only 12 counties. The 2011  
24 State Senate map adopted by this body divided 19  
25 counties, and the proposed 2017 State Senate map before

1 you today divides just 12 counties. When map drawers  
2 divide between 10 and 20 counties, they simply cannot  
3 create the sort of redistricting mischief that they can  
4 when they divide 50-plus counties and they force  
5 decisions based on traditional redistricting principles  
6 over political considerations. For example, I ended up  
7 doubled-bunked and had a primary against former Senate  
8 Republican Leader Bob Shaw in the 2002 map.

9 I've heard people argue that this proposed  
10 Senate map is a political gerrymander. It is not. But  
11 the argument goes something like Republicans and  
12 Democrats should both get about the same number of seats  
13 in the State Senate because Pat McCrory and Roy Cooper  
14 tied at 49 percent of the vote in the governor's race.  
15 This ignores a couple of things. One, we are not a  
16 European country with proportional representation.  
17 That's not our system. If we were, the libertarian, Lon  
18 Cecil, who got 2 percent of the vote for governor, would  
19 be breaking all ties between McCrory and Cooper.

20 Number two, while the governor's race was a tie,  
21 in 2016 Republican candidates for the State Senate got  
22 almost 500,000 more votes than Democratic candidates.

23 But something else has been happening that folks  
24 arguing against this map haven't spoken about much. A  
25 North Carolina Democrat as a distinct political

1 personage and candidate type from a national Democrat  
2 has all but disappeared.

3           Think about this. Back in the 1990s and early  
4 2000s Democrats won on average between 50 and 55  
5 counties in competitive statewide races in North  
6 Carolina. In 1992 that number was right at 56. '96 it  
7 was 54. 2000 it was 56. Since 2010 Democrats have  
8 averaged between 30 and 35 wins in competitive statewide  
9 races. 30 to 35 county wins. In 2012 it was 36. In  
10 2014 it was 32. In 2016 it was 31.

11           Consider the number of counties Democrats won in  
12 governor's races since 1992. Jim Hunt in 1992 won 69  
13 counties. Jim Hunt in 1996 won 73 counties. Mike  
14 Easley in 2000 won 65. Mike Easley in 2004 won 70. Bev  
15 Perdue in 2008 won 60 counties. Walter Dalton in 2012  
16 won 23 Counties. Roy Cooper in 2016 won 28.

17           So just to compare, Jim Hunt lost just 27  
18 counties in 1996. Roy Cooper won just 28 counties in  
19 2016. And Roy Cooper had actually won 63 counties in  
20 his competitive 2000 attorney general's race. Roy  
21 Cooper won 28 counties in his competitive 2016  
22 governor's race. That is not gerrymander. It's  
23 happened all across the state.

24           Let's just take a few more obvious county  
25 examples. In the west, Madison County, historically

1 Democrats won Madison County in a slew of statewide  
2 races. In 2000 they won the governor, lieutenant  
3 governor, attorney general, superintendant of public  
4 instruction, labor and auditor races. In 2002 they won  
5 the U.S. Senate race. In 2004 they won superintendent,  
6 public instruction, labor, secretary of agriculture,  
7 auditor, lieutenant governor and governor. In 2008 they  
8 won treasurer, superintendent, labor, agriculture,  
9 auditor, insurance, governor and U.S. Senate. In 2016  
10 Democrats did not carry Madison in a single statewide  
11 race. President Trump won 60 percent. Senator Burr won  
12 57 percent. Statewide Republican candidates averaged at  
13 least 55 percent in Madison County.

14 Another example, Allegheny County. Democrats  
15 won Allegheny County in every competitive statewide race  
16 except the race for president in 2000. And Mike Easley  
17 won the county with nearly 58 percent in 2004. In 2016  
18 Hillary Clinton won 24 percent. Deborah Ross won 25 --  
19 26 percent when she ran. Roy Cooper won 31 percent and  
20 Josh Stein took 34 percent of the votes in Allegheny  
21 County.

22 Rutherford County, Republicans averaged about 70  
23 percent in Rutherford County in 2016. President Trump  
24 won 72 percent. Lieutenant Governor Forest, 71; Buck  
25 Newton, 70. Roy Cooper outperformed most of the other

1 Democrats on the ticket by winning just 32 percent of  
2 the vote in Rutherford County.

3           In the Piedmont - Person County, Democrats won  
4 Person County in the overwhelming majority of statewide  
5 races 2000, 2004 and 2008. Roy Cooper, Bev Perdue, Mike  
6 Easley, each one with 57 percent in 2000. In 2016  
7 Elaine Marshall was the only Democrat who carried the  
8 county. Clinton and Ross won just 40 percent. Cooper  
9 won 43 percent.

10           In my home county of Rockingham in the 1990s and  
11 2000s, Republicans rarely won in Rockingham County. It  
12 went for Jim Hunt twice, Beverly Perdue twice, Mike  
13 Easley twice, Roy Cooper in his 2002 race for attorney  
14 general. In 2016 Democrats averaged 38 percent in  
15 Rockingham County. In the two most prominent races,  
16 they won. Roy Cooper and Josh Stein won 39 percent each  
17 in Rockingham County.

18           In the east, Columbus County. In 2016 Columbus  
19 County went 60 percent for Trump, 59 percent of Senator  
20 Burg and Pat McCrory. It went 58 percent for Lieutenant  
21 Governor Forest, 55 percent for Superintendent Johnson,  
22 56 percent for Treasurer Folwell. In 2008, just eight  
23 years before, Bev Perdue won 65 percent in Columbus  
24 County. Walter Dawson, 63 percent. In 2004 Democrats  
25 averaged over 63 percent in competitive statewide races

1 in Columbus. In 2000 they averaged 68 percent. Many  
2 cleared 70 percent. In Roy Cooper's 2000 race for  
3 attorney general, he won 67 percent in Columbus County.  
4 In the 2006 race for governor, he won less than 40  
5 percent there.

6 Sampson County -- Democrats carried Sampson  
7 County in seven of the eight most competitive statewide  
8 races in 2000. They won the county in six of the eight  
9 most competitive in 2004. Since 2008 only one Democrat  
10 has won the county. Roy Cooper lost by 17 points -- 58  
11 to 41 in 2016.

12 Robeson County, Democrats averaged 73 percent of  
13 Robeson County in 2000, 68 percent in 2004, 67 percent  
14 in 2008. In 2016 they lost the three top-of-the-ticket  
15 statewide races in Robeson County.

16 Terrell County, in 2000 Democrats won every  
17 competitive statewide race in Terrell County and their  
18 candidates averaged 71 percent. Roy Cooper won 74  
19 percent; Mike Easley, 73 percent; Beverly Perdue, 74  
20 percent. In 2004 Democrats won every competitive  
21 statewide race except for president averaging 62  
22 percent. In the 2016 cycle, Democrats averaged 48  
23 percent and Governor Cooper performed 33 points worse --  
24 41 percent -- in 2016 than he did in 2001.

25 Democrats are only competing in 20 to 30

1 Counties in North Carolina. That might be a viable  
2 strategy for squeaking out a close win in the occasional  
3 statewide race, but you cannot build a legislative  
4 majority in a state with 100 counties when you only  
5 compete in a quarter of them.

6 Do we really think all of these county shifts,  
7 these seat changes in a decade's time are the result of  
8 gerrymandering? Of course not. Gerrymandering didn't  
9 do that. Democrats did that. It's why Republicans were  
10 able to take the majority in State Senate in 2010 with a  
11 map drawn by the Democrats.

12 Granted, this trend isn't exclusive to North  
13 Carolina. Nationally Democrats have lost over 900  
14 legislative seats since 2010, not to mention the U.S.  
15 House of Representatives, the U.S. Senate and the White  
16 House. A News & Observer headline two days after the  
17 2010 midterms that wiped Democrats out of the U.S.  
18 House, in that headline the head of the Democratic  
19 party -- National Democratic Party, quote, "Voices  
20 regrets but signals no change of course."

21 And the losses continued in 2012, 2014 and 2016.  
22 The nonpartisan Cook Political Report says maybe 17  
23 percent of the Democratic parties problems nationally  
24 are the result of new district lines. Something else  
25 clearly happened while Democrats were blaming

1 gerrymandering for putting and keeping them on the back  
2 row.

3           When I first ran for State Senate, many of the  
4 Democrats in this chamber and many of the Democrats  
5 running, shared the cultural values of North Carolina's  
6 moderate to conservative voters. They were  
7 pro-education, but many were also pro-business, pro-gun  
8 and pro-life.

9           But today, North Carolina Democrats, just like  
10 the National Democrats align with the powerful special  
11 interests like big national labor unions, far left  
12 environmentalists and the abortion lobby. It used to be  
13 that a North Carolina Democrat wouldn't be seen with a  
14 National Democratic presidential candidate like Michael  
15 Dukakis, Walter Mondale, John Kerry. Nowadays they rush  
16 to get endorsements from former President Obama and  
17 Hilary Clinton. It used to be North Carolina Democrats  
18 campaigned all over rural North Carolina. In 2016 that  
19 wasn't the case.

20           It's easy to understand why gerrymandering has  
21 been the bogeyman since they were swept out of power in  
22 2010. It's easier to blame the maps, blame a process,  
23 blame anything, really, than it is to take  
24 responsibility for losing touch with the politics of  
25 voters in 75 of North Carolina's 100 counties.



1 But here's the hard truth. The Democratic party  
2 could be competitive in legislative elections all over  
3 the state if it competed in all 100 counties instead of  
4 only 30. There are more registered Democratic voters  
5 than Republican voters in 27 of the proposed districts.  
6 But if you're going to be competitive in legislative  
7 elections across the state, you're going to have bring  
8 back the North Carolina Democrat as a distinct political  
9 type separate from the national Democrat.

10 And the North Carolina Constitution requires  
11 legislative districts to be constructed out of whole  
12 counties. So unless you think the county lines in our  
13 state have been gerrymandered, it's pretty clear this is  
14 not a political gerrymander. And if the North Carolina  
15 Democratic party struggles to elect Republican senators  
16 under this map, it isn't because of the way the lines  
17 were drawn, but the platform that parties' candidates  
18 are running on.

19 But we're not here today because of a political  
20 gerrymandering claim. We're here to adopt a new  
21 legislative redistricting plan because the U.S. Supreme  
22 Court struck down the 2011 State Senate map ruling that  
23 nine of the districts including the map were racial  
24 gerrymanders. I think it is very important that we  
25 acknowledge this. The District Court ruled and the

1 Supreme Court affirmed that the 2011 map was racial  
2 gerrymander.

3           In 2011 the legislature made a decision based on  
4 a U.S. Supreme Court decision in the Strickland case to  
5 draw the minority district required by the Voting Rights  
6 Act with African-American voting populations of at least  
7 50 percent. The Trial Court ruled that interpretation  
8 of the Strickland decision was, quote, "an error of  
9 law." And while the court acknowledged that, quote, "In  
10 reaching this conclusion, we make no finding that the  
11 General Assembly acted in bad faith or with  
12 discriminatory intent in drawing the challenge of the  
13 districts which were pre-cleared by the Justice  
14 Department pursuant to Section 5 of the Voting Rights  
15 Act," end of quote. The court's ruling must be  
16 respected and the error of law that resulted in racial  
17 gerrymanders must be corrected.

18           The U.S. Supreme Court has set several new  
19 precedents since the last body adopted legislative  
20 district maps. Most consequentially, the Supreme Court  
21 rendered Section 5 of the Voting Rights Act inoperative  
22 in Shelby County versus Holder. The Shelby County  
23 decision is important to understand how we are seeking  
24 to comply with the court's order.

25           To simplify, prior to Shelby County, North

1 Carolina's redistricting plans were subject to Section 5  
2 preclearance by the United States Justice Department.  
3 The burden fell on the state to prove the proposed maps  
4 did not unfairly limit the opportunity of minority  
5 groups to elect candidates of their race.

6           Today, post-Shelby County, North Carolina's  
7 redistricting plans are not subject to Justice  
8 Department preclearance and the burden of proving that a  
9 plan limits a minority group's opportunity to elect a  
10 candidate of their choice rests with a plaintiff in a  
11 court challenge.

12           Senator Blue spoke Friday in detail about the  
13 Gingles factors that would allow the legislature to  
14 consider race in drawing a district. One, that they  
15 geographically compact minority community exists for  
16 which a majority/minority district can be drawn, two,  
17 that the minority community votes cohesively, and three,  
18 that the white majority typically votes together in  
19 sufficient numbers to block the minority community from  
20 electing a candidate of their choice. I won't expand on  
21 Senator Blue's comments on the first two Gingles  
22 criteria but do want to elaborate on the third criteria.

23           In 2011 the legislature commissioned two expert  
24 studies on racially polarized voting in North Carolina  
25 to support the decision to draw districts with

1 African-American populations of 50 percent. To my  
2 knowledge, these were the most complete and exhaustive  
3 studies ever entered into the record during a  
4 redistricting process.

5           In the Covington decision striking down the 2011  
6 legislative maps, the court cited those legislative  
7 decisions as critical to determining the plan was a  
8 racial gerrymander. The court determined the expert  
9 reports did not -- did not sufficiently prove racially  
10 polarized voting to prove the third Gingles factor was  
11 present and justified drawing 50 percent minority  
12 districts. Quote, "Contrary to defendant's contentions,  
13 the Block and Brunell reports do not establish a strong  
14 basis in evidence for Gingles third factor in any  
15 potential district."

16           And in light of the 2014 Alabama Legislative  
17 Black Caucus versus Alabama Ruling, the court strongly  
18 objected to that legislature's decision to adopt -- I'm  
19 sorry -- strongly objected to the legislature's decision  
20 to adopt a 50 percent target to draw true minority/  
21 majority districts. Quote, "In light of Alabama, we are  
22 mindful that a legislature's policy of prioritizing  
23 mechanical racial targets above all other districting  
24 criteria (save one-person, one-vote) provides  
25 particularly strong evidence of racial predominance."

1           We have carefully considered the court's order  
2 in Covington. Given the court's rejection of the 2011  
3 expert reports, we do not believe we can develop a  
4 strong enough basis in evidence that the third Gingles  
5 factor is present to justify drawing districts on the  
6 basis of race. Nor, in spite of repeated requests by  
7 the redistricting committees have the public, plaintiffs  
8 in the Covington litigation, or members of this body  
9 presented evidence that the proposed map should be  
10 changed because the third Gingles factor is present and  
11 unaddressed.

12           So I strongly believe we have complied with the  
13 courts admonishment with that. Again, in quoting, "If  
14 during redistricting the general assembly had followed  
15 traditional districting criteria and in doing so, drawn  
16 districts that incidentally contained majority black  
17 populations, race would not have predominated in drawing  
18 those districts," end of quote.

19           With the information available to them, Senator  
20 Hise and the redistricting committee adopted nine  
21 criteria to use in drawing this proposed map. Some of  
22 the map drawing principles are inviable and must be  
23 followed like equal population contiguity and the North  
24 Carolina constitutional requirements on county grouping.  
25 And because we cannot prove the third Gingles factor,

1 not using racial election data, incumbency protection  
2 and municipal boundaries are secondary and occasionally  
3 internally contradictory considerations. They must be  
4 harmonized with each other while complying with the  
5 inviable criteria.

6 I believe that this redistricting plan put  
7 forward by Senator Hise's committee successfully  
8 harmonized the criteria adopted. This map is not a  
9 racial gerrymander and fully complies with both the  
10 court order and tradition redistricting principles.

11 I've also reviewed the data Senator McKissick  
12 requested and is placed on the members' dashboards. In  
13 the nine districts the court ruled where racial  
14 gerrymanders only the Guilford County District as the  
15 court predicted could incidentally occur when using  
16 traditional districting principles. In this case  
17 following Greensboro's municipal boundary continues to  
18 have a black voting age population over 50 percent and  
19 it has fallen from 56.5 percent to 50.5. The other  
20 eight previously unconstitutional districts now have  
21 black voting age populations ranging from 32.9 percent  
22 to 48.5 percent.

23 While the 2011 map had no districts with black  
24 voting age populations between 26.5 percent and 43  
25 percent, the new map has five new districts that fall in

1 that range including one new district with a black  
2 voting age population of over 40 percent and two new  
3 districts with a black voting age populations over 30  
4 percent.

5           This is important because the expert reports  
6 which you can see on your dashboards submitted by Alan  
7 Lichtman on behalf of the Democrats and plaintiffs in  
8 the Covington and Harris cases define all those  
9 districts as having the, quote, "Ability to elect a  
10 candidate who is the preferred choice of a cohesively  
11 voting minority community."

12           So while race was not used to draw this plan, I  
13 believe it fully remedies the racial gerrymander in the  
14 previous map while avoiding any new potential claims of  
15 both dilution under Section 2 of the Voting Rights Act.

16           In closing I'll say again, this map is not a  
17 racial gerrymander. This map is not a political  
18 gerrymander either. It complies with state and federal  
19 law. It remedies defects the court found in the  
20 previous map. It splits fewer counties. It divides far  
21 fewer precincts. I urge you to vote for the bill.

22           SEN. PATE: Is there further discussion or  
23 debate?

24           Hearing none, the question before the Senate is  
25 the passage of Senate Bill 691 on its third reading.

1 All in favor will vote aye; all opposed will vote no.  
2 Five seconds will be allowed for voting and the clerk  
3 will record the vote.

4 (ELECTRONIC VOTE.)

5 SEN. PATE: 31 having voted in the affirmative,  
6 15 having voted in the negative, Senate Bill 691 passes  
7 its third reading. The amendments will be engrossed and  
8 the bill will be sent to the House by special message.

9 Notices and announcements. Are there any  
10 notices or announcements? Is there any further business  
11 to come before the Senate?

12 SEN. BLUE: Mr. President.

13 SEN. PATE: Senator Blue, for what reason do you  
14 arise?

15 SEN. BLUE: Point of personal privilege.

16 SEN. PATE: You have the floor, Senator.

17 SEN. BLUE: Thank you, Mr. President. Ladies  
18 and gentlemen of the Senate, I just wanted rise to make  
19 a quick observation. A friend of mine and many of ours  
20 was funeralized today down in Fayetteville. I had the  
21 fortune of knowing the Reverend Dr. C.R. Edwards since  
22 my teen years when he passed through the church in  
23 Fayetteville when I grew up in an adjoining county. And  
24 I just want to mention that C.R. Edwards was a major  
25 force in Fayetteville and Cumberland County from the



1 early 50s until his death, although he had moved to  
2 Raleigh and became one of my constituents here about 17  
3 years ago in Knightdale. But Dr. Edwards served with me  
4 in the House of Representatives and he served here in  
5 the Senate while I served in the House. He served three  
6 terms here in the Senate and distinguished himself. If  
7 those who sit in seats 15 and 20 would look at the tags  
8 on your desk, you'll see his name on those. I think it  
9 was seats 15 and 20.

10 But, in addition to serving in these legislative  
11 chambers, he chaired his local school board in one of  
12 the most tumultuous times as that school board was going  
13 through its desegregation efforts. He served on the  
14 University Board of Governor's and distinguished himself  
15 well in a very, very well-lived life. He served as the  
16 president of the General Baptist State Convention.

17 So I would ask you, Mr. President, as we adjourn  
18 this evening that we adjourn in memory of the late  
19 Senator Dr. Reverend C.R. Edwards.

20 SEN. McKISSICK: Mr. President.

21 SEN. PATE: Senator McKissick, for what purpose  
22 do you arise?

23 SEN. McKISSICK: Point of personal privilege.

24 SEN. PATE: You have the floor.

25 SEN. McKISSICK: I find it quite ironic today

1 that it's August the 28th. I don't know if that date  
2 means much to many of you in this room but to many  
3 people from my generation, it was the date back in 1963,  
4 the famous march in Washington, the day that Dr. King  
5 gave his "I have a Dream" speech 54 years ago today. We  
6 talked about not judging people by the color of their  
7 skin, by the content of their character. We've come so  
8 very, very far as a state, and as a country in  
9 addressing those ills that affected us in that time  
10 frame. But I'm also reminded tonight when we're still  
11 here in a battle in North Carolina dealing with racial  
12 gerrymandering of how much further we have to go.

13 SEN. PATE: Further notices and announcements.

14 SEN. HORNER: Mr. President.

15 SEN. PATE: Senator Horner, for what purpose do  
16 you arise?

17 SEN. HORNER: One of personal privilege.

18 SEN. PATE: You have the floor.

19 SEN. HORNER: I'd like to end on a positive note  
20 after a tough day. Today is one of those important days  
21 in our state. It's the first day of school and everyone  
22 here has been responsible in some way to help this thing  
23 happen. And please tell a teacher "Thank you."

24 SEN. PATE: Senator Davis, for what purpose do  
25 you arise?

1 SEN. DAVIS: For a brief announcement.

2 SEN. PATE: You have the floor, Senator.

3 SEN. DAVIS: Thank you. Members, hopefully we  
4 also have another positive note to Senator Horner. And  
5 that is, even though we came short over the weekend, it  
6 was an awesome trip to Pennsylvania and we continue to  
7 support our Southeast, North State Greenville, North  
8 Carolina champions. And I want to share with everyone,  
9 we've been scrambling around today and we're going to  
10 work to get those little young men up here, hopefully  
11 Wednesday. And I just ask one thing of my dear friends  
12 in this chamber. Is when we get these little ones up  
13 here, just give them a high five and a hug. Thank you  
14 so much.

15 SEN. PATE: Further notices and announcements?  
16 Hearing none, is there further business to come before  
17 the Senate?

18 If not, Senator Berger is recognized for a  
19 motion.

20 SEN. BERGER: Thank you, Mr. President. I move  
21 that the Senate to now adjourn in memory of the late  
22 Senator Reverend Dr. Chauncy R. Edwards. Subject to the  
23 standard stipulations set forth in Senate Rule 24.1 and  
24 the receipt of messages from the House, we reconvene on  
25 Tuesday, August 29, 2017 at 2 p.m.

1           SEN. PATE: The motion is that the Senate do  
2 now adjourn, adjourning to the memory of Former Senator,  
3 the Reverend Dr. Chauncy R. Edwards, and subject to the  
4 stipulations stated by Senator Berger to reconvene  
5 Tuesday, August 29th -- what was the time again,  
6 Senator? -- 2 p.m., seconded by Senator Blue. All in  
7 favor say aye.

8           THE SENATE: Aye.

9           SEN. PATE: All opposed, no.

10          THE SENATE: (No response.)

11          SEN. PATE: The ayes have it and the Senate  
12 stands adjourned.

13                 (There was a pause in the proceeding.)

14          THE CLERK: Message from the House. House Bill  
15 927 Committee substitute by Representatives Lewis and  
16 Ballard, an act to realign the districts for the  
17 election of the members of the North Carolina House of  
18 Representatives is referred to redistricting committee.

19                 (The proceeding concluded at 7:25 p.m.)

20

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25

1 CERTIFICATE OF NOTARY - COURT REPORTER

2 STATE OF NORTH CAROLINA

3 COUNTY OF WAKE

4

5 I, KAREN ROCHE, Notary Public in and for the above  
6 county and state, do hereby certify that the proceeding  
7 was taken before me at the time and place hereinbefore  
8 set forth; that the proceeding was duly recorded by me  
9 by means of stenotype, which is reduced to written form  
10 under my direction and supervision; and that this is, to  
11 the best of my knowledge and belief, a true and correct  
12 transcript.

13 I further certify that I am neither counsel to any  
14 party nor interested in any way in the outcome of this  
15 proceeding.

16 This is the 28th day of August, 2017.

17 

18 \_\_\_\_\_  
19 Karen Roche  
20 Notary Public, Wake County,  
21 North Carolina  
22 Notary No. 201519800020

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22  
23  
24  
25

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