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FULL JUDICIARY COMMITTEE MEETING

PUBLIC SESSION

Thursday, June 9, 2011

10:30 a.m.

Room 308, Gressette Building

Columbia, South Carolina

REPORTED BY: Janni S. Jardine  
Court Reporter

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1 MEMBERS IN ATTENDANCE:

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- 3 SENATOR GLENN F. McCONNELL, CHAIRMAN
- SENATOR LEE BRIGHT
- 4 SENATOR PAUL G. CAMPBELL, JR.
- SENATOR GEORGE E. "CHIP" CAMPSER, III
- 5 SENATOR RAYMOND E. CLEARY, III
- SENATOR CREIGHTON B. COLEMAN
- 6 SENATOR TOM DAVIS
- SENATOR ROBERT FORD
- 7 SENATOR CHAUNCEY K. GREGORY
- SENATOR JOHN M. "JAKE" KNOTTS, JR.
- 8 SENATOR JOEL LOURIE
- SENATOR GERALD MALLOY
- 9 SENATOR LARRY A. MARTIN
- SENATOR SHANE R. MARTIN
- 10 SENATOR A. SHANE MASSEY
- SENATOR FLOYD NICHOLSON
- 11 SENATOR LUKE A. RANKIN
- SENATOR MICHAEL T. ROSE
- 12 SENATOR JOHN L. SCOTT, JR.
- SENATOR VINCENT A. SHEHEEN
- 13 SENATOR PHILLIP W. SHOOPMAN
- SENATOR KENT M. WILLIAMS

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16 STAFF PRESENT:

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CHARLES TERRENI, CHIEF COUNSEL

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1           SENATOR McCONNELL: I would like to call  
2 this meeting of the Senate Judiciary Committee to order.  
3 Our agenda today is much shorter than usual. We are here  
4 today to discuss and to vote on a Senate Redistricting  
5 Plan.

6           What you have before you is a favorable  
7 report as amended on S.815 from the Redistricting  
8 Subcommittee. This is the Staff's Senate Redistricting  
9 Plan attached to a skeletal bill that was introduced  
10 earlier in the session.

11           The focus for now will be on the Senate's  
12 Redistricting Plan. There are many good ideas that are  
13 still being discussed on the proposed congressional plan,  
14 but they all need to be given as much thoughtful  
15 consideration as they deserve.

16           Once the Senate has adopted a Senate plan,  
17 we will then focus on proposed congressional plans, but  
18 for now, I am asking all of us to concentrate on a Senate  
19 District Plan and getting it out to the floor.

20           For those members of the Judiciary  
21 Committee who have not served on the Redistricting  
22 Subcommittee, I would like to give you a brief overview  
23 of what has occurred thus far.

24           This Senate Redistricting Subcommittee has  
25 endeavored to have an open and participatory process for

1 redistricting. The subcommittee adopted public  
2 participation and public submission policies to further  
3 encourage public involvement in the process.

4           We traveled to ten public hearings all  
5 across the state to listen to the concerns of the  
6 interested parties. We heard about communities of  
7 interest and other matters that concerned our citizens.

8           Over 700 people attended these hearings and  
9 more than 150 people spoke to us or sent in written  
10 comments.

11           After the public hearings, the subcommittee  
12 met and, following careful consideration and discussions,  
13 adopted redistricting guidelines in order for any  
14 redistricting plans to be in accordance with the new  
15 census data and the constitutional and statutory  
16 requirements that apply to state redistricting plans.

17           We then invited and received public input  
18 and submissions for review prior to the staff drafting  
19 any plans. We received one proposed Senate plan from the  
20 ACLU.

21           Additionally, our chief redistricting  
22 counsel, Mr. Terreni, together with our technical staff  
23 met with each member of the Senate to further understand  
24 current districts and what changes should be considered  
25 prior to drawing any plans.

1           The staff then drafted a plan that reflects  
2 careful consideration of the law, the issues presented by  
3 the public, and concerns raised by members of the Senate.

4           This week, the Redistricting Subcommittee  
5 held a public hearing on Tuesday where we heard from  
6 several citizens concerned about parts of the staff plan.  
7 We also heard from the ACLU attorney who explained their  
8 proposed plan. We also had a proposed Senate plan  
9 presented to us from the South Carolina Republican Party.

10           The subcommittee met on Wednesday, and,  
11 after hearing a detailed description of the staff plan  
12 from Mr. Terreni, voted the Staff Senate Plan out  
13 favorably with unanimous support.

14           For those of you new to redistricting, our  
15 order of business will be a little different from our  
16 usual Judiciary Committee meeting. Mr. Terreni will give  
17 a short overview of the Staff Senate Plan, and then we  
18 will begin consideration of any amendments. I believe  
19 Mr. Terreni and staff have several to be presented to the  
20 Judiciary Committee.

21           Committee members may ask questions about  
22 these amendments as we go through them. We will also ask  
23 Mr. Terreni to advise us on how a proposed amendment fits  
24 or does not fit within the redistricting guidelines and  
25 the proposed Staff Senate Plan.

1           At the appropriate time, the Judiciary  
2 Committee will vote on any proposed amendments to the  
3 staff plan, and hopefully we will be able to vote out a  
4 report for the full Senate to consider next week.

5           Please remember that redistricting  
6 amendments are not like other amendments to bills. These  
7 take a long time to prepare. Let me reiterate that.  
8 These do take a long time to repair -- to prepare. And  
9 each change, if only to one precinct, must be drawn on a  
10 map and calculations made to ensure that the amendment  
11 does not adversely affect other districts and does not  
12 violate any of the redistricting guidelines or any  
13 federal or state laws.

14           If anyone is thinking of proposing an  
15 amendment on the floor of the Senate, please be aware  
16 that all of your information must be given to Mr. Terreni  
17 by noon on Monday, June the 13th. Let me reiterate that.  
18 If you're thinking of proposing an amendment on the  
19 floor, please be aware that all of your information must  
20 be given to Mr. Terreni by noon on Monday, June the 13th.  
21 It takes time to prepare these amendments and to get them  
22 right, and that's why they need to have it in order to  
23 have your amendment ready in a timely fashion for the  
24 floor.

25           Unless there are any other questions or

1 comments from the committee members at this time, I'm  
2 going to ask Mr. Terreni to proceed and to give you the  
3 overview of the staff recommended plan that the  
4 subcommittee has recommended to the body.

5           Mr. Terreni.

6           MR. TERRENI: Thank you, Mr. Chairman.

7           After receiving the extensive public input,  
8 which you described in the hearing -- public hearing  
9 process of the committee and the public comment process  
10 of the committee and interviews with each of -- each  
11 member of the Senate and other information received from  
12 the public, staff has developed a proposed plan which was  
13 posted on the committee's website last week and which  
14 complies with the criteria that were adopted by the  
15 Redistricting Subcommittee on April 13th of 2011. I  
16 would like to briefly review the criteria and how the  
17 staff plan fits within them.

18           The plan conforms to the requirements in  
19 the 14th Amendment that districts be equally populated as  
20 nearly as possible. While the objective of the  
21 subcommittee and the staff in drafting this plan was to  
22 achieve equal population as nearly as possible, as the  
23 law allows, compromises were made in that regard in order  
24 to comply with traditional redistricting principles, the  
25 criteria of the subcommittee, as well as -- as long as

1 federal and state law.

2           The plan complies with the Voting Rights  
3 Act, specifically with regard to Section 5 of the Voting  
4 Rights Act. This plan does not retrogress. The plan  
5 maintains the nine majority African-American districts  
6 that were in the benchmark plan at appropriate levels of  
7 population which would allow the minority community an  
8 opportunity to elect its candidate of  
9 choice.

10           Furthermore, we believe that Districts 7  
11 and 29 have been maintained at levels which will allow  
12 them to continue to be represented by the minority  
13 community's candidate of choice. At the same time, while  
14 it complies with the Voting Rights Act, this plan avoids  
15 racial gerrymandering. It was drawn according to  
16 traditional redistricting principles. While race was  
17 considered, especially with regard to the districts which  
18 were protected by the Voting Rights Act, it was not the  
19 predominant factor in the drawing of the plan. The  
20 districts in this plan are contiguous within the  
21 parameters established by the subcommittee.

22           Additional considerations which the  
23 subcommittee adopted in redistricting were the  
24 preservation of communities of interest, and this plan  
25 takes into account communities of interest that were



1 identified by the public and members of the Senate and  
2 tries to preserve them as much as possible.

3           Constituent consistency was another factor  
4 adopted by the subcommittee, and the plans -- and this  
5 plan seeks and I believe is successful in preserving the  
6 cores of existing districts. And I would like to show  
7 you a slide that illustrates the plan's compliance with  
8 these measurements.

9           The slide you see -- the chart that you see  
10 on the present -- on the screen shows the percentage of  
11 the proposed constituents of the districts -- of the new  
12 districts who were previously within the district  
13 represented. So this is the number -- this is a  
14 percentage of the constituents in the new districts who  
15 were previously in them.

16           The green -- the green bars represent the  
17 staff plan. The red bars we put up by comparison were  
18 the ACLU's plan. We haven't had an opportunity to  
19 process the Republican Party's plan because it arrived --  
20 it was received late.

21           You'll see on the top bar -- the top bar  
22 represents districts in which the constituents -- over 90  
23 percent of the constituents in the proposed districts  
24 were in the previous district. We had 20 such districts.  
25 By comparison, the ACLU plan had 11.

1           The second bar represents districts in  
2 which over 80 percent or more of the constituents in a  
3 proposed district were previously in that district. We  
4 had 28 of such districts. The ACLU had 18.

5           In the third -- in the third category, we  
6 have the 70-percent category. 70 percent of the  
7 constituents in a proposed district were -- excuse me --  
8 used to be in the district previously. We had 43 of our  
9 districts comply with this criteria, 31 of the ACLU's.

10           Finally, in the 60-percent category, 45 of  
11 our districts had 60 percent of the population previously  
12 within the borders of the districts, 42 in the ACLU's  
13 plan.

14           One more slide that shows the flip side of  
15 this equation. This is the percentage of current  
16 constituents retained within a proposed district. In 18  
17 of our districts, over 90 percent of the constituents in  
18 the existing districts were retained. Obviously, if a  
19 district was severely underpopulated, a large amount of  
20 population had to be added to it. And so this is a  
21 different -- this can be a difficult bar to hit. In the  
22 ACLU's plan, by contrast, ten do.

23           In the category of districts in which over  
24 80 percent of current constituents -- those are the  
25 constituents in your current districts -- were retained,

1 we had 30 such districts. The ACLU, by contrast, had 21.

2           With regard to districts where 70 percent  
3 or more of present constituencies were retained, we had  
4 37 such districts, whereas the ACLU had 32. With regard  
5 to districts where 60 percent were retained, we had 44,  
6 whereas the ACLU had 42.

7           So in terms of constituent consistency,  
8 Mr. Chairman, I would urge that our -- that our plan, the  
9 staff plan and the plan adopted by the subcommittee, has,  
10 in large measures, respected the existing constituencies  
11 contained within the districts.

12           We -- a criteria of the subcommittee was  
13 also not to divide county boundaries, but it was a  
14 criteria to be balanced among other criteria. We found  
15 that in certain areas of the state, county boundaries has  
16 significance to members, and the public didn't want them  
17 crossed, whereas in other areas of the state, the  
18 boundaries were much more fluid, and, indeed, we even had  
19 public testimony in areas such as Dorchester and Berkeley  
20 in which people said we want senators on interlocking  
21 delegations. So different accommodations were made  
22 according to local testimony. There was no formulaic  
23 approach to this.

24           As the committee directed, we also strove  
25 not to divide municipalities and, in fact, were able to

1 unite certain municipalities. One example would be in  
2 Senator Verdin's district. We were able to unite the  
3 community of the East Buffalo and Buffalo. Ridge  
4 Springs-Monetta was kept intact in Senator Setzler's  
5 district on the Aiken/Lexington line, for instance.

6           In terms of compactness, Mr. Chairman, the  
7 subcommittee refused to adopt a formulaic approach to  
8 compactness, instead judging that it's something that  
9 should be looked at in terms of the ability of districts  
10 to -- of encompassed members to communicate with their  
11 constituencies, and it could be judged on a case-by-case  
12 basis.

13           However, we did have several formulaic  
14 measures of compactness available to us in evaluating a  
15 plan. There were geographic areas of compactness which  
16 would compare the shape of a district to a circle, for  
17 instance, a circle being the most compact figure  
18 available. We also had measures of compactness that  
19 dealt with population density and how a district  
20 surrounded dense -- density of population. We had  
21 measures of compactness that compared our plan -- our  
22 plan's widest point to our longest point. We had  
23 measures of compactness also that measured the perimeter  
24 of existing districts.

25           What I am happy to report about that is, in

1 terms of all of these measures of compactness, the plan  
2 that is being proposed by the staff plan surpassed the  
3 existing plan passed in 2003 in every measure of  
4 compactness.

5           The ACLU also proposed a plan to us, and we  
6 evaluated it along the same measures, and it did the same  
7 thing. In four out of six of the categories, however,  
8 the staff plan was superior to the ACLU plan, and in the  
9 remaining two measures of compactness, we were  
10 substantially similar, although -- although below.

11           Again, the committee has not adopted any  
12 specific formula for compactness, but I proposed this for  
13 informational purposes to the members of the committee.

14           Mr. Chairman, we presented the plan in  
15 extensive detail to the subcommittee yesterday. I sought  
16 to give you an overview of the plan today, and I'm  
17 available for any questions from the committee.

18           SENATOR McCONNELL: All right. Any  
19 questions before we go to the amendments?

20           Hearing none, we'll go to the first  
21 amendment. Which one is it you have, Mr. Terreni?

22           MR. TERRENI: Senator Elliott wishes to  
23 carry -- wishes the committee would carry over his  
24 committee (sic). That's the amendment on Tab 4 of your  
25 notebooks. So that would bring us to Senator Rankin and

1 Senator Cleary's proposed amendment, which is at Tab 5 of  
2 your notebook,  
3 Mr. Chairman.

4                   SENATOR McCONNELL: All right. Let me --  
5 Mr. Senator, do you understand now that if we carry this  
6 amendment over, you're asking us not to take it up for a  
7 vote in this committee?

8                   SENATOR ELLIOTT: That's correct. It's  
9 sort of a work in progress, Senator.

10                   SENATOR McCONNELL: All right, sir. And  
11 understand, I won't be ignoring the amendment. I'm going  
12 to consider the amendment has -- for purposes of the  
13 committee, it needs to be almost in the status of having  
14 been tabled or something, put aside. But I'm going to  
15 carry it over with the understanding from the members  
16 that we put it aside, and, therefore, it is not  
17 considered by this committee.

18                   Without objection, so ordered. Next  
19 amendment.

20                   MR. TERRENI: Thank you, Mr. Chairman.

21                   Senator Rankin's proposed amendment is on  
22 the screen, and just to tell you what you're looking at,  
23 the bright pink lines on that screen are the existing  
24 district lines. Now we have the right map. I'm having  
25 trouble seeing, too, but you have maps available.

1           SENATOR McCONNELL: Any of you others who  
2 are colorblind, have problems with colorblindness?

3           MR. TERRENI: You have maps available. You  
4 have maps available to you in Tab 5 of your notebook. It  
5 may be easier to see.

6           Again, the pink lines are the existing  
7 district boundaries. The districts are colored. You'll  
8 see Senator Cleary's District 34 to the south. It's some  
9 sort of an orange color. The red brick-colored district,  
10 Number 33, is Senator Rankin's amendment.

11           This is a simple amendment. Senator  
12 Clearly would move and take -- northward and take Jet  
13 Port 2 precinct, and Senator Rankin would move northward  
14 and take the Dunes 1 precinct from District 28.

15           There are no voting rights implication to  
16 this amendment. The deviations are actually improved by  
17 the amendment, Mr. Chairman, Senator Elliott. And that  
18 is in the general direction of the Elliott amendments as  
19 well, so in the event that Senator Elliott's amendment  
20 were taken up, it would not conflict with it. In other  
21 words, Senator Elliott's amendment would do more.

22           SENATOR McCONNELL: So let me ask you, are  
23 you then saying that this amendment does not violate any  
24 laws, does not violate the federal law, and does not seem  
25 to be in conflict with the criteria that the subcommittee

1 adopted? Is that correct?

2 MR. TERRENI: That's correct.

3 SENATOR McCONNELL: And actually improves  
4 the deviation?

5 MR. TERRENI: That's correct.

6 SENATOR McCONNELL: Just wanted to make  
7 sure that we understand what the report is.

8 All right. Senator from Richland.

9 SENATOR LOURIE: Thank you, Mr. Chairman.

10 And the only other question I have is, is Senator Elliott  
11 in agreement with this amendment?

12 SENATOR ELLIOTT: Senator Lourie, this is  
13 part of the change that we proposed in an amendment that  
14 we are carrying over. This currently -- Dunes 1 and 2 is  
15 in District 33. This just takes back in Dunes Number 1.  
16 It does not take all -- back end of the oceanfront of the  
17 existing district set in 33. That's part of a work in  
18 progress, is how far north do we go with District 33.  
19 That would be under discussion.

20 SENATOR McCONNELL: Can you pick up his --

21 COURT REPORTER: I can hear him.

22 SENATOR LOURIE: I just want to make sure  
23 he's in agreement.

24 SENATOR McCONNELL: Yes, sir. I'm just  
25 trying to make sure for the court reporter's purposes.



1 All right. Is there any further  
2 discussion? If not, then we're going to put the matter  
3 to a vote, and because this is reapportionment, I'm going  
4 to ask everybody, as we normally do for transparency  
5 purposes, to raise their hands. We can get a good report  
6 card.

7 All right. All in favor, please raise your  
8 right hand.

9 (Subcommittee voting.)

10 SENATOR McCONNELL: Thank you. Opposed by  
11 like sign.

12 Abstentions and proxies.

13 SENATOR MALLOY: Mr. Chairman, I had talked  
14 to the senator from Orangeburg. I have his proxy to vote  
15 in the affirmative.

16 SENATOR McCONNELL: All right. By a vote  
17 of 23 to 0, the amendment is adopted.

18 Mr. Terreni, do you have any further  
19 amendments?

20 Mr. TERRENI: We have one more amendment  
21 for the committee's consideration. It's a technical  
22 amendment found at Tab 7 of your notebook. It repairs  
23 several split precincts and makes a change to a -- a  
24 minor change to a district, and I will describe each one.

25 In regard to each of these amendments, the

1 members representing the affected districts have been  
2 consulted and have agreed. The first change -- and you  
3 can --

4           If you can put it up on the screen, it's  
5 the staff plan technical amendment. Do you have it? Oh,  
6 it's up. I'm sorry.

7           You have the three-part maps in your  
8 notebook. The first change is between Districts 21 and  
9 22 represented by Senator Lourie and Senator Jackson, and  
10 it was -- it would simply mend the precinct split and the  
11 Gregg Park Precinct and unite it into Senator Lourie's  
12 district. It had a minimal population effect.

13           We're repairing a split precinct in the  
14 Oakwood District between Senator Jackson's district,  
15 District 21, and Senator Courson's district. I believe  
16 that gets moved into Senator Courson's district. And  
17 we're repairing a split precinct in the Belvedere  
18 Precinct between Districts 24 and Districts 25. That is  
19 Senator Massey's and Senator Ryberg's precincts. And  
20 district -- excuse me -- Belvedere 74 would be united  
21 into District 25.

22           Finally, we propose to transfer Bull and  
23 Capers Islands in between -- from District 34,  
24 represented by Senator Clearly, to District 43,  
25 represented by Senator Campsen. There are four people

1 living in the affected area, but this is a wildlife  
2 preserve, and it was important to Senator Campsen. I  
3 understand the affected members have agreed.

4           Mr. Chairman, these amendments comply  
5 with -- have no effect in terms of the Voting Rights Act,  
6 they comply with federal and state laws otherwise, and I  
7 would recommend that the committee adopt them.

8           SENATOR McCONNELL: All right. Motion is  
9 that this amendment that these senators apparently have  
10 signed off on and does not have any effect on any of our  
11 stuff is before the body. If there is no discussion,  
12 we'll move to a vote.

13           All in favor, please raise your right hand.

14           (Subcommittee voting.)

15           SENATOR McCONNELL: Thank you. Opposed by  
16 like sign.

17           Abstentions and proxies.

18           SENATOR MALLOY: I have the senator from  
19 Orangeburg's proxy in the affirmative.

20           SENATOR McCONNELL: All right. And by a  
21 vote of 23 to 0, that amendment is adopted.

22           Mr. Terreni.

23           MR. TERRENI: Mr. Chairman, we have no  
24 further amendments.

25           SENATOR McCONNELL: Let me ask, does any

1 member have an amendment the staff has prepared for them?  
2 We're unaware of any that are prepared. Then the senator  
3 from Darlington has a motion.

4 Senator from Darlington.

5 SENATOR MALLOY: Thank you, Mr. Chair.

6 In light of the fact that we've covered all  
7 of the amendments and after the work of the staff, I want  
8 to commend the staff, first of all, for their openness  
9 and engagement, and I would move at this time for a  
10 favorable report of Senate Bill S.815.

11 MR. FORD: I would like to second that,  
12 Mr. Chairman, as amended.

13 SENATOR McCONNELL: Senator from Marion.

14 SENATOR WILLIAMS: Yes, sir. Thank you.

15 Mr. Chairman, members of the committee, I  
16 would just like to say for the record, you know, Senator  
17 Elliott and I have been talking basically on our  
18 districts, and I would like to say that the South  
19 Carolina Senate Staff Redistricting Plan for District 30  
20 is a fair plan of the citizens of the Pee Dee area and of  
21 the state of South Carolina. This staff plan populates  
22 District 30 too within the Senate Subcommittee's  
23 guidelines of plus or minus 5-percent deviation at a 4.89  
24 percent. The staff plan maintains District 30 as a  
25 minority/majority district with a black voting age

1 population of 54.8 percent.

2           Marion County has long been the core of the  
3 district. The staff plan maintains this and makes the  
4 county whole within the district. The communities of  
5 Aynor and Galivants Ferry have been added. These  
6 communities in Horry County are predominately rural and  
7 border Marion County. Staff has identified these areas  
8 as a community of interest and has kept them whole under  
9 their plan.

10           Staff plan also respects current voting  
11 districts in the Florence County portion of the district  
12 and respects communities of interest in Florence County.  
13 Staff plan maintains Dillon County's Senate delegation.

14           The plan as drawn is contiguous, compact,  
15 and within the accepted level of deviation. And I would  
16 like to say I also want to commend the staff and the  
17 subcommittee for doing an outstanding job and being fair  
18 with this district, and I support this plan  
19 wholeheartedly.

20           SENATOR McCONNELL: Thank you, sir.

21           All right. The senator from Darlington  
22 moves the favorable report. Senator from Charleston,  
23 Senator Ford, seconding.

24           If there will be no discussion, we'll go to  
25 a vote.

1 All in favor, please raise your right hand.

2 (Subcommittee voting.)

3 SENATOR McCONNELL: Thank you. Opposed by  
4 like sign.

5 Abstentions and proxies.

6 SENATOR MALLOY: I have a proxy for the  
7 senator from Orangeburg in the affirmative.

8 SENATOR McCONNELL: All right. By a vote  
9 of 23 to 0, which is the total membership of the Senate  
10 Judiciary Committee, this plan will be reported to the  
11 Senate for consideration. I want to thank each of you  
12 for coming out today and for your work with our staff and  
13 our committees as we move forward.

14 Senator from Charleston.

15 SENATOR FORD: Mr. Chairman, let me --  
16 Senator Williams got a seat on the bus?

17 SENATOR McCONNELL: I cannot testify for  
18 Senator Williams.

19 Yes, sir. Senator from Kershaw.

20 SENATOR SHEHEEN: Mr. Chairman, I want to  
21 thank the chair of the committee for the inclusive manner  
22 in which he worked to develop the plan.

23 SENATOR McCONNELL: Thank you so much. I  
24 appreciate that.

25 With that, I thank you all. Have a nice

1 weekend. We'll see on you on Tuesday.

2 (The meeting was concluded at 10:57 a.m.)

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CERTIFICATE OF REPORTER

I, Janni S. Jardine, Court Reporter, do hereby certify:

That the foregoing proceeding was taken before me on the date and at the time and location stated on Page 1 of this transcript; that the matters made at the time of the proceeding were recorded stenographically by me and were thereafter transcribed, that the foregoing transcript is as edited by Senate Staff Counsel.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.



Janni S. Jardine

Janni S. Jardine  
Court Reporter