NORTH CAROLINA GENERAL ASSEMBLY
SENATE COMMITTEE ON REDISTRICTING

TRANSCRIPT OF THE PROCEEDINGS
AUGUST 24, 2017 SESSION

In Raleigh, North Carolina
Thursday, August 24, 2017
Reported by Rebecca P. Scott

Worley Reporting
P.O. Box 99169
Raleigh, NC 27624
919-870-8070
SEN. HISE: The Committee will come to order. Thank you, members of the Committee and members of the public that are here today. Very briefly, I'll begin by going through the Sergeant at Arms for the Senate for this meeting of the Senate Redistricting Committee. Terry Barnhardt, Terry Edmondson, Frances Patterson, and Hal Roach. Thank you.

And we do have one page with us today, Tanner Minton. Right here. Thank you very much for coming here and being part of this today.

Members, we will have one bill before us today. That is Senate Bill 691, the 2017 Senate Districts. I will be presenting that in just a moment and will hand the gavel over to Senator Brown to conduct the meeting while I present.

But just a few rules. I am going to ask, kind of particularly regarding the complex nature of amendments and others to this particular bill, if members are wishing to amend the particular bill, if you would send forth your amendments so that we can begin to get those in order and in place before we begin this process or while we're in the presentation.

So that being said, I will turn the gavel
over for 691, and I do believe we have a PCS.

To let you-all know, while this is a pretty standard procedure, I do want everyone to note that we do have a court reporter here, so it will be important that anytime you are recognized, you would state your name for the record so that we may adequately transcribe this for the proceedings.

SEN. BROWN: Thank you, Senator Hise. So, Senator Hise, I'm going to turn it over to you to present the bill.

SEN. HISE: Thank you, Senator Brown. And I guess I would begin by offering a PCS for consideration.

SEN. BROWN: Okay. I need a motion for the PCS. Senator Tillman makes that motion. All in favor say aye.

(Voice vote.)

SEN. BROWN: Any opposed? The ayes have it. Senator Hise?

SEN. HISE: Thank you, members of the committee--

SEN. TILLMAN: Senator Brown, I'll take that motion back. Let one of the official members make that.

SEN. BROWN: Senator Tillman, are you
throwing us a curve? Since you're not on the Committee, I should have caught that. I think Senator Harrington made the same motion at the same time.

SEN. TILLMAN: I heard her.

SEN. BROWN: So Senator Harrington makes that motion. All in favor?

(Voice vote.)

SEN. BROWN: Any opposed? All right. The motion carries. Senator Hise?

SEN. HISE: Thank you. I think all members should have in front of them an overall copy of the map as well as the stat-pack from the Committee available for the map of the redistricting. I'm going to take a few minutes and go over the criteria of the Committee and a bit on how the maps that are presented meet the criteria that the committees for both the House and the Senate established for drawing maps.

To begin with, I will begin with equal population. The committees were required to use the 2010 federal decennial Census data as the sole basis of population for drawing legislative districts in these plans. The number of persons in each legislative district shall comply with the
plus or minus five percent population deviation standard established in Stephenson versus Bartlett.

You'll see from the first page of the stat-pack the total population for all 50 Senate Districts under the 2010 Census. The most overpopulated district is by 4.94 percent, Senate District 8, which is composed of Bladen, Brunswick, and Pender Counties in whole and a part of New Hanover County. This district was not redrawn in this process and was not affected by the court order.

The most underpopulated district -- underpopulated district is Senate District 3. It is underpopulated at negative 4.55 percent. It is a district in the northeast which is composed of whole counties including Vance, Warren, Northampton, Bertie, Martin, and Beaufort Counties. That is a six-county pod that under the Stephenson decision would meet that criteria.

Contiguity, the second standard. Legislative districts shall be comprised of contiguous territory. Contiguity by water would be sufficient. You will find that the legislative districts -- you will find that the legislative districts are meeting that legal criteria, and all
the districts are contiguous within the process.

Next county groupings and traverses. The Committee shall draw legislative districts within county groupings as required by Stephenson v. Bartlett. Within county groupings shall not be -- within county groupings shall not be traversed except as authorized by Stephenson I, Stephenson II, Dickson I, and Dickson II. The rules for county groupings were established in Stevenson I and have been affirmed in later cases. The map follows the county grouping formula listed several weeks ago.

We have not received as a committee any more optimal or alternative group plans. The map does not traverse any county. More than once is prohibited by Stephenson I, and though it requires the formula announced -- does not require the maximizing of keeping counties whole, you will see that the map presented keeps 88 counties whole of the 100 counties in North Carolina.

Just to briefly clarify on that, as the hierarchy determined in the Stephenson's decision, we must create all one-county groupings. There existed only one, and that would have been in Mecklenburg that was coming to the Senate. Then we
must create all possible two-county groupings, then all possible three-county groupings. You cannot sacrifice creating a three-county grouping for later sacrificing having more four-county groupings. So it is required for the smallest number of counties to be formed within a district.

Standard number 4, compactness. The Committee shall make reasonable efforts to draw legislative districts in the 2017 House and Senate plans that improve the compactness of current districts. We established two guides for use for determining that. The Reock dispersion and Polsby-Popper scores which dealt with the parameter. And so coming in, we set -- the committee adopted as a guide for compactness minimal score drawings for those.

For the Reock score, it was -- we have no district lower than the .15 minimum threshold, and then the---

SEN. BROWN: A lot of P's.

SEN. HISE: --Polsby-Popper score, the minimum threshold adopted by the Committee of .05. None of the districts you will find adopting this were below those minimum standards. And this plan improves on the compactness of the 2011 Senate plan
and fares historically well against any Senate plans adopted by the legislature over the last few decades.

Criteria number 5, fewer split precincts. The Committee shall make reasonable efforts to draw legislative district plans that split fewer precincts that the current legislative redistricting plans. Following public input urging this Committee to split fewer precincts in the drawing of these plans, the Committee chose to adopt this as criteria.

The 2011 Senate plan split 257 precincts. The plan you have before you now splits only nine precincts. Two of those splits were retained in New Hanover County because those districts were not redrawn. Two splits are made to avoid the double-bunking of incumbents. The other splits were either made in a place that does not divide a population so that while the precinct may be split for compactness, there is no population in one side or other of that division, or to follow a new precinct line that has been established since 2011.

Criteria number 6, municipal boundaries. The Committee may consider municipal boundaries when drawing legislative districts in these plans.
Multiple members of the public asked the committee to consider not dividing municipalities where possible, and the Committee adopted that criteria. This plan splits just 25 municipalities in North Carolina in populations -- in places where there is population or the city does not cross a county line.

By any measure, the plan splits far fewer counties than the one adopted in 2011. It fares historically well against all Senate plans adopted by the General Assembly over the last two decades, especially in light of the annexation done by municipalities over that time frame and does not always follow -- that does not always follow county boundaries.

Number 7, incumbency protection. Reasonable efforts and political considerations may be used to avoid pairing incumbent members of the House or Senate with another incumbent in the legislative districts in the 2017 House and Senate plans. The Committee may make reasonable efforts to ensure voters have a reasonable opportunity to select -- to elect nonpaired incumbents of each party to a district in the 2017 Senate plans. The Committee adopted criteria pledging to make
reasonable efforts not to double-bunk incumbents. The map does double-bunk eight members. Three pairs of Republicans and one cross-party pair. Senator Randelman and Senator Ballard were -- were double-bunked by necessity within their county grouping. Senator Krawiec and incoming Senator Barrett were potentially double-bunked by the necessity within their county groups.

Senator Alexander and Senator Barefoot were double-bunked in Wake County, but Senator Barefoot has already announced that he does not intend to seek reelection. And Senator Smith-Ingram and Senator Cook were double-bunked by necessity as well within their county groups.

Criteria number 8, election data. Political considerations and election data may be used in the drawing of legislative districts in the 2017 House and Senate plans. For this purpose, we selected ten races from 2010 to 2016. The 2010 US Senate race, 2012 Presidential, Governor, and Lieutenant Governor race, the 2014 Senate race, and the 2016 President, US Senate, Governor, Lieutenant Governor, and Attorney General races. So you should have information on each of those in your
Criteria number 9, no consideration of racial data. Data identifying the race of individuals or voters shall not be used in the drawing of legislative districts in the 2017 House and Senate maps. In the drawing of these maps in the Senate, we did not consider race of individuals in the drawing of the maps or the assignment of voters to a particular district.

In 2011, 40 counties in the state were under the preclearance standards under Section 5 of the Voting Rights Act. In the intervening time, that preclearance from the Justice Department has been lifted by a Supreme Court decision. It will not be incumbent upon this General Assembly to seek preclearance for these plans.

In the drawing of the current legislative districts, the General Assembly conducted an unprecedented effort to reach out to interested parties, receive public input, receive expert testimony, and hear from members of the body about legally relevant evidence regarding the drawing of districts under the Voting Rights Act.

Despite a voluminous record that was established by the General Assembly during the 2011
redistricting process, the three-judge panel in the Covington case said that this did not constitute substantial evidence that would justify using race to draw districts in compliance with the requirements of the Voting Rights Act. Therefore, we do not believe it is appropriate, given this Court's order in this case, for the Committee to consider race when drawing districts.

We have asked on multiple occasions and will continue to ask this Committee for any legal significant evidence of racially polarized voting that this Committee should consider in this process. We have received none to date, but we remain open to receiving that information from any members who wish to submit such.

Members have in front of us now -- that is the picture of the maps as they currently exist. Obviously, you have a larger version sitting in front of you. With that being said, I will open up for any discussions. I would reiterate that if we could please receive any amendments that you would have to expedite this process.

SEN. BROWN: All right. Questions for Senator Hise? Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman.
Senator Hise, you brief the various compactness measures in terms of the limitations. Could you bring that back up for us?

SEN. HISE: I can try. That's a technology request.

SEN. CLARK: Those. Go back. Yeah. I don't recall having seen those before. Were they presented at a previous committee meeting? I must have missed that.

SEN. HISE: These are the standards, and I think we have some of that literature, if we can -- if you need copies of it, that have established these as the minimum standards for using these criteria.

SEN. CLARK: Were they approved by the Committee?

SEN. HISE: They were presented to the Committee in that process as the use of those scores, and as in many other things, the score has a .05 value. These are the standards for using those criteria.

SEN. CLARK: Could I receive a copy of those? I don't recall going over that or even having been provided a copy.

SEN. BROWN: We'll get you a copy of
that, Senator Clark. Other questions? Senator Blue?

SEN. BLUE: So a question, yes, Senator Hise. The criteria said you may use, so it is your statement that you used this compactness standard on all the districts?

SEN. HISE: All of the districts meet the .05 and .15 levels of the two tests.

SEN. BLUE: I'm sorry. I didn't understand that.

SEN. HISE: All of the districts in the Senate are above the standards of .05 or .15 established by the test.

SEN. BROWN: Follow-up, Senator Blue?

SEN. BLUE: Yeah. Did you at any point in drawing these districts, or the map drawer, determine what the Court was looking for when it said that certain districts were racially discriminatory and how you would cure that remedy?

SEN. HISE: What we have received, and I would state it in this manner, is that we received from the Courts that race was overutilized in the drawing of districts, standards that we had previously presented, as well as having a target race. So we have in this case, given the changes
in the Voting Rights Act or others, we have not
drawn this with any consideration of race. So,
therefore, we did not overutilized race in the
drawing of the maps.

SEN. BROWN: Follow-up?

SEN. BLUE: Follow-up. So it's your
considered opinion that the Court did not want you
to look at race in order to cure what it had
determined to be a racially discriminatory scheme?

SEN. HISE: In my determination, the
Court said that we had overutilized race
previously. In this version of the maps, we did
not utilize race at all.

SEN. BLUE: Follow-up?

SEN. BROWN: Follow-up.

SEN. BLUE: I just want to make sure.
It's your interpretation of the Court's opinion
that you don't need to use race in order to
determine that you've remedied a violation that
they said was based on race?

SEN. HISE: I would again say that the
Court had determined previously that we
overutilized race. That was the finding of the
Court, and their remedy in redrawing it to us is
that at this point, we have not utilized race at
all.

SEN. BROWN: Senator Blue?

SEN. BLUE: Since my district in Wake County was one of those that the Court determined you used race to too great of a degree, did you look any way at all in simply reducing the racial percentage of the existing districts as a cure for the gerrymander rather than radically changing districts?

SEN. HISE: We did not -- we did look at any statistics regarding race in the development of these maps.

SEN. BROWN: Follow up?

SEN. BLUE: In formulating the plan to draw new districts to cure the gerrymanders, what made you determine to totally reconstitute several of the existing districts?

SEN. HISE: We were given by the Courts, I believe, nine districts in the Senate in which we had overutilized race. We were also given directive by the Courts as a whole that -- against setting a particular target for race in that process, and so the remedy that the Committee adopted to deal with that was to not consider race at all. Therefore, it would not be claimed that we
somehow overutilized race when we did not use race at all.

SEN. BROWN: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman.

Senator Hise, in our criteria regarding compactness, we did state very clearly here that one of our objectives was to make sure that the compactness values were improved as we moved from the enacted plan as we moved to the proposal. Why is it that some of the compactness scores of some of the existing districts -- why did they not improve?

SEN. HISE: I believe you'll find that the compactness scores as a whole improved and that each individual district meets the standards of compactness.

SEN. BROWN: Follow up?

SEN. CLARK: We were not provided those individual standards of compactness of all of the districts. Although as a whole, some of the values may have improved, but some of the districts themselves, the compactness values did not improve, and I want to understand why that was the case.

May I make a comment?

SEN. BROWN: Senator Clark, go ahead.
SEN. CLARK: The criteria, as put here before us in the paper and was approved by the Committee, says the plan should be there to improve the compactness the current districts. We did not improve the compactness all the current districts.

SEN. HISE: We did improve the compactness of the districts as a whole.

SEN. CLARK: That may have been the case, but that's not what our criteria says. It does not say "the districts as a whole."

SEN. HISE: No. The criteria does not say each individual district shall have a lower compactness score. You are correct. It does not say that. It says we will improve compactness as a whole in all the districts.

SEN. BROWN: Senator Clark?

SEN. CLARK: I have the criteria before me, and what you just said is not correct. It does not say improve the compactness as a whole. It says "improve the compactness of the districts." And if we go to Mecklenburg County, more specifically, we see there are three districts, which happen to be Democratic districts, that have improved compactness scores. The two Republican ones do not. And I was wondering what brought
about that disparity.

SEN. HISE: As you will find, the compactness of the state is a fixed manner in the manner in which you divide it. Improving the compactness score will be improving the average of all the compactness across the district, and that's what will meet that standard.

SEN. BROWN: Senator Clark?

SEN. CLARK: Mr. Chairman, with all the compactness scores out there, there's only one suitable for comparing the compactness of one plan versus another, and that's the perimeter score. The Polsby-Popper and Reock scores are not designed to determine the relevant performance in regards to compactness of one plan versus another.

SEN. BROWN: Senator Blue?

SEN. BLUE: A question, again, Mr. Chairman. If I could go back to the incumbency protection provision of the criteria. Did you ascertain how many current members were seeking reelection?

SEN. HISE: We did not other than information went out for individuals who were -- where their address was located. We went with that file as we had it at the time. When individuals
announced or told us directly that they were not running, we considered that information.

SEN. BROWN: And that was about a week or two ago, wasn't it, Senator Hise?

SEN. HISE: Yes, it was.

SEN. BLUE: So in Wake County double-bunked where you had an option -- because I think in the other three, it was because of the groupings -- why did you choose to double-bunk and leave an open district right next door to one of the members that you moved into a district that already had a member in it?

SEN. HISE: We do not double-bunk in Wake County. Senator Barefoot announced to me and then publicly that he was not seeking reelection.

SEN. BROWN: Senator Blue?

SEN. BLUE: Did you inquire of any other Senators -- did you inquire of any of the African-American Senators whether they were seeking reelection?

SEN. HISE: No one else provided us information that they were not intending to run, except Senator Tucker did, I mean, but in Wake, no one else provided us that information.

SEN. BROWN: Senator Blue?
SEN. BLUE: Then if, in fact, a major portion of a Senator who you double-bunked in Wake County -- a major portion of his district was right next door without an incumbent in it, what were the factors in the decision to not put him in the district that was already part of his district but to double-bunk in another district?

SEN. HISE: I would say, once again, that we did not double-bunk any members in Wake County.

SEN. BLUE: Follow up?

SEN. BROWN: Follow up.

SEN. BLUE: But the reason I ask that is that you made a big deal out of compactness and those things, and yet, there are several examples where you squiggled and reached down through areas that could be much more compact to accommodate specific members when there's no compelling reason to do that if the sole reason is to keep from double-bunking.

Let me ask this question a different way, if I could.

SEN. BROWN: Okay.

SEN. BLUE: Do you read incumbent protection in the criteria to mean that you take care of an incumbent in a district that he or she
can get reelected in or simply not to double-bunk him with another person in the same district?

SEN. HISE: I think if you look at Wake County specifically, I'm sure that individuals may find other ways in which they -- they could have chosen to double-bunk anyone, but I would say that it is also noted that those two homes are close together by any standard. I believe on this map many people would find it hard to distinguish, as in the circles don't continue, but we were able to take what was Senator Barefoot's district as it was drawn and to draw Senator Alexander into that district to avoid double-bunking with Senator Chaudhuri.

SEN. BLUE: Further follow-up?

SEN. BROWN: Senator Blue, go ahead.

SEN. BLUE: Then, knowing that Senator Barefoot was not running for reelection, did you consider making the district that he was serving in as well as the adjoining districts more compact by having him double-bunked with another Senator in Wake County?

SEN. HISE: This -- this district as it is met the -- both of the compactness scores that we have established, and therefore, this is the
district we have chosen to avoid the double-bunking.

SEN. BROWN: All right. Any other questions for Senator Hise? Senator Van Duyn?

SEN. VAN DUYN: Thank you. Several of my constituents traveled significant distances to make public comment. Was it yesterday or the day before?

SEN. HISE: I believe it was Tuesday.

SEN. VAN DUYN: Are we going to get some analysis of that public comment so that we can see what it is that -- what their opinions were?

SEN. HISE: The court reporters--- Let me check and see the status on that.

(Pause in proceedings.)

SEN. HISE: The court reporters are developing the transcription of those. The comments submitted online are available to the members through a particular point, and I think we can update those each day. We've been taking online submissions since we began this process from individuals. As soon as the court reporters have finished the transcribing of those comments, those will be available as well as I believe there are audio and, in some respects here in Wake County,
potentially video of those comments, as they would go forward, that is available to members upon request.

SEN. VAN DUYN: Follow up?

SEN. BROWN: Follow up, uh-huh.

SEN. VAN DUYN: Are we going to do any analysis on those comments?

SEN. HISE: Members are free to do any analysis they wish on those.

SEN. VAN DUYN: Okay. Well, now I haven't read them but I listened for a couple of hours, and I also, of course, was here for the public comment that we did on the criteria, and one of the things I heard over and over and over and over and over again, in fact, all but one comment on our public comment on criteria, was the need for independent nonpolitical districts.

Did you make any effort to draw more politically balanced districts?

SEN. HISE: I'm trying -- that question is very different from the comments leading up to it. What we did -- the independent districting issue that has continually come up is inconsistent, one, with the court order that we have received as well as the duties and obligations of the General
Assembly. The court order was directed to the General Assembly to redraw districts. I don't think there's much doubt about that.

I would also say that the US Constitution as well as the North Carolina Constitution assigns to the General Assembly to draw districts, and so much so that the North Carolina Constitution establishes that even for the veto of the Governor -- nothing regarding redistricting is subject to the veto of the Governor. It's solely within the purview of the legislature.

I believe strongly that it is our role to draw these districts and our job and responsibility to draw these districts. I don't -- I have told many people I don't believe in unicorns, fairies, or the mythical nonpartisan commission. There are several studies that are out there that also show -- and we have one of those that the results I can show -- that show you have no changes in partisan makeups for districts drawn by nonpartisan redistricting committees versus those drawn by general assemblies.

SEN. BROWN: Follow up?

SEN. VAN DUYN: One more. So -- but part of the criteria was that you were able to look at
political information?

SEN. HISE: We selected ten election
results, and you have all that information.

SEN. VAN DUYN: That's correct. So did
you use -- how did you use that data? Did you use
it to balance districts or to unbalance districts?

SEN. HISE: We have used it to report on
all the districts and how they fall in the
political makeup. We did make partisan
considerations when drawing particular districts.
We did not, however, as has also been suggested
from members and others in the comments -- we did
not try to go with some parliamentary version that
we see in Europe and other places in which a
certain percentage of the votes should equate to a
certain percentage of the seats or assign them in
that manner. The results of each election in a
district should result in one representative for
that district.

SEN. BROWN: Okay. Other questions for
Senator Hise? Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman. I
think the recent comment just made by Mr. Hise
there -- excuse me -- Senator Hise referred to the
use of the efficiency gap because during our
previous committee hearing, I did mention that it would be preferable, I thought, for the Committee to adopt a standard, in other words, how high of an efficiency gap would be acceptable.

And the comment was made during that time that it was some kind measure for parliamentary systems and that it could not be used prospectively for determining the extent of partisan advantage or lack thereof within a single member district program.

So with that said, if you don't mind, I have a statement that I would like to read that sort of clarifies that or clears that up.

SEN. BROWN: That would be fine, Senator Clark. Also, I think the statement, if I remember right, was that that was the two criteria that was used by the Courts or mentioned in the court proceedings. But go ahead.

SEN. CLARK: So let's see. And this is about an e-mail that I sent to Dr. Stephanopoulos, who happens to be the individual who developed efficiency gap analysis process, and it says, "Dr. Stephanopoulos: I argued in a committee hearing today that the efficiency gap method could be used prospectively to determine the efficiency
gap of a plan being considered for adoption by using recent election results of statewide candidates. My counterpart across the aisle argued that it could not. Do you have a position on the prospective use of the efficiency gap?" Excuse me.

"I have created a tool using Microsoft Excel for that purpose. I am not asking you to make a political judgment in this matter, just the suitability of your method for voluntary adoption by a legislative body for the use of establishing district plans that exhibit partisan symmetry, in other words, does not exhibit partisan advantage, on a prospective basis."

And in response, Dr. Stephanopoulos, the author of the efficiency gap method, "The efficiency gap absolutely can be used prospectively to evaluate a district plan as can any other measure of partisan gerrymandering. Since seats and votes can be forecast, it follows that metrics that are based on seats and votes can be forecast as well. In fact, in our original complaint in the North Carolina congressional litigation which was filed before the November 2016 election, we did use the efficiency gap prospectively. See paragraph 66 through 69 of the attached."
"That being said, election predictions are never perfect. That's why the best prospective approach is to calculate efficiency gap using other methods for a range of plausible election outcomes. That gives you a sense of how the map could perform over the spectrum of reasonable possibilities."

And that's exactly what you-all did when you decided to use political data and you decided to use past election results of -- I think you indicated about eight or nine different elections. You just, for whatever reason, do not want to acknowledge the efficacy of the efficiency gap. And, also, Mr. Chairman, I would like to submit this document for the record that was provided with that e-mail.

SEN. BROWN: That will be fine, Senator Clark.

SEN. HISE: To comment briefly, first, I would state that the request to use efficiency gap as a criteria was considered by the Committee and rejected. I will say that. Secondly, I will say that there seems to be a little bit -- and I know this will get into the technical nature, but whether or not something can be used prospective is a different question than whether something can be
taken from separate districts concurring in a different election in districts that did not exist prior to an election can be combined in such a manner that would then be used prospectively.

If the districts were consistent in the past elections and future elections, then there is the potential that it could be used prospectively. That is not the case in redistricting. These districts are significantly different, and there is no account for the variance between races that exists in the model provided.

SEN. CLARK: Mr. Chairman?

SEN. BROWN: Senator Clark.

SEN. CLARK: It's hard for me to understand for what purpose are you going to use political data if you're not using it prospectively for your own uses?

SEN. HISE: You have -- you have received in your stat-pack the summation of political data for which it has been used.

SEN. CLARK: Mr. Chairman?

SEN. BROWN: Senator Clark.

SEN. CLARK: I have indeed received that stat-pack with the political data, but I'm wondering for what purpose did you-all use that
data.

SEN. HISE: For the purpose of consideration of this Committee.

SEN. BROWN: Senator Clark?

SEN. CLARK: And for the purposes of consideration for this Committee, does that mean prospectively?

SEN. HISE: We have provided the results of ten elections that will be used in the drawing of maps. We have made no attempts to combine those in such a manner that would forecast future elections or provided any data as to the variance that would exist in those forecasts.

SEN. BROWN: Other questions for Senator Hise? Senator Blue?

SEN. BLUE: So that I fully understood, I thought I heard Senator Van Duyn's question about the public hearings. Are you changing the original map that was sent out Sunday night in any manner at all based on the comments from the 200 plus people, or however many signed up, for the public hearing that commented on Tuesday?

SEN. HISE: There is no change to the PCS that was proposed between now and then. Members of this Committee are free to make proposed amendments
to the maps. I have had conversations on at least one of those amendments that may be considered going forward that would change the maps, but between the committee hearing and what is the proposed PCS, you'll find, as normal in legislation, at least for this session, we've made no changes.

SEN. BROWN: Senator Blue, I will tell you in both our Washington and Beaufort Community College, there was a lot of concern about Beaufort County. I tried to figure out a new configuration based on those comments, but it would affect the groupings and the order of the groupings. So it just made it impossible to address the issues that were brought up that night.

SEN. HISE: I think it's also fair to point out that almost none of the comments in public comment were in any manner directly related to the shape of a district, to the pairings of districts, or to the communities covered within a particular district, and no alternatives were submitted in any public comment.

SEN. BROWN: Senator Blue?

SEN. BLUE: Just one follow-up. On several occasions, Mr. Chairman, I suggested that
40 plus years of litigation has taught me that when parties of different opinions and different ideas sit down and work through things, you can usually fix a lot of problems that people identify, even the problem -- I heard the problems in Beaufort County and tend to know that there are ways to fix it, but you can't fix something if the parties who are interested don't talk it through and figure out how to fix it.

SEN. HISE: I will comment specifically on the Beaufort County issue. I have met with several groups from Beaufort County, in addition, have received multiple options that they have presented for how the counties could be podded together. I do not believe a solution exists that does not break a smaller county podding that existed.

I can assure you that if we found that, we are ready to move and make the adjustments necessary for doing so. But one had broken a three-county pod to make a four-county pod. Several of them had broken the six-county pod to create seven- and nine-county pods. We have considered each of those, but they fail to meet the criteria of establishing the smallest number of
counties in a grouping that Stephenson requires.

SEN. BROWN: Senator Blue?

SEN. BLUE: If you wanted to, I can still help you fix it.

SEN. BROWN: Senator Blue, if you'd like to set that up, we surely would take a look.

Senator Lowe?

SEN. LOWE: Going back to the public comments because I heard just as much as all of the rest of you, and one of my things that I've been interested in knowing is, there are criteria by which you will actually consider the public comments, number one, and to follow up to that, because it seems like when you say anybody can consider or look at anything, that's kind of a serendipity way of looking at these issues, and I think that what we heard in public comment are some very, very serious issues about this whole process.

So how do you look at the public comments in a real way?

SEN. HISE: I will also say that Common Cause submitted and that Representative Lewis put into the record of the Committee their two-page talking points which summarized almost all the speakers that were there that night, and in fact,
many read different parts of it or reread the same parts of it when giving their comments.

But we are taking the committee evaluation as a whole, and we're looking at that process of public comment for anyone that was submitting information of county poddings, of communities of interest, what were determined by those of the particular districts and what they are and what they should be.

I will tell you that I am saddened by the fact that we did not receive much of that information within the public comment section. There were a lot of comments about process or how long this map was had before this was there or how long those and types of things, but not necessarily things--

We are under a timeline. The Court gave us till September 1st and some potential of maybe a two-week extension if we danced a certain way, coming in, but for all practical purposes, we have a deadline of Friday of next week.

We have a legislative process that requires five voting days in that. We are under that gun. We received the order at the first of August. We had one month to comply with the order.
that was received, and it has been a compressed
time line, and we made clear to the Courts that we
felt like we could extend a full time line into
November 15th -- would be the deadline necessary.
We gave the compressed time line, and it has
compressed some considerations of public comment
and others, but particularly in what we were
looking for in those public comments, specifics
about districts, or when we did the criteria,
specifics about the criteria and others considered.
Those were both used to develop how
members chose to vote on that criteria and are
available for all the committee members to review
and will be part of the court record.

SEN. BROWN: Senator Lowe?

SEN. LOWE: Follow-up. There was also
some concern about the shape of District 28 that
came up on more than one occasion.

SEN. HISE: That is the district designed
for the city limits, predominantly following the
city limits of the town of Greensboro, but it was a
criteria of the Committee, I would say, to keep the
municipality boundaries within the districts, and
we feel that's what we've done with that district.

SEN. BROWN: Any other follow-up?
Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman. You talked about VTDs earlier, and I must commend you all for splitting very few this time around compared to the last time around. But a couple of those that were split -- at least one in particular happened to be in my district, Senate District 21, between I and Senator Meredith.

Could you provide some explanation as to why Dr. Hofeller decided to split that particular VTD. I believe it was G11.

SEN. HISE: I'm assuming that's the number in which I'll reference. The one that is in that district is a zero population split. There is no residential population on one side of that split. So it improved compactness, but no -- all voting individuals are within the same precinct that they would have been otherwise. But it does -- by dividing the district in such a way that there is no population living on the other side, it does improve the compactness scores of the districts.

SEN. BROWN: Senator Clark?

SEN. CLARK: Thank you. That's what I assumed was done, but I was somewhat surprised by
that because I know, generally speaking, people associate compactness with lack of gerrymandering, if you will, but in this particular case, that was a substantial landmass that was essentially added to my district for the sake of improving a compactness score.

And I just think we need to understand that essentially you can manipulate VTDs for what I call an audit form although they have no impact on the performance of the district whatsoever.

SEN. HISE: Yes, compactness is generally in some manner a ratio of the perimeter to the area or of the area inside a district to a circle that encompass the entire district.

SEN. CLARK: Comment?

SEN. BROWN: Senator Clark.

SEN. CLARK: That is incorrect for Reock and Polsby-Popper, which you-all chose to use, but if you used the perimeter, that would not be correct. As a matter of fact, as I indicated earlier, the perimeter method for measuring compactness is one that's used across plans to determine the compactness of one plan versus another.

SEN. BROWN: Other questions for Senator
Hise? If not, I'm looking for a motion.

SEN. BISHOP: Mr. Chairman, I---

SEN. BROWN: Senator Bishop?

SEN. BISHOP: I do have one comment, although not a question, for Senator Hise, and maybe a comment and then a question for someone else.

Thank you, Mr. Chairman. I did say I don't have a question for Senator Hise, but I have a comment and then perhaps a question for Blue.

Senator Blue, I was struck by the comment about working together and how sometimes if you don't do that, you don't get to the best solution, with which I wholeheartedly agree. I also have had some experiences, and I suspect you have too over the course of time, that when you're in an environment where somebody might be devoted to using every word as an excuse to commence -- pursue litigation, sometimes that freezes up that process.

And so I would ask whether Senator Blue would yield to a question?

SEN. BROWN: Senator Blue?

SEN. BLUE: I would invoke Rule 408, but I would yield.

SEN. BISHOP: You'll yield provisionally,
is that it, Senator? So, Senator, what I heard you say at the end of the exchange with Senator Hise is that you have a fix for the podding situation involving Beaufort County, and I would urge you, if you do, to say what it is, what the solution is.

SEN. BLUE: I suggested, Senator Bishop, several weeks ago— How long has it been since we were in regular session? ——anyhow, at the end of regular session—-

SEN. BISHOP: Not long enough.

SEN. BLUE: Not long enough, you’re right there. ——at the end of regular session that I thought that this is the kind of issue that would offer itself—-

SEN. BROWN: Hold on, Senator Blue.

SEN. BLUE: ——that would offer itself—-(Interruption by technical malfunction.)

SEN. BLUE: Is that it?

SEN. BROWN: There you go.

SEN. BLUE: ——that this was the kind of issue that would offer itself for resolution if, in fact, those who were directly impacted — in this case in the Senate, the nine districts that the Court ruled were racial gerrymanders. If the people who represented those districts, which means
they represent the people who brought the lawsuit against the State from those districts, were to sit down with the leaders in the redistricting process in this body, that there could probably be a resolution of this issue without just throwing the balls up in the air and seeing what might happen.

If you're working in that environment -- if you're working in that environment, a careful reading of Stephenson allows you to do things. I mean you mechanically and methodically go one pod, two pods with two counties, three pods, and all of that. But there are other alternatives even through Stephenson, and if you look at the 2003 redistricting plan, there were exceptions from the kind of grouping that you're talking about primarily because there was an agreement to do it under the gun of the lawsuit that was pending at the time.

SEN. BISHOP: Follow up?

SEN. BROWN: Follow up.

SEN. BISHOP: Senator Blue, then, do I understand that what you're saying is that there would have to be some consensual process involving some use of race so that you wouldn't be using the strict podding, and therefore, you would resolve
that issue in Beaufort County?

SEN. BLUE: That among other issues.

SEN. BISHOP: And I don't know if there are other issues--- Follow-up?

SEN. BROWN: Follow-up.

SEN. BISHOP: If that would be so, then, assume that you had sort of a consensual workout. You came to an agreement among whatever parties are participating. How could you assure, then, that some other person wouldn't commence and pursue litigation saying that whatever consideration was given to race was not too much? Consequently, we'd have another unexhausting, unending string of litigation about how much consideration of race is permissible without being then accused of engaging in a racial gerrymander?

SEN. BLUE: Because if the Plaintiffs agreed to the resolution that you had, then that case is resolved and it's over with, and quite frankly, Senator Bishop, by the time this thing goes through the process again, you're in another round of redistricting anyhow.

SEN. BISHOP: That's not very comforting.

SEN. BLUE: But the point is -- the point is, I think that you can just eyeball the map, and
Stephenson isn't so rigid that it would say you'd go from the coast to the middle of North Carolina the way that pod does. I can understand the frustration of the people in Beaufort County.

SEN. BISHOP: If I could follow up one more time, Mr. Chairman?

SEN. BROWN: Senator Bishop.

SEN. BISHOP: So you made reference just then to the Plaintiffs, that maybe the Plaintiffs would agree. But the state has ten million people in it, and as soon as one group of Plaintiffs agrees -- I mean the example that we have here where there was a completed set of litigation in one court system, and then people who were even acquainted perhaps with the Plaintiffs in the first set of lawsuits but different brought other litigation.

Can you imagine a situation in which you could be assured that whatever group was involved in a consensual arrangement like you've described could exhaust the possibility of yet another plaintiff and yet more litigation?

SEN. BLUE: What you said basically makes the point. Even with the resolution of this by Court action, which is how the other would be
resolved, one of the ten million people in North Carolina could still start a new lawsuit. So you settle cases one at a time, and you might anticipate others coming, but until they're brought, you don't have them.

Even -- even when you go back to court sometime in September to determine whether this is a satisfactory resolution of this, there is a possibility that somebody else could still bring another lawsuit. They could bring other lawsuits because of new violations in this redistricting plan, different from the ones that the Court said constituted the racial gerrymander.

So you always have the possibility of litigation, and this doesn't preclude it any more than having a resolution among the parties would conclude it.

SEN. BISHOP: Thank you, Mr. Chairman.

SEN. BROWN: Senator Hise, do you want to respond to that?

SEN. HISE: I just want to comment on it briefly, and I will tell you -- probably am saddened -- I had a lot of hope that someone had found a new podding for that area that was coming in, although that doesn't seem to be the case.
Having whole county provisions is our state constitution. That was reestablished -- you can see the history of the chaos that happened before the Courts reestablished and reminded the General Assembly we have a provision of whole counties and how it's interpreted under Stephenson.

I would fail to agree that a group of individuals, even individuals that were party to a lawsuit, could come together and establish constitutional matters for the State of North Carolina, coming in. Again, I would say I am disheartened that we have not found a county pod that would do better in that process without creating larger county pods.

SEN. BROWN: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman. I guess this discussion we're having now goes back to the notion of the BVAP. Under the [inaudible] my district has, I believe, a black voting age population of about 52 percent, and the Court ordered to us -- the reason we're here today -- it said that we'd have to justify any district with a BVAP in excess of 50 percent. Under the proposed map, is my BVAP now under 50 percent?

SEN. BROWN: Senator Hise?
SEN. HISE: Senator Clark, I will reiterate. I have not seen any racial data for these districts and none was used in the development or drawing or assignment of voters within these districts. Perhaps you have made a request to staff to receive that information and are asking for that.

If there is something you would like to submit to the Committee, you are full within your rights to do, and we would take the time to consider that, coming in, but I obviously cannot -- can't answer a question about something that I do not have and have not received.

SEN. BROWN: Senator Clark?

SEN. CLARK: Thank you, Mr. Chair. Then, given that you have not looked at it and have not received it, you don't know whether or not these maps or proposals would actually comply with the court order; is that what I'm understanding you to say?

SEN. HISE: I think that is -- no, I would not say that -- I would not equate the two. I think the Courts were actually quite clear that a target was not allowed under any circumstances so asking whether or not I have information about
whether something met a particular target, I could not comply to what the Court has ordered us to do. I have simply asked the question as if you have received that information about what the voting percentages are in the district and if you're asking to submit that to this Committee.

SEN. BROWN: Senator Clark?

SEN. CLARK: Actually, what I wanted to know is whether or not you have made a determination as to whether or not the maps you're proposing comply with the court order in that the BVAPs for any district be 50 percent or less, and apparently not.

SEN. HISE: The Courts clearly did not give us any targets and clearly laid out that we cannot use targets, and I do believe strongly that these maps comply with the order of the Court.

SEN. BROWN: Any other questions? Senator Blue?

SEN. BLUE: Yeah. And I'm going to be honest with Senator Bishop. I gave him a candid answer, but I think he suspects that there is a more specific answer. And that answer, Senator Bishop, is that if you discussed with some of the members, there may be some reasons and the Court
anticipated -- I heard the argument, I read their opinions -- that there may be reasons that you could still determine that some districts needed a special push and you had to consider race.

That's what the court order said. It did not say you can't use it. The Voting Rights Act and the Fourteenth Amendment are the ones that circumscribe how we use it. But I'm just saying, as talking points and in a full analysis, when parties who are fully informed about the issues sit down and talk about it, there are ways that you can fix most of the problems, and you wouldn't have been violating the North Carolina Constitution, Senator Hise.

SEN. BROWN: Here's what I'm going to do, if it's okay. I'm going -- let's take about a five-minute recess. If anybody's got any amendments -- five or ten minutes -- we'll take however long it takes -- please get them up here. I'm going to give you about five minutes, maybe ten minutes to get them up here so we can look at them. So let's do that. Let's come back in order at about quarter after. That will give us ten minutes.

(Recess, 3:03 - 3:46 p.m.)
SEN. BROWN: Members of the Committee, I hate to do this to you, but I'm going to have to. We've got session at four o'clock, and we've got a new member that's going to be sworn in at four o'clock. So we're going to recess and go to session, do that, and then try to get back here right after session, if that works for everyone.

SEN. RABON: The session may have been moved to four-thirty. We better check.

SEN. BROWN: Senator Rabon, can you check on that real quick? Senator Rabon, I bet you can move it back to four.

(Recess, 3:48 - 4:35 p.m.)

SEN. BROWN: We'll call the meeting back to order. I have five amendments that have been sent forth. I want to be sure. Are there any other amendments that someone would like to send forth? If not, I'll recognize Senator Clark for an amendment.

SEN. CLARK: Thank you, Mr. Chair. The amendment that I've sent forth as to 691 essentially what it does is move the Vander community into Senate District 21. Currently, it's in Senate District 19, and I believe it does more appropriately - a more appropriate fit to be with
Senate District 21.

SEN. BROWN: Senator Hise?

SEN. HISE: I had to modify it a little bit to make sure we did not split another precinct for the community and do believe that this takes in Senator Clark's home as is now on the map versus previous iterations. So given those two considerations of doing this for incumbency protection, I would ask that members would support the amendment.

SEN. BLUE: Okay. Any questions on the amendment? Senator Bishop?

SEN. BISHOP: Thank you, Mr. Chairman. This is a question for Senator Clark. Do you believe that the district as amended is legal under all legal theories?

SEN. CLARK: Actually, I believe a more appropriate view of what the district should look like is represented here. You see the orange bar which would be an addition to Senate District 21 and a subtraction from District 19, and the hash marks there would be subtractions from District 21, and I believe it would provide a better compactness for Senate District 21 as well as provide more competitiveness between the two districts. That's
SEN. BISHOP: Follow up, Mr. Chairman?

SEN. BROWN: Senator Bishop.

SEN. BISHOP: I'm not sure if I followed that. You were showing some detail, and really, I was asking maybe a more general question, which is you've proposed an amendment to that particular district, and so -- and I'm glad to get whatever detailed explanation you want to give, but maybe before you gave a detailed explanation, if you'd just say, do you believe that the district as you're amending it is legal under all applicable legal theories?

SEN. BROWN: Senator Clark?

SEN. CLARK: I believe the amendment I'm providing is legal under all legal theories. It just changes the distribution of the population by approximately 300.

SEN. BISHOP: So it's roughly 300 people? Is that what it is?

SEN. BROWN: Senator Hise, any comments on the amendment?

SEN. HISE: No. We're glad that it meets Senator Clark's legal standards for the districts as well, coming in, so we appreciate that and would
ask that you support the amendment.

SEN. BROWN: All right. Any more questions on the amendment? If not, I'm going to ask you to raise your hand so that we can get a count on the vote. So all those in favor of the amendment, please raise their hand.

(Show of hands vote.)

SEN. BROWN: All right. I have 13 in favor and none against, so the amendment passes.

Next, Senator Blue, I think you have one for Wake County -- an amendment?

SEN. BLUE: I do.

SEN. BROWN: Okay. You're recognized, Senator Blue. Let's get it passed out first, Senator Blue.

(Pause.)

SEN. BROWN: Okay. I think everybody's got a copy. Senator Blue, you're recognized.

SEN. BLUE: Thank you, Mr. Chairman.

What this amendment does -- I was trying to find -- yeah, AMT30 does, it switches precincts, and all of these, by the way, are whole precincts. That's one of the reasons -- or entire VTDs -- that's one of the reasons you get some of the jagged edges. There are no split precincts in it.
But what it does, it simply switches precincts between the proposed District 15 for Senator Chaudhuri and 14, which is my current district, and it basically restores most of my current district to its current form. And since Senator Chaudhuri’s district is new—his old district would have gone south and west, but now that's occupied by 16. It does not affect any of the other three districts in Wake County. It is just those two.

And part of the reason is it's aimed at fixing the gerrymander, I think, as it was defined in Wake County, but it keeps the historic areas of the African-American community together in the same district. It unites the communities of interest. It does not substantially change the performance, as you have calculated it, in either of these districts and has no effect on the remaining districts.

SEN. BROWN: All right. Questions for Senator Blue? Senator Bishop?

SEN. BISHOP: Thank you, Mr. Chairman. Senator Blue, in the course of—you know, all this is new to me, but in the course of hearing the majority's proposals, I've heard a lot about
Dr. Hofeller being the consultant. Who helped you draw this?

SEN. BLUE: Staff.

SEN. BISHOP: Staff and you?

SEN. BLUE: Staff and me. I happen to know the precincts and the nature of them, which is usually a pretty helpful exercise. What the version of Senate Bill 691 does, it uses the artificial separator of the Raleigh beltline, and consequently, it caused everything inside the beltline out of the district, and there's no real reason to do that.

It doesn't change any significantly the percentages or what have you. I think it -- you're not considering it, but still the African-American percentage in this district, because it's exchanging with 15, is still below 40 percent, and the performance, I think, if you run it through the performance metrics that you've used to determine the party favorites, since it's between two heavily Democratic districts, it does not change that, either.

But what it does do, it unites the inside the beltline communities with the outside the beltline communities up to the Neuse River.
SEN. HISE: A follow-up or two, Mr. Chairman?

SEN. BROWN: Follow-up, Senator Bishop.

SEN. BISHOP: So I take it from a couple of comments you made that you used race in drawing the map?

SEN. BLUE: Not really. Not really. I just know the precincts. Some of them--the inside of the beltline precincts in Wake County in southeast Raleigh are heavily black precincts, but as I've explained to you several times before, the rapid growth in Raleigh has probably integrated this town much more so than some of those big cities in the state that haven't grown as rapidly. So you're going to still get comparable race percentages even when you go outside the beltline.

But what this map does, it reunites the Raleigh communities, incorporates Knightdale as your original map did in its entirety, but it has more Raleigh downtown in it rather than Raleigh north of the beltline.

SEN. BISHOP: Follow-up?

SEN. BROWN: Follow-up.

SEN. BISHOP: If I could explore that just a little bit more.
SEN. BLUE: Sure.

SEN. BISHOP: So you made reference to historically black areas, and -- but you said you're not really using race. It's hard for me -- and as you know, some of that is current discussion we've had in here so far and what the criteria have been. Could you reconcile those for me?

SEN. BLUE: In what regard?

SEN. BISHOP: I got the last comment, but the fact that you've made comments about in looking at this, you were interested in historically black areas, but you haven't -- when I said "Did you use race," you said, "Not really," and I just wanted to see if I can get clarity on that.

SEN. BLUE: I used it to the extent that I know the characteristics of the precincts. I can pretty call them up, but I know the characteristics of the ones in the proposed 16 as well because I've worked extensively in these areas. And inside the beltline in southeast Raleigh historically is an African-American area. It's going through tremendous justification now, not just justification, but the housing patterns in it are changing and it's becoming much more integrated.

But historically these communities are
related to those that I've added it back to just outside the beltline. For example, probably one of the biggest churches in the county is outside the beltline but most of their parishioners come from inside the beltline. And so it's things like that. But, yeah, I'm very familiar with the racial makeup of this district. I'm familiar with the racial makeup of all of the districts in this map.

And I think that when we go to the reason that we're here is to correct the racial gerrymander, and when we draw that district like this, it basically brings the percentage down, but it still unites communities of interest and it abides by pretty much, as best I can tell, all the other criteria that we were using.

Yeah, I mean I know what the racial component is, and I know that it does not exceed 40 percent and it does not exceed 50 percent, and that's how I put it together.

SEN. BISHOP: Follow-up?

SEN. BROWN: Follow-up.

SEN. BISHOP: So are you able to say that you don't consider this -- the districts in this map to be a racial gerrymander?

SEN. BLUE: Oh, absolutely, this is not a
that would rule this to be a racial
gerrymander because the way they define
gerrymanders is without any good reason. You can
look at race and you're supposed to look at it when
you're districting, but you can't allow it to
come the predominant factor in the way -- in your
decision-making process when assign people to
districts. But you're supposed to look at it. I
mean that's one of the requirements if you're going
to redistrict and comply with the Voting Rights Act
and the Fourteenth Amendment.

And so being cognizant of the racial
composition and desiring to preserve the
communities of interest, those kinds of things --
and what this district -- what this district
does -- in 2003 when they settled on it -- and I
was not in the legislature that year -- when they
settled on it, it had a low African-American
percentage. I say low. It was about 40 percent,
and the map that was passed back in 2011, the
percentage in that district was taken north of 50
percent. And the Court basically decided that
there was no reason, no justification using race to
increase that district from 40 percent African-
American primarily to 50 percent, and that was an
impermissible use of race, and so race became the
predominating factor in drawing the district.

And so where I take it is back close to
where its historical origins were when it was first
created. I'm not using race as the predominant
reason to design it this way. I'm just fixing the
gerrymander. This fixes the gerrymander that was
in Wake County. I mean, this is not necessarily
the only way to fix it, but it fixes it.

SEN. BISHOP: Follow up?
SEN. BROWN: Follow up.
SEN. BISHOP: So you're confident that
none of the districts in this map amendment are
racial gerrymanders?

SEN. BLUE: 14 is not a racial
gerrymander. The only way the others would become
racial gerrymanders -- quite frankly, the only way
they would become racial gerrymanders is if, in
fact, you were using race to gain an intentional
partisan advantage. That is a racial gerrymander,
the same as if you're taking districts far north of
where that have got to be to perform as the Voting
Rights Act contemplated.

Senator Hise mentioned Section 5 of the
Voting Rights Act. Actually, it was Section 4 of the Voting Rights Act that was struck down so you don't have to have Section 5 clearance. But the Section 2 of the Voting Rights Act is still very alive, and so you still have, in looking at the history, a Gingles analysis that you've got to do since the major Supreme Court case in this area came from North Carolina. And so if you did a Gingles analysis, you couldn't justify taking this district north of 30 percent -- I mean north of 50 percent, probably not north of the 40 percent if race was the primary reason that you were drawing it.

So this is not a racial gerrymander. I don't see any direct racial gerrymanders in this cluster, that is, Wake County. But if it is determined that race was used, people were put in these districts in order to create a political gerrymander, then the racial gerrymander would apply, and it would be violative of the Constitution and of the Voting Rights Act.

SEN. BISHOP: Follow-up?

SEN. BROWN: Follow-up.

SEN. BISHOP: And I want to make sure I've got the full feel for your sense about the
amendment. Are you confident, then, that all the districts in Wake County, as you propose to amend them, are legal under, you know, whatever applicable legal theories are?

SEN. BLUE: I have not put the race test on all of these districts. I simply haven't had time. I know that this one would not be illegal. I don't know whether -- an argument would be made that 15 is a political gerrymander, so you'd have to determine whether you were assigning people to it based on race in order to effectuate the political gerrymander. I have not done that analysis on 15. It is not a racial gerrymander when I amend it the way I did because you don't have -- I think the percentage goes down south of 30 percent.

Indeed, the way that we've drawn these districts, as you've drawn them here, District 15 has a higher percentage of African-American voters than District 14, but if someone were to make the argument -- and I don't know that it will be me -- that that's a political gerrymander, you would have to analyze it from that angle. What this would do, from a racial standpoint, is make it less of one because it's not packing an incredible number of
African-Americans in another district.

But, again, the analysis of whether there are political gerrymanders in Wake County is a separate analysis. I think -- I think that -- from what I gleaned initially from this, that there is -- 16 probably has the makings of a Democratic district in Wake County, and I guess if I were analyzing it, I would look at all five districts and figure out whether this is where your racial gerrymander occurred in Wake County as opposed to, say, the other urban counties.

But this does not extinguish the claim of racial gerrymanders based on political gerrymanders, but it does with respect to these districts.

SEN. BROWN: Follow up?

SEN. BISHOP: Thank you. One more, I think. So that also applies to 15; that's not -- as you've drawn it, not a racial gerrymander?

SEN. BLUE: No, 15 is not a racial gerrymander, and again, in trying to put this together, I said that 15, based on your criteria, is a very high-performing Democratic district, somewhere in -- even after reconfigured, it's still a high-performing Democratic district in the
northern part of the sixties, and 14 is as well.

So I don't say that that extinguishes all claims of racial -- gerrymanders based on them being political gerrymanders. I'm pretty sure it does with the configuration of 14. I just don't know about 15 because I haven't done the deep drive in it, and it takes about five percent of the African-American votes out of 15 and returns them to 14, but it doesn't take 14 unreasonably high and it doesn't leave 15 unreasonably high.

So in a traditional analysis, you can't say that it's a racial gerrymander based on where you put people because of race if that were the reason you were doing it, but you've still got to go through with this entire map, and an analysis of whether the way it's designed, you've used race in any way at all to gain political advantage. And if you've done that in various sections of the map, then a political gerrymander becomes a racial gerrymander, and it will be struck down.

SEN. BISHOP: Mr. Chairman, I promised that was my last question, but I've got one more if you'll let me.

SEN. BROWN: One more. One more.

SEN. BISHOP: Because something you just
said sort of troubled me a little more so. What I heard you say -- and I think you said it a couple of times -- is that it doesn't -- your amendment doesn't extinguish the claim of a potential political gerrymander, and to make it a little more complex, that a political gerrymander might be a hidden racial gerrymander.

And when we were talking actually before we recessed, you and I over here, we were talking about how the specter of ever present litigation hanging over your shoulder sort of make it hard if you had people try to settle a controversy or something and they had -- and you said well, we're going to reach this settlement, but I'm going to keep these claims over here. I might want to litigate.

So when you say your -- your amendment would leave a potential political gerrymander claim in this -- if we adopted it, it would still be present, is that correct?

SEN. BLUE: Not totally so. I'm going to move away from being a lawyer and just give you a straight answer. It is my opinion -- since that's what you're seeking -- it is my opinion that this eliminates the gerrymander in Wake County. There
are districts that remain excessively high because you've got two districts that do these very high Democratic performances. If race were the reason that people were placed in these districts so that you could affect political gerrymanders in other places, this would be a political gerrymander.

But let me assure you this is not the angle from which a political gerrymander on the entire state map would be leveled. I'm convinced that, given the configuration -- and, again, I haven't fully analyzed it. I don't know the subnumbers look like -- the subsets, but if 15 -- if 16 is a Democratic leaning or Democratic district, within Wake County, you don't have the use of race to create political gerrymanders.

But, again, you've got, what, six or eight more counties where that might be the case, but it wouldn't be predicated on what's happening in Wake County.

SEN. BROWN: Senator Hise?

SEN. HISE: Thank you, Mr. Chairman. Let me see if I can kind of clear this up. As you might understand, math departments don't give out law degrees. So I struggle to -- I can get a binary better than I can come up with those
answers. This amendment deals with Districts 14 and 15 exclusively, and as so let me try to simplify this as much as I can.

In changing these two districts that exist here, you do not believe that a racial gerrymander exists in those two districts as you have changed them?

SEN. BLUE: That's right.

SEN. HISE: So I appreciate--- For comment?

SEN. BROWN: Comment, Senator Hise.

SEN. HISE: I would reiterate to the Committee that we have not had and do not have racial data on any of these districts and, therefore, have not sorted any individuals into districts on the basis of race that is coming in. I would reiterate that. I would take it under advisement from our colleague Senator Blue that it is his claim that Wake County is not a racial gerrymander, that it is -- Districts 14 and 15, as they're amended and changed, eliminate whatever concern there was and that these are not based on race but on historical communities. As he claims, it doesn't change the racial data.

I think I would be kind of inclined at
this point to accept that, that the cases coming out. Other members may have discussion, but I think, as I clearly got an answer, there is not a gerrymander in Wake County as a result of the changes that exist here in these districts.

SEN. BROWN: Any other questions for Senator Blue? Senator Hise, anything else to add?

SEN. HISE: No. I think that -- I think that covers it. I think it would be the concept that these do not change the political considerations nor would they violate any of the rules of the Committee to make these changes.

SEN. BROWN: All right. Hearing no more discussion, again, I'm going to ask that you raise your hands. All in favor of Senator Blue's amendment, please raise your hand.

(Show of hands vote.)

SEN. BROWN: I have 13 in favor and zero against. So the amendment passes.

Senator Blue, the next one?

SEN. BLUE: Thank you, Mr. Chairman. The next one is the -- it should be denominated -- it's the statewide map.

SEN. BROWN: This is the Mecklenburg one. I'm sorry. Mecklenburg first.
SEN. BLUE: Oh, Mecklenburg is the next one. Okay.

Thank you, Mr. Chairman. This is just a rendering of Mecklenburg County using the criteria that we've adopted and just looking to see how you could comply with all of the criteria, have compactness, contiguity, and all of those things, and so this map ended up being a district that does that. They've got much smoother precinct lines in Mecklenburg County than they do in Wake County. I guess we follow more streams and creeks for the edges of precincts, but neither does this map break any precinct lines.

And it -- historically, Precincts 38 and 40, I believe, are the ones that have been earlier dominated African-American precincts -- are the two that got us in trouble. This fixes the problem with District 38 and 40 on being racial gerrymanders because it does not take either one of them over 50. They are compact. They basically stick strictly with the compliance in every other regards of the Stephenson decision. It's got partisan balance, as I understand it, in just looking at the numbers that way, and it complies with all the state and federal law that I'm aware
of in this area, and it has all of the traditional redistricting criteria observed.

    That's what it does, and so it gives us a look at other maps that don't do some of the things that Senator Clark was addressing earlier in getting them out of -- out of shape because I think in the committee plan there's a district that goes from east to north to western Mecklenburg County that -- that seems to violate some of the redistricting rules.

SEN. BROWN: Questions for Senator Blue?

Senator Bishop?

SEN. BISHOP: Mr. Chairman, I may be wearing out my welcome. I apologize, but I happen to be from Mecklenburg County. So I wanted to ask Senator Blue a couple questions about this one because I think I see five Democratic districts here.

    Senator Blue, did you draw this map also -- you personally?

SEN. BLUE: I did not -- I did not use the cursor to pick out every place in it, and I have staff who worked with us once we got the basic makings of it. But like Dr. Hofeller, the Speaker and the President of the Senate gave us leeway to
get somebody who knew more about this than I did. And this one I didn't draw, as I did the Wake County maps, because I defer to you. I don't know Mecklenburg County as well as I do Wake County.

SEN. BISHOP: Could you---

SEN. BROWN: Senator Bishop, follow up?

SEN. BISHOP: Thank you, Mr. Chairman. I beg your pardon. Who was your hired hand, then?

SEN. BLUE: Hired hand is not a complimentary term, I don't think.

SEN. BISHOP: Give me. Consultant.

SEN. BLUE: The consultant is a fellow named Dr. Kareem Crayton. He has a distinguished career. He was a professor at UNC Chapel Hill Law School. He's got a PhD in political science. He has spent time doing this stuff, and at the late moment that we were able to get somebody, he happened to be available, so we asked him to come help us with some ideas.

SEN. BROWN: Follow up, Senator Bishop?

SEN. BISHOP: Thank you, Mr. Chairman.

Did you and Dr. Crayton, did you say, consider political -- take political considerations into account in drawing this map?

SEN. BLUE: No. No. And that's one of
the criteria that wasn't the most compelling
criteria. What we did -- we did look at race to
make sure that we weren't violating the Court's
order, we were breaking up the racial gerrymander,
because these districts too -- one of them Senator
Bishop, I think Number 40, had been a district in
Mecklenburg County where an African-American beat
one of the most powerful senators in the General
Assembly, Senator Odom, back the middle of the last
decade, I think, and Malcolm Graham
And it was less than 30 percent African-
American, and it remained that through the end of
the cycle. In 2011 when you redistricted it, you
took it from about 29 to 30 percent to north of 50
percent. That's why the Supreme Court said it was
a racial gerrymander because it's already proven,
using all the Gingles criteria, that it could elect
the candidate of choice of the minority community
without you taking it up to this extreme level.
And so this does not take it back down to the 29 or
30 percent, but it fixes the racial gerrymander
consistent with what the Court said.
The other district in there was 38. When
you took that one in 2011 from probably a 45, 46
percent majority African-American district to north
of 50, again, you couldn't justify it using the Gingles criteria, and the Court said that was a racial gerrymander. So when you took these two districts back down so that they wouldn't be gerrymanders, you then freed up all of the rest of it, and so it's just getting small compact districts in the rest of Mecklenburg County.

There may be some specific attributes of Mecklenburg County communities of interest and all of those that you're more familiar with, and perhaps the public hearings would have told us more about those kinds of things, but this is just our effort using the racial stuff that the Court said was not permissible and getting it down below those level and fixing the gerrymander, and then taking the rest of it and adjusting it.

SEN. BROWN: Follow-up?

SEN. BISHOP: Thank you, Mr. Chairman.

So taking Malcolm Graham's old district, for example, you said that it had been taken up over 50 percent and that was an impermissible racial gerrymander. So you said you took it back down and not to the number that it had been before you, I think you said, but to some other number?

SEN. BLUE: I think it's probably
somewhere in the high thirties.

SEN. BISHOP: How did you -- how did you pick that numerical target?

SEN. BLUE: There's nothing magical about it. It's just that when you wanted to get a concise, compact district and you know that you can't leave it in the high forties or fifties and be in compliance with the Court's ruling, not only the three-judge panel but the Supreme Court's ruling, then you try to get it back down -- because they're going to look at race. They've got to look at race to determine that you're no longer in violation of the constitutional provision. They're going to look at it whether we decide to play an ostrich and say we're not -- we say we're not looking at it. We can't use it as a predominant factor.

So you look at it to get it back where you're satisfying the requirements of the Court and eliminating the racial gerrymander. And so when you do that, I think you could take it down to 38, to 39 percent, and it will be totally acceptable because it meets all of the other criteria for redistricting, that that you have adopted as well as the traditional criteria.
SEN. BROWN: Follow up?

SEN. BISHOP: How do you know that you can target any particular number?

SEN. BLUE: If, in fact -- and this is akin to the first question that you asked me. If, in fact, you get the Plaintiffs and the residents in that district and they're satisfied with it, you're not going to get a lawsuit. You can't speak for a hundred percent of the people a hundred percent of the time, but what creates conflicts, at least in the Courts, is when somebody brings a lawsuit.

I'm convinced that based on the performance of this district prior to 2012 that somebody who brought a suit saying that you're in violation of Gingles principles on this district would be wasting their money and their time. And so if I bring it down there and have pretty good confidence that it could withstand any kind of assault or any kind of attack that anybody brought against it, that's what I'm going to rely on, and that's why I say that if we bring it -- you could take it lower if you wanted to, but then you don't make it as compact and you don't make it as compliant with the other principles that you've
adopted on compactness using either of the tests that we talked about that you determine compactness by.

SEN. BROWN: Follow up?

SEN. BISHOP: Are you saying that it might be unconstitutional because it targets a specific number without having additional evidence of racially polarized voting, but you believe nobody would sue about it?

SEN. BLUE: No. There's no doubt in my mind this district is not unconstitutional.

SEN. BISHOP: So you think as long as you set it down at 38, or whatever the number is you pick, that you can set a numerical target for racial balance without having any more evidence of racially polarized voting than we had?

SEN. BLUE: Frankly -- and this is my opinion. I don't write opinions for the Courts, but I share my opinions. Frankly, I think, Senator Bishop, that you could take the districts back to their pre-2011 levels based on the racial composition of them at that time, and all of them would have been racially compliant. I don't think you would have had any racial gerrymanders at all in this map if you had left these districts at the
same percentages that the Courts had approved earlier.

Now what you run the risk of -- what you run the risk of when you're not in this litigation stance -- what you run the risk of that a lot of people worry about is whether or not you're retrogressing with district; that is, where you can satisfy some of these Gingles principles, the law is you can't take it below certain levels that would perform as predicted when you do a Voting Rights Act analysis.

Since you've chosen not to do that analysis on this map, that was part of the reason that the Court kicked out the maps last year and -- well, as it went up through the court system--because you had not done the analysis on these districts to see how they performed and see whether you could justify increasing the minority voting age population in these districts. Had you had the kinds of studies that would justify it, then you would have had to prescribe a remedy that took it up to a given level but didn't necessarily load additional African-Americans in that district.

That's what the law is. It fits a typical Fourteenth Amendment analysis compelling
state interest, and then if you find that that compelling state interest has been met, you then have to use the race in the analysis but only in a strictly limited way. You just can't use race to fix it all. You have to narrowly prescribe the remedy anytime you use race.

That's what the Fourteenth Amendment is about, and the narrowly prescribed remedy would be to put as few additional African-Americans in that district as you have to in order to still make it so that minorities can elect the candidate of their choice. It doesn't have to be a black candidate. It could be anybody, but you have to show those -- the Gingles factors, polarized voting, compactness, sufficient group within the area that you're looking at to draw a district, and you'll have to show that minorities can elect the candidate of choice. And that's because of the history that led to the enactment of the Voting Rights Act.

SEN. BROWN: Follow up?

SEN. BISHOP: But isn't it true that the reason the Court told us that we had engaged in -- well, we -- I wasn't here, but that the General Assembly had engaged in an unconstitutional racial gerrymander is that one of the Gingles factors
wasn't met. You didn't have district by district
evidence of racially polarized data of the quality
and quantity sufficient to justify doing that.
That's what it was, right? It wasn't that you
can't put 50 percent plus one in a district; it was
that you didn't have the predicate to do it.

SEN. BLUE: That's correct.

SEN. BISHOP: And do you have new
evidence district by district that you haven't
shared with us about racially polarized voting in
the districts that you're proposing here?

SEN. BLUE: No, but what I do have is the
performance over a decade at those low percentages.
That is direct evidence that the districts are
working the way that Voting Rights Act
contemplated. You have got this that you're
dealing with here, Senator Bishop. If you were
creating districts that are going to stay that way
in perpetuity, then America wouldn't have an
opportunity to grow, and we wouldn't have an
opportunity to migrate to the point that race does
not matter.

And so -- so what the Court has done --
and I think you'll find this in most of the
opinions -- whether it's a conservative Court or a
liberal Court -- what the Court has done is basically say if you can still meet the Gingles criteria, you will draw districts that have certain percentages.

If you will notice, once you leave North Carolina, not only in this last round of redistricting but historically, you've had districts that were represented with African-Americans that were much higher in their African-American black -- their black voting age population than the North Carolina districts because they could clearly demonstrate that race had been the motivating in voting in those states. North Carolina was substantially different, and so you didn't have these high percentages.

You read the cases and you follow this too. In Alabama, it was 67 percent. There were very few instances, one or two, in all of North Carolina where the numbers had to go that far in order to create an opportunity for minorities to elect a candidate of choice.

And so what the 31 percent says, if you can draw a district down there and you can show that minorities can elect the candidate of their choice with only a 29, 30 percent black voting age
population in that district -- or Hispanic or whatever the group is you're focusing on -- then if you use race as a predominant factor to go beyond that level, then you've violated the Voting Rights Act and probably violated the Fourteenth Amendment to the United States Constitution and several amendments to the North Carolina Constitution or several articles.

SEN. BROWN: Follow-up?

SEN. BISHOP: Let me ask another angle, then. Was that the main thing driving how these districts are formed, is setting the targets that you described, that they're lower but, nonetheless, looking at race and setting the numbers -- keeping the numbers where you think they should be?

SEN. BLUE: I put the numbers at a level that I feel pretty confident, and most of the lawyers who would work in this area, whether they're plaintiffs' lawyers or defendants' lawyers, would feel confident that you could not sustain a race discrimination claim based on the racial percentages in these districts.

SEN. BISHOP: What I'm trying to get at is, was that the predominant factor driving the design of these districts is setting the racial
SEN. BLUE: The first consideration was to fix the racial gerrymander, and in order to fix the racial gerrymander, I knew that you had to take these districts far lower than they were with black population because these districts had already demonstrated that they could elect minorities without -- first, you don't want to use race. I mean, frankly, that's what we're all trying to get away from.

You don't want to use race, and so what you're trying to do is use it the least amount possible, and that's why I say it's got to be in narrowly tailored remedy, and in election laws, the narrowly tailored remedy is to use the smallest percentage based on race that you can use so that you keep coming down and you don't have to have racial discussions when you do redistricting.

So you can say that you're not considering race, but you haven't done the analysis that you've got to do, you haven't addressed the issue that the Court told us we've got to deal with in redrawing these districts because you can't say that you have fixed the racial gerrymander if you
can't say that you looked at what the racial makeup
of these districts are.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: So are the statistics here
that reflect your analysis of what those racial
targets are for the districts so that we can -- the
Committee can have whatever information it needs in
order to pass this amendment?

SEN. BLUE: All of the backup is
available. I don't know if it's been passed out.
But there are no targets, Senator Bishop, in the
sense that, yeah, you go to X percent and Y
percent. My target was to draw districts and our
consultant was instructed to draw districts that
would be compliant with the Court's ruling, one
that does not have a racial gerrymander and you
can't argue that the percentages of the black vote
in these districts are put there solely because --
that's not the predominant reason that they're in
these districts.

It went back, for the most part, to
districts the way they existed in 2009 and took
away from them because all of these districts have
increased in population. The reason that my
district in Wake County was so big in 2011, it was
the second most overpopulated district in the state because of all the new growth that’s happening in these two urban areas, Wake County and in Mecklenburg County.

And so what this does, it sort of trims off the edges of those districts with all of the extra population. If you look at these districts now, you can rest assured that they have a much higher population now than they had in 2010, but to sort of peel off some of the extra growth that had occurred in them and get them back down to the levels that they looked like in 2010 just before the census.

SEN. BISHOP: Mr. Chairman?

SEN. BROWN: Follow up.

SEN. BISHOP: I want to just shift out of this discussion of race. If you would, forgive me. It looks like this map sort of shatters Mecklenburg County like a mirror. Take, for example, your proposed 37, you’ve got -- I think Matthews is in there.

Actually, let me ask you this question: How many municipalities does this map split?

SEN. BLUE: Of course, it splits Charlotte, and I don’t -- again, I don’t think it
should split any other. It did observe the criteria. You know it better than I do. But, as you see, Charlotte is split because it's right in the middle of the map, and so you get at least -- I think at least three, maybe four big districts might border on Charlotte -- in fact, I'm sure that at least three of them do. I think four of them border on Charlotte.

SEN. BROWN: Follow up?

SEN. BISHOP: We've got -- down on the eastern side, you've got Mnt Hll and you've got Matthews. It looks to me like 40 and 37 would split Matthews. You've got 39 down here. I don't know if 39 and 38 split Pineville or not, but it looks like you do. You don't know whether you took that into consideration -- any of that?

SEN. BLUE: No, no. They're whole precincts, and it's my understanding that they comply with the other redistricting criteria and don't split -- I don't think they split towns down there any more than they're currently split, probably less. I know that was the case in Wake County where we -- we've got many more towns. We've got 12 towns in this county, and so we were basically trying to put them back together.
I don't think they're split, but again, you know the geography down there far better than I do. If they're split, they ought not be, but they're whole precincts and sometimes you'll split a town because you take the whole precinct, and some of it will be in town and some of it will not be in town. So that's going on, especially in these towns that don't have but 30- or 40,000 people population.

SEN. BROWN: One more follow-up?

SEN. BISHOP: It might be more than one. Have you measured--- Senator Clark has talked a lot about this efficiency gap. The professor named---

SEN. CLARK: Stephanopoulos.

SEN. BISHOP: Yes. ---Nick Stephanopoulos. I think he's George Stephanopoulos's brother, but I'm not positive about that. In 2008, I think he was with Obama for America before he came up with this. But have you measured his efficiency gap on this map?

SEN. BLUE: All the stats related to it should have been passed out. I gave the whole stat-pack on it. I understand a little bit. Believe it or not, I have a degree in mathematics,
and I understand some about this efficiency gap analysis, but I have not consumed myself with it the way our Chairman has and the way Senator Clark has.

But we performed the same analysis -- the staff did -- whatever we've got here -- they should have performed the same analysis as they did the other -- the other maps that they looked at.

SEN. BROWN: Follow up?

SEN. BISHOP: Well, I'm just looking at the collection of materials, and it does look like what we've done in the other maps that have been provided by the majority. It does not include an efficiency gap analysis. I just wondered whether -- whether Dr. -- what's his name? No, no, no, no. The gentleman who drew these for you -- Kareem -- whether he computed an efficiency gap?

SEN. BLUE: I don't have an efficiency gap. That's not one they requested of me because the Committee didn't adopt it as a criteria. But if you were to do an efficiency gap on this thing, it would probably be as close to neutral as you would get.

SEN. BROWN: Senator Hise, do you want to
pick up and give Senator Bishop a break?

SEN. HISE: Well, I would just comment on that briefly in consideration, regardless of my issues with how you would calculate an efficiency gap, but when you can run -- I would simply state in very simple less mathematically complex terms that in Mecklenburg County, if you look at the races, roughly 30 to 42 percent of the vote goes for Republican candidates in Mecklenburg County. The end result of this would be no representatives in the Senate who were of the Republican Party. Some might call that an infinite efficiency gap, coming in -- coming in, but I'm sure that would -- whether or not I like the calculations, I'm sure, if you looked at the county, that would score quite horribly.

SEN. BROWN: Senator Clark?

SEN. CLARK: I'm just wondering how you used political data to determine that a certain party would obtain a certain number of seats. I thought you-all didn't do that. That's what I was told earlier.

SEN. HISE: I used the calculations you had used previously.

SEN. BROWN: Senator Clark, do you want
to follow up on that?

SEN. CLARK: Yes. So I was correct that means you do use political data prospectively to determine the outcomes of elections based upon these districts that we have drawn?

SEN. HISE: I do not.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: I think just two more, I promise, Mr. Chairman. You know, to that point, as I said, I don’t have great confidence in the efficiency gap. I think it sort of tends to give some sort of certain sense to something that’s very certain, but that doesn’t mean you can’t use common sense. And so Senator Blue has spoken to that a good bit.

Senator Blue, I was just looking at the back -- if you flip over to the next-to-the-last of the long pages, it’s got the President 2016 stats, and if I look at all those districts, 37, 38, 39, 40, and 41 in Mecklenburg County that have been drawn, the closest the Republican candidate for President would have gotten would have been 43 percent of the vote. You’ve got -- all five districts would have beat the Republican candidate. And so, Senator Blue, you didn’t
gerrymander this district?

SEN. BLUE: No. But it is a map drawn strictly to the criteria that you adopted that ought to govern mapmaking. That's what this map does.

SEN. BISHOP: It doesn't have any political consideration?

SEN. BLUE: No. No. It has political implications, but what it did, if you can configure these two minority districts -- not majority minority -- substantial plurality minority districts in other forms but come down to those percentages, you will probably fix the racial gerrymander in Mecklenburg County, but if you don't do that, you will neither fix the racial gerrymander---

And I'm not saying this is the only way to do it. What I said when I started out is, I wanted to look at alternative ways that you could draw maps based on your criteria that would fix the gerrymander, but you can approach it in a different way. I think that you still leave the gerrymander in the plans in Mecklenburg County in the map that's before us.

There are other ways to fix it, but this
is one observing all of the criteria that you adopted. They are more compact. They satisfy all the other tests that you set. There was just a little dialogue between Senator Clark and Senator Hise on whatever the guy's name was that you do these studies by.

This surpasses all the stuff that we've done in every other county when you draw it specifically like this because they're more compact, you're protecting incumbents. You'll see in some instances, they're just hanging on in the corners, but each one of them has a separate incumbent in it, so you haven't double-bunked any of them, and you observe all the criteria that you set forth.

SEN. BISHOP: If I could ask one more question and then maybe one quick comment, and I'll get out of the way. Sorry. So, you know, this thing about what constitutes fairness in drawing these maps, if I look at 37 again, Senator Blue, I'm sure that at least part of Matthews down at the southeastern end of the county in that district and the urban core of Charlotte.

And you talk about -- whether you call it communities of interest or what makes sense, do you
think that the people in Matthews have some interests that they need attended to that are in the nature of ring city, ring town interests that they don't have in common with the people who live in the core of Charlotte, and what would be fair about cramming them together in one district?

SEN. BLUE: Senator Bishop, have you looked at the Republican map for Mecklenburg County?

SEN. BISHOP: I have, sir.

SEN. BLUE: You remember one of the things that those who attended these public hearings is from Charlotte -- the biggest issue that folks raised is why would I want to go all the way around the county. There's nothing in common with the way these districts connect us -- one of the districts that you've drawn, and I suggest that I don't know where the similarity is at the bottom at the extreme left-hand corner in this map in Mecklenburg County and right in middle of where this district ends, but it's certainly compact. It's as compact as you probably could make that district, and it's a district that now complies with the Voting Rights Act and Fourteenth Amendment. It is a district that the Court said
you've got to redraw and you've got to change your percentage.

The same thing on 40. It is compact. It gets the percentages below where they have to be, and it meets all of the other criteria that you set forth, but it meets it in a better way than the map that's before us. When I say "before us," I mean the Committee's map.

And just in closing, let me simply say this. Is there a district in Mecklenburg County under the current mapping system that Trump won?

SEN. BISHOP: Mr. Chairman, my just closing comment. And Senator Blue is very skillful, but didn't answer the question whether Matthews would have interests -- they're concerned about being adequately represented with a district they elect -- with a representative they elect in common with somebody from Charlotte's core. I assure you that the Matthews people say that they wouldn't want it done that way, and it does -- for me it has sort of a galvanizing effect.

You know, I know people who are -- who are not in control, you know, can get very upset about the way things are done, but the notion that there's not politics in this, the notion that
there's not targeted of racial information in this, whatever number you're trying to set, you haven't cured evidentiary shortfalls that the Court said existed. I cannot conceive of that being the map for Mecklenburg County, and I hope the Committee won't support it.

SEN. BROWN: Senator Hise?

SEN. HISE: Thank you, Mr. Chairman. Despite -- I guess this is where we start breaking apart in this agreement. Despite claims that this meets all the criteria of the Committee, I think that it is clear that this map used race as a manner in which to divide individuals into districts. In fact, here you've set targets at 39 or 40 percent as to what those numbers should be and then placed individuals to meet those criteria that are coming in.

Also, it clearly fails on the concept of incumbency protection. My summary of this map is it is drawn solely for the purpose of making sure that no Republican incumbents in Mecklenburg County could ever be elected. Quite frankly, it's designed to make sure that no Republicans would ever be elected to the Senate from Mecklenburg County.
That's what's coming in despite those percentages within those counties. I think there is also a significant question about the municipalities that are divided. I would tell you that I feel this is inconsistent with the Committee's criteria and ask that you reject this amendment.

SEN. BROWN: Senator Clark?

SEN. CLARK: I would like to speak a moment on the criteria regarding compactness. Despite what was said earlier, our written criteria indicates that we should meet reasonable efforts to develop plans that improve the compactness of the current districts. With regard to District 39, it is worse with respect to the Reock and it's worse with respect to the Polsby-Popper, which we specifically identified as measures that we wanted improvement in.

In addition to that, we know that there are nine measures of compactness provided by the Maptitude software. It is also deficient in terms of the perimeter compactness measure, deficient in terms of polygon measure -- population polygon measure, it is worse off in the population circle method it's worse off in the Ehrenberg method, and
it is worse off in the minimum convex polygon method. So of the nine methods of measuring compactness, District 39, as proposed in the Senate plan, is worse in seven categories.

And with regard to efficiency gap, we don't use the efficiency gap to measure performance of an individual district within the state plan. The efficiency gap is used to measure the performance of the plan in its entirety.

SEN. BROWN: Senator Hise, any response?

SEN. HISE: I think the efficiency gap is apparently used how you want to use it. They're coming in to make a point. But I would say that I do say that, again, I would the Committee to reject the amendment.

SEN. BROWN: Any more questions on this amendment? If not, again, I'm going to ask by raising your hand, all those in favor of the amendment raise your hand, please.

(Show of hands vote.)

SEN. BROWN: Those opposed?

(Show of hands vote.)

SEN. BROWN: Nine to four. The amendment fails.

All right. Next, I have Senator Van
SEN. VAN DUYN: Thank you, Mr. Chair.

This amendment deals with District 28 in Guilford County. Has it been distributed?

SEN. BROWN: Has everybody got this amendment for Guilford County? Let's get that.

Let's make sure everybody's got it.

(Pause in proceedings.)

SEN. BROWN: All right. It looks like we're good. Senator Van Duyn?

SEN. VAN DUYN: Thank you, Mr. Chair.

The objective of this amendment is to -- primarily to correct the defects that were previously caused by racial gerrymandering in District 28. It affects the surrounding districts as well, of course, but it also complies with state and federal laws. It respects the whole county -- excuse me -- the whole county provision as well as the need for compactness.

And with all due respect to Senator Bishop, I think we just fundamentally disagree about the need to review race in the process of correcting the previous maps. I mean, if you look at the 2011 District 28, one might suggest that if you start with that general outline, you don't have
to use race to create a racially gerrymandered district if you start out with an outline of a racially gerrymandered district. So for that reason, you have to consider race to make sure, in fact, that you have corrected the problems with the previous maps.

And this scheme does, in fact, do that by returning us -- not quite but to -- to the percentage of African-Americans that we had in 2003.

SEN. BROWN: Questions for Senator Van Duyn? Senator Bishop?

SEN. BISHOP: Thank you, Mr. Chair. What numerical target of African-Americans do you say is constitutional, Senator Van Duyn?

SEN. VAN DUYN: I'm sorry. Could you please repeat your question?

SEN. BISHOP: What numerical target for African-Americans do you say is constitutional?

SEN. VAN DUYN: I am saying that closer to the 2003 numbers is constitutional because those were constitutional maps.

SEN. BISHOP: What do you mean closer to; the same number or some number within what range?

SEN. VAN DUYN: No. Closer to than the
maps that were deemed unconstitutional.

SEN. BROWN: Follow-up?

SEN. BISHOP: Thank you, Mr. Chair.

Could you say what number that is?

SEN. VAN DUYN: Well, the number I believe in the 2017 maps was 50.52 and that was significantly higher than where it was in 2003.

Ours is at 45.3.

SEN. BISHOP: So you targeted 45.3?

SEN. VAN DUYN: No. No. We just targeted less than 50.5.

SEN. BROWN: Senator Hise, do you want to respond?

SEN. HISE: Senator Van Duyn, you specifically said what the percentage was of the minority in the district we had drawn, the 2017 maps. Could you repeat that?

SEN. VAN DUYN: I believe it was 50.52 which makes it a majority minority district.

SEN. HISE: And your intent was to get it below 50.3?

SEN. VAN DUYN: No. 50.52. In other words, to get it -- to get it closer to where it was in 2003.

SEN. BROWN: Follow-up, Senator Hise?
SEN. HISE: But no qualifications on "closer," just as long as it went under 50.5, you felt like it was a good number?

SEN. BROWN: Is that what Senator McKissick thinks?

SEN. VAN DUYN: I did work with Senator McKissick on these maps. So thank you for allowing me to discuss this with him. I was in Asheville and didn't have access to computers.

But -- so, as we said before, our real intent was not any particular number. Our real intent was to honor the wishes of the Court in that we demonstrate that these were no longer racially gerrymandered districts and majority minority districts. And so we needed to get them below 50 percent, but we didn't have a target so much as we wanted to demonstrate that these were not racially gerrymandered districts.

SEN. BROWN: Senator Hise, follow-up on that?

SEN. HISE: So, as I would state this, for your and McKissick's work on this, the concept here was that we will assign voters based on race, but we will not be using race excessively if we get below the 50 percent threshold?
SEN. VAN DUYN: Here's what I would say, okay? So we have -- we have a district that is shaped very similarly to what it was in the unconstitutional maps, and that clearly we cannot demonstrate, then, that we are in compliance with the Courts if we do not at least verify that those are no longer racially gerrymandered districts. So we used the criteria that included reducing the percentage of African-American voters in the district.

SEN. BROWN: Senator Blue?

SEN. BLUE: I'd like to ask Senator Hise a question, and he probably has anticipated what it is. But specifically in the court order, they say you've got to explain to them why you went over 50 percent in this district. What do you plan to tell them?

SEN. HISE: I would think as we go through this entire process -- I would even say that the Plaintiffs' attorneys clearly stated even to the Courts that when districts are created by other criteria that there may be naturally occurring districts that exceed 50 percent, but that the predominant criteria in drawing that map was not racing and could not have been race. There
were no criteria in drawing the map or assigning voters in which we used race in order to place individuals.

As a result of using the criteria we have, there may be -- and I still don't know what the numbers -- this is the first I've been told on this district -- there may be naturally occurring areas that have that -- a percentage of 50 percent, a percentage of 40 percent or 42 percent. Individuals group themselves into communities, particularly in urban areas that are compact in those, and naturally occurring districts may come out.

And I think any numbers that you find, which I'm willing to look at, are a result of naturally occurring districts that we did not assign any voters on the basis of race or move any voters to districts on the basis of race.

SEN. BROWN: Senator Blue?

SEN. BLUE: So, as I understand it, with a straight face, you're going to ask the legislative lawyers to stand in front of these three federal judges and say the same guy who drew the district in 2011 knew all of these statistics, he knew what the map looked like, he redrew the
districts in 2017, and he does not remember what
the map looked like, he does not remember why he
put 50 percent or greater in that district, and it
just coincidentally happens that it looks like the
same district, it's got over 50 percent, which is
what he sought out to achieve in 2011, but we
didn't know that was going to happen. That just
naturally occurred. Is that going to be the
answer?

SEN. HISE: I think no different than you
would say that when you drew the maps, you used
Maptitude and somehow guessing it has some long-
term memory because it was the same software used
or may happen to have been the same chair
individuals were sitting in. Dr. Hofeller was
given the criteria of this Committee, which was
significantly different from the criteria of the
previous committee as a result the court rulings,
and from the criteria, drew maps that did not
include race. Race was not part of the database.
It could not be calculated on the system that is
done.

I wasn't drawing. It was Rucho there
that was drawing then versus me there now, but I
can tell you that there is no consideration of race...
in the drawing of these maps, hidden or otherwise, nor is there sorting of individuals on the basis of race in the districts in the maps as they exist, quite counter to the amendments that you have been proposing.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: Thank you, Mr. Chairman. I have a couple of other questions for Senator Van Duyn. Senator Van Duyn, I didn't get the -- or didn't retain the last name of the consultant that Senator Blue identified, but did the same gentleman -- his first name was Kareem -- did he draw your proposed amendment to Guilford?

SEN. VAN DUYN: Senator Bishop, with the Chair's permission, I worked with Senator McKissick on this. I can't answer that honestly because I don't know who he consulted with. Can I ask Senator McKissick that question?

SEN. BLUE: I'll allow that. You may need to identify yourself for the---

SEN. McKISSICK: Sure. This is Senator Floyd McKissick, Senator District 20. There is a gentleman who was used by the name of Mr. Kareem Crayton, C-r-a-y-t-o-n, who worked closely with this in looking at potential alternative plans for
the Guilford County as well as for Mecklenburg County, with the goal of trying to see what alternative configurations might be put forth for those particular clusters that would present an alternative for this Committee and for this body to consider as you move forward.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: Senator Van Duyn, what does Dr. Crayton have against Senator Wade?

SEN. VAN DUYN: I don't believe he has anything against Senator Wade.

SEN. BISHOP: If you see on the map in your amendment, the little red dot there underneath the green District 28 and it's just in 27. I think that's Senator Wade's home, and that's in Senator Dr. Robinson's district, as I understand it. Is that correct?

SEN. VAN DUYN: No one's been double-bunked in this.

SEN. BISHOP: Do you know whether that district is favorable to Senator Wade's prospects for reelection or not?

SEN. VAN DUYN: I'm sorry. I honestly do not know.

SEN. BISHOP: And did not give that
any -- do you know whether Dr. Crayton gave any
collection to that in drawing the map?

SEN. VAN DUYN: We believe it would be
favorable to Senator Wade. I think, if you look at
the statistics that are attached, you can see that
that, in fact, is the case.

SEN. BROWN: Senator Clark, I'm going to
let you take off, and I'm going to let Senator
Bishop think about that for just a second. I think
he's got another question, but go ahead.

SEN. CLARK: Thank you, Mr. Chairman. I
think, Mr. Hise, when you were addressing Senator
Blue regarding what you would tell the Courts, you
would tell them that maybe we had exceeded the 50
percent mark as the result of a naturally occurring
district. I find that sort of puzzling because one
of our members Senator Erica Smith-Ingram did
submit criteria to this particular Committee which
said that we would recognize naturally occurring
districts. However, that was voted down. So are
we saying that is now an acceptable criteria?

SEN. HISE: That is the statement of your
Plaintiffs -- I'm sorry -- of the Plaintiffs in the
case.

SEN. CLARK: Follow up.
SEN. BROWN: Follow up.

SEN. CLARK: Since you did mention the idea of a naturally occurring district, I even admitted at the time when one the members -- fellow members set it forth, I really didn't what the heck that meant anyway. So since you've considered that as appropriate, what is a naturally occurring district anyhow?

SEN. HISE: I simply stated with what you have with the reference. You can refer to their counsel as to what they meant when they referenced that, but districts come in at various percentages based on the way individuals group together and the way those are followed in without an intent or without a specific purpose of the General Assembly in drawing those maps.

SEN. BROWN: Senator Bishop, are you ready now?

SEN. BISHOP: I think so. Thank you, Mr. Chairman. Senator Van Duyn, do you know how many municipalities you split in your proposed amendment?

SEN. VAN DUYN: I believe we have minimized the splitting of municipalities with this map.
SEN. BISHOP: My understanding is that the amendment splits eight municipalities, whereas the leadership's plan only splits four. Do you know that not to be correct?

SEN. VAN DUYN: I'm sorry. I am not sure of the exact number.

SEN. BROWN: Follow-up, Senator Bishop?

SEN. BISHOP: Kareem Crayton who helped you, I've been given some information that he's a widely cited expert on the intersection of law, politics, and race, and that his work -- formal training in law and political science whose primary work explores the relationship between race and politics and representative institutions. Is that Dr. Crayton that helped you?

SEN. VAN DUYN: Yes.

SEN. BLUE: I'll say -- if I ---

SEN. BROWN: Senator Blue, go ahead.

SEN. BLUE: I'll add something to that since I know Dr. Crayton and I knew him well when he was a professor at Chapel Hill. He is nationally acclaimed, has written in this area, and all of the traditional, I think maybe Yale and Stanford or some different combination, and has spent his career in studying race and its
intersection with politics and critical race theory.

And, consequently, he would have some opinions that would be respected as to what a gerrymandered district would look like because he's written about them and studied them. And so that was one of the reasons that he was attractive to us because the Court said these are gerrymandered districts. So rather than just eyeball on a computer terminal in trying to put stuff together, we figured we ought to talk to somebody who understood what gerrymandered districts look like. So you get the benefit of his couple of decades in writing and researching and teaching in this field.

SEN. BROWN: I'm just curious how he would know that.

SEN. BLUE: By studying them, doing extensive research. As I said, he is a lawyer and a political scientist, and his whole career has been in that field. It's like a neurosurgeon knowing that there are certain things that you touch in the brain and it causes a certain reaction. Inasmuch as a political science theory can be agreed to or confirmed upon folks with
different opinions, but that's his area of expertise.

SEN. BROWN: So that's his opinion, I guess. Senator Bishop?

SEN. BISHOP: If I can just offer a comment, Mr. Chairman. You know, first of all, I'll say put in mind when you described Dr. Crayton. So he's a political science and lawyer. Nick Stephanopoulos -- he's not a statistician. He's a political -- poli sci undergrad. Then he went to Obama for America and then he went -- and he's a lawyer. We've got a lot of political scientists and lawyers in this thing trying to tell us how statistics and things can get worked out with great certainty, and they just don't make common sense to me.

In this instance, you have Senator Van Duyn not even aware of how many municipalities are being split. It's a classic example of subordinating traditional districting principles to an absolute fixation on race, and I would hope the Committee doesn't accept this amendment.

SEN. BROWN: Senator Hise?

SEN. HISE: Thank you, Mr. Chairman.

Just to summarize again, it is clear counter to the
criteria established by this Committee that members are assigned to districts on the basis of race, race was used for drawing maps, it increases the number of municipalities that have been divided, also counter to the criteria of the Committee, and I would ask that members reject the amendment.

SEN. BROWN: Any other questions? Senator Van Duyn?

SEN. VAN DUYN: I'd like to make a couple of clarifying remarks. One is that both the 2017 maps that were presented by Senator Hise and this map do split municipalities, and I apologize for not having the comparison in terms of numbers, but this map was also drawn to accommodate incumbents, and I just wanted to point that out.

And then, finally, I just think it's important to say that one does not have to use race if you're drawing racially gerrymandered districts if you start out with district that was racially gerrymandered, and when we look at the 2017 maps that were presented by Senator Hise, we see a map that looks like it was based on the map that the Courts found to be racially gerrymandered. So with all due respect, the only way to make sure that it is not, in fact, the case is to consider race.
SEN. BROWN: Any other questions?

Senator Hise?

SEN. HISE: Just a real quick comment. You know, I'm sorry that you look at a map that tends to outline the city limits of Greensboro and tend to think that that is now a racially motivated line that's coming in. Race was not considered. These maps are significantly different in size, shape, and population from what the previous maps that existed and the population, and any sort of eyeball comparison that "we think that kind of looks like the last one so you're in violation again" really misses the entire spirit of what is required for identifying racially polarized voting and making sure that it is occurring or not occurring and how you address that under the Voting Rights Act.

SEN. BROWN: Any other questions or comments on this amendment? If not, again, I'm going to ask you to raise your hands. All those in favor of the amendment, please raise your hand.

(Show of hands vote.)

SEN. BROWN: Those opposed?

(Show of hands vote.)

SEN. BROWN: I have nine against and four
for the amendment. So the amendment fails.

Next, I have Senator Blue. I think this
is a statewide map.

SEN. BLUE: It is. Yes, it's got---

SEN. BROWN: Senator Blue, I don't know
if they've passed it out. Let me make sure.

(Pause in proceedings.)

SEN. BROWN: Okay. Senator Blue?

SEN. BLUE: Thank you, Mr. Chair. This
map is denominated Covington Senate 27P remedy map,
and it pretty much affects the same counties that
we've talked about, the four urban counties
primarily, of Mecklenburg, Guilford, Wake, and
Cumberland. It's somewhat different than the two
maps -- the three maps that we talked about
earlier, especially the two with Guilford and
Mecklenburg.

Yesterday the attorneys for the
Plaintiffs in this case sent a letter to -- I think
to the Committee Chairs saying that they had some
ideas as to how to fix this since they represented
the Plaintiffs, and they wanted to talk about some
of their suggestions. I then authorized staff to
draw legislation and let's see what the remedy map
by the Plaintiffs would look like. This is it.
So to relieve any of Senator Bishop's angst, Dr. Crayton didn't help draw this map.

SEN. BISHOP: He did not?

SEN. BLUE: No. This is the map that the Plaintiffs -- this is the remedy that the Plaintiffs have offered and suggests that would basically resolve this case. And all the statistics relating to it are attached. We had staff run it through the same statistical analysis that the earlier maps were run through, and you'll see those are in the back of the map.

So it only affects the areas that were ruled unconstitutional and the areas around the nine districts where we had the controversy that's brought us back here. And so I'll answer any questions about it, but it -- just briefly, it strictly complies with the whole county provision. It just deals within clusters. It avoids pairing incumbents. It's kept all the incumbents separated. It cures the defects in all of the racial gerrymanders in these -- primarily in these four counties.

It does not -- it is not designed to give any particular party a particular advantage, and you'll look at the statistics and you will see. I
mean, to be perfectly frank with you, folks, it's hard for you to preserve 35 seats as an advantage without doing strange stuff. But this map does not set out to give any particular advantage to Democrats or Republicans, and I think if you analyze it, it still shows substantial advantages for Republicans if you analyze on the map based on the presidential election data and the other elections that you've used. But it does -- it makes it a fairer contest. It doesn't guarantee anybody's specific election, but at least it gives people a shot -- citizens a shot to choose their representative.

Again, it complies with all state and federal law including the law that was raised in the letter, I think, to Chairman Hise about redistricting districts that were not affected by the Court's decision. They pointed out in that letter -- and I take it you got the letter -- they pointed out in the letter that there were some additional issues raised by these maps in violation of the state constitution. It's a pretty thoughtful letter, a two-page letter.

And so once I saw that and saw that maps that they had finalized on, I thought it was
appropriate to put the third map before you so that you can debate it, analyze it, and figure out whether -- if you wanted to incorporate it into your maps or at least certain aspects of it. Because, again, it adopts all the traditional criteria, and it uses most of the criteria that we adopted as a committee, and here it is before you.

SEN. BROWN: Senator Blue, one real quick question before I let Senator Hise speak. You ran the amendment on Wake County. It looks to me like this is different than that amendment for Wake County. I'm just curious of that particular piece.

SEN. BLUE: It is. It's different from the amendment in Wake County.

SEN. BROWN: Senator Hise?

SEN. HISE: Thank you, Mr. Chair. You know, I think that perhaps the ridiculous nature of this probably -- of this map speaks for itself, but that somehow the remedy is to try to draw Guilford, Wake, and Mecklenburg County in such a manner that no Republican would be represented in any of those areas that would be coming through. So some sort of rectification for the fact that urban areas tend to -- what, 15 counties vote Democrat in this state and 85 vote Republican -- is that we should take
those areas and make sure that they're all Democratic representatives that were coming in. It, for no good reason whatsoever, goes after Senator Barringer and Senator Chaudhuri to place them double-bunked together. It takes Senator Robinson and Senator Wade, once again, for no good reason. Also, Senator Bishop and Senator Jeff Jackson in Mecklenburg, that it just wants to throw those in and see what it could change out.

I think that speaks much more to the motive of the Plaintiffs than anything that has to do with racial issues or others that have occurred in the state. For what they have done, I think this is not even a serious proposal that's coming in, and I would ask the Committee to reject it.

SEN. BROWN: Senator Blue?

SEN. BLUE: Thank you, Mr. Chairman. And I apologize to the Committee. I misspoke. I have looked at it. It does double-bunk in several districts. I was under the impression that it didn't. I present it to you because it is the proposal that the Plaintiffs have offered as their potential remedy that solves the issues that they've raised.

So I present it to you in that light and
acknowledge that Senator Hise is right. There are some places -- at least two or three places where it double-bunks in addition to the double-bunking in the Republican map. I think that that's accurate.

SEN. BROWN: Any other questions on this map? Senator Bishop?

SEN. BISHOP: As one double-bunked, may I ask this question? There's a case I have in mind. It's called Cox versus Larios, and in that one party purposefully double-bunked a bunch of people of the other party. Now, in the maps that I understand are proposed by Senator Hise -- or the map -- the double-bunking there is all -- I think basically all hurts Republicans and it's all driven by the pods.

And I'm just a freshman, but would you think maybe taking not only me but Senator Wade and Senator Barringer out by double-bunking would be for a partisan advantage?

SEN. BROWN: Senator Blue?

SEN. BLUE: I'll say this much. I think that when they drew the map, they're not as politically sensitive as those who serve, and so I look at the Wake portion of the map where they
double-bunked -- who is this? In 15, is that--

          SEN. HISE: Chaudhuri.
          SEN. BLUE: --- Chaudhuri and---
          SEN. HISE: Barringer.
          SEN. BLUE: --- Johnny Mac Alexander?
          SEN. HISE: Chaudhuri and Barringer, I think.

          SEN. BISHOP: It's Chaudhuri and Barringer, as I understand it.
          SEN. BLUE: It's not Barringer unless Chaudhuri is in the blue portion. I can't see. Somebody's on the line. Something that could be easily fixed if you wanted to follow the concept. I can't tell who it is because it's small, but it looks like it's Chaudhuri and Barefoot that have been -- I mean Chaudhuri and Alexander and Barefoot.

          SEN. BISHOP: Mr. Chairman?
          SEN. BLUE: Okay. But, anyhow, it might have some similarity to the Common Cause map, but this is what they submitted. And as a double-bunke, I don't know how you kick your bed mate out, but -- in Mecklenburg because you're double-bunked, you're right.

          And I think lastly -- I can't tell
whether Senator Lee is double-bunked, but all of these districts are drawn so close to the line that if you are interested in pursuing this concept, you could easily fix it because it looks like the districts next to them are empty districts.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: I would just observe that in double-bunking me with Jeff Jackson, they did it in Plaza, Midwood, and East Charlotte, not down in Ballantine and Matthews. I'm sure that's coincidental. But do you know who -- who was the "they" who prepared this?

SEN. BLUE: This is what the -- Plaintiffs' counsel asked could we take a look at what they proposed, and so, consequently, I had staff reduce to the form that we understand, that is, maps and legislation, that would accomplish what they proposed as their remedy.

SEN. BISHOP: Do you have any knowledge who helped them, who their consultant was, who the map drawer was?

SEN. BLUE: I don't know specifically who did it.

SEN. BROWN: Senator Bishop?

SEN. BLUE: I had no role in choosing who
they used. I don't know. I can't say specifically who they hired or paid for.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: Who's the counsel you're referring to?

SEN. BLUE: Counsel for the Plaintiffs.

SEN. BISHOP: Is that Anita Earls?

SEN. BLUE: Yes. And so Anita then -- I had it sent it to staff. She sent it. There is communication with her.

SEN. BROWN: Follow-up, Senator Bishop?

SEN. BISHOP: If we were to adopt this amendment, it would undo -- I think you already said in response to the Chairman -- what you have already done by another amendment to Wake. It would also undo what we did for Senator Clark's district in Cumberland, right? Sir?

SEN. BLUE: Yes, that's correct.

SEN. BISHOP: I don't understand the purpose of this, then. Is it a litigation tactic to propose this?

SEN. BLUE: No. I offer you what the Plaintiffs have suggested their thoughts are about this remedy for the gerrymanders.

SEN. BISHOP: If I may, but you're
proposing---

SEN. BROWN: Senator Bishop.

SEN. BISHOP: You're proposing it as an amendment for this Committee to adopt, aren't you?

SEN. BLUE: For the Committee to adopt, yes, but I know that before committees adopt stuff, they look at it, and if you see something good in it that you like, the Committee could do a committee substitute and fix some of the obvious problems that you see in it.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: Do you and Senator Clark support the adoption of this amendment?

SEN. BLUE: Yeah. But I probably would support a committee substitute if you want to fix some of the problems that you're suggesting because I'm a realist and a practical guy, and I know what the chances are that you'll adopt the amendment.

SEN. CLARK: And I'd like to add something also to that.

SEN. BROWN: Senator Clark?

SEN. CLARK: During the public hearings, many of our citizens indicated that they wanted us to pass maps that took into consideration their interests and their needs, not the needs of the
politicians. They want to be able to elect those who represent them.

If adopting this map -- which I can see the one that has partisan neutrality -- all this has a slight Republican edge to it. It's far less than what it is today, but if that means putting me out of office, I would gladly accept this map if it would provide for partisan stability or partisan balance throughout the state of North Carolina so that the individuals whom are elected to come here and to serve them are elected based on fair and nonpartisan maps.

SEN. BROWN: Senator Bishop?

SEN. BISHOP: My good friend, Senator Clark, and I hope to be a much better friends, but I will say that comes with poor grace given that your amendment was designed, in part, to fix an incumbency issue. And let me say this. Incumbency can be a problem, but what the Supreme Court of the United States recognized in Cox versus Larios is that you also can use double-bunking as a means of ripping down your partisan opponents.

The maps that are proposed by the majority don't do anything of the kind. This map has a pattern that is -- it cannot be imagined to
be a coincidence. It takes out two of the most senior members of the Republican majority and little old me. And I don't -- I mean to then profess that incumbency is all about protecting selfish officeholders is really a little bit too much. And I hope -- I trust that the Committee will not adopt this amendment.

SEN. BROWN: Senator Hise?

SEN. HISE: Thank you, Mr. Chairman. You know, perhaps the veils start to come off at this late hour, and we start to see that what the real motives behind all this is, an attempt to lessen the number of Republicans that represent in the Senate. That is the motive I think you see in these districts behind what they've proposed as a remedy. Senator Clark said even if it meant giving up his own seat, if he could just reduce the number and bring it to more balanced, he would do so.

I think we're seeing what the purpose is of why this is a court case in general, why we are here and others, and really the motives behind it. I think this map is their attempt to exemplify that and to see what manner in which they can hope to get additional seats regardless of how it affects minorities, incumbents, or others within this
state.

So I, again, would ask the Committee that we would reject this map, not even really from a committee member but submitted on their behalf and counter to previous amendments and to most of the criteria this Committee adopted.

SEN. BROWN: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman.

Senator Hise, you did represent my intent very well. As a matter of fact, I did submit criteria for recommendation that said that one of the objectives of the Committee should be to obtain partisan balance and partisan neutrality, whichever term you want to indicate. And, yes, that might end up meaning a reduction in the number of Republicans in the North Carolina Senate. But, like I said, I believe that we should have fair maps that provide for representation with respect to the way the people need it. Thank you.

SEN. BROWN: Senator Clark, they wouldn't be gerrymandered maps, would they?

SEN. CLARK: Oh, absolutely not. As a matter of fact, the efficiency gaps on those maps, you'll see that pretty much they still -- even these as well as the Common Cause map has about a 4
percent positive lean towards Republicans. As a matter of fact, if we're talking about what's gerrymandered, you can clearly see what's going on in Senate District 21, my particular district, which remains gerrymandered.

I mean, like I said, it's going to set up a situation where essentially I don't have general election opponent, and I'll pretty much walk back into the office here because of the way it's gerrymandered. If it was a balanced cluster, the Cumberland/Hoke cluster, what we would have is we'd have a more competitive district where I would actually have to run hard in the general election as well as my opponent across the aisle, which I think would serve the people of Cumberland and Hoke Counties better to actually have more competitive races as opposed to cakewalks during the general election.

SEN. BROWN: Senator Clark, I've got to respond to that. Would you say, then, this map that was just introduced as an amendment doesn't gerrymander in any way?

SEN. CLARK: It certainly does not. As a matter of fact -- or at least -- let me clarify that. With regard to the Hoke/Cumberland cluster,
I can explain that, if you want, with a little bit of time.

SEN. BROWN: But you say it doesn't -- in your mind, it doesn't gerrymander, is what you're saying?

SEN. CLARK: Oh, absolutely not. If you look at the Cumberland/Hoke cluster, which is Senate District 21 and 19, which is this block up at the top there. And what it does is, it's like -- the intent of the Committee was to not split cities so it does not split Spring Lake, it does split Wade, does not split Falcon, does not split Eastover, does not split Hope Mills. In Senate District 19, no municipalities split except Fayetteville, which is split anyway, it's so large you're going to have to split it. And what it does is it keeps Fort Bragg -- Fort Bragg and Spring Lake with Senate District 21 and pretty much the southern border, it runs down slightly north of -- or should I say south of the Fort Bragg area.

Now, if this thing was -- like I said, it's not gerrymandered because it doesn't provide anyone any significant political advantage over where we're at right now. As a matter of fact, like I said, it would my task of becoming reelected
more difficult, and it might provide a little bit more of a challenge for Senator Meredith as well. But the people indicated time and time again during the public hearings that what they wanted is more fair and competitive elections.

This map is not something that would necessarily be in my best interest, as I say, if you're trying to win a general election. It is the furthest thing away from a gerrymander as you can get.

SEN. BROWN: I would disagree. When you look a few of these counties, I think it's pretty clear what this map is. Senator Hise, any other comments?

SEN. HISE: No.

SEN. BLUE: Just one clarifying -- if I could?

SEN. BROWN: Senator Blue?

SEN. BLUE: Because in listening to the discussion, I think that the point that needs to be made is that, again, we did some amendments, and I think appropriately so, but in looking at the statistics on this map -- and, again, I didn't draw it, but I'm just looking at it. I heard all the public comment. I've been following the Common
Cause's arguments over the last several years and as they've gotten more intense over the last year.

But when I look at this map and the Wake County districts, it's got two outright wins by Richard Burr and two that were at the 49 percent level, but two outright wins of over 50 percent, and I think it's got only one -- only one of the districts in Wake County voted Democratic in that election. There are also people who really want to move away from partisanship when it comes to making districts because that's how you get, I think, the debate going on so that the best ideas emerge, and we don't sort of resort to our tribal instincts within our respective caucuses and you get to discuss things in a much deeper and richer way in an election because you've got to debate and you've got to tell people what you stand for and that you'll be responsive to them, and there are some people very interested in that.

And winning 52, 53 percent in an election is not that bad. It basically recreates a riddle and you start addressing issues that need to be addressed. That's what these maps seem to do at least in Wake County, and again, I can't speak for the others because in Wake County in that Marshall
race, she was a resident of Wake County and lost four districts -- or lost three districts -- lost one -- two of them by one percentage point. That's a competitive district.

And I haven't had a chance to analyze it by the other seven or eight races that you used, but I would venture, if you put those races on this map, you will find those to be pretty competitive. You know, are there other configurations that -- if I were doing it myself individually that I'd have probably tried to come up within Wake County, I probably would have. Would partisanship have gone into a greater degree? Probably would have, but I think that we just can't cast a stone at everybody who has a different idea as to what competition is in these races.

And I bet you, if you go through that map and you look at these districts, you will find many more 48-52 districts, and they roll with the tide, depending on what the issues are and what people are thinking, and I happen to think that districts like that are more helpful too because it makes all of us gravitate toward the middle a whole lot more.

SEN. BROWN: Senator Clark?

SEN. CLARK: Thank you, Mr. Chairman.
And one more note regarding partisan advantage. I would like to remind the Committee that I was the one that submitted criteria that said partisan advantage would not be a criteria of this particular Committee, and that criteria was voted down.

SEN. BROWN: Senator Hise?

SEN. HISE: And just to follow up, I would say regardless of what was proposed and rejected, that is not the criteria of this committee that's coming in. And so, finally, I would ask that members would reject the amendment as proposed.

SEN. BROWN: Senator McKissick, you're not on this Committee. I'm sorry.

Any other comments or discussion on this amendment?

SEN. BROWN: If not, again, I'm going to ask you to raise your hands. All those in favor of the amendment, raise your hand.

(Show of hands vote.)

SEN. BROWN: Those opposed?

(Show of hands vote.)

SEN. BROWN: The amendment fails nine to four.
All right. That should bring the bill before us. So any discussions on the bill?

SEN. BISHOP: Mr. Chair?

SEN. BROWN: Senator Bishop.

SEN. BISHOP: If it's the appropriate time, I make a motion for a favor report to the PCS as amended rolled into a new PCS and changing the short title to read 2017 Senate Redistricting Committee Plan.

SEN. BROWN: Any discussion? Any more discussion? If not, again, I will ask you to raise your hand. All those in favor of Senate Bill -- the PCS rolled into a PCS -- into a new PCS and changing the short title to 2017 Senate Redistricting Committee Plan. All those in favor, raise your hand.

(Show of hands vote.)

SEN. BROWN: Those opposed?

(Show of hands vote.)

SEN. BROWN: It passes nine to four. I think that's right. Nine to four, so the bill passes. Anything else before the Committee? If not, we're adjourned.

(The proceedings were concluded at 6:25 p.m.)
STATE OF NORTH CAROLINA
COUNTY OF ROCKINGHAM

CERTIFICATION

This is to certify that the foregoing transcript of proceedings held on August 24, 2017, is a true and accurate transcript of the proceedings as transcribed by me or under my supervision. I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

Certified this 30th day of August, 2017.

[Signature]
Rebecca P. Scott
Notary Number
19940530133

Notary Public

Worley Reporting