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TRANSCRIPTION OF THE RECORDING OF

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"TOURISM COMM MAY 17 2017"

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18 was transcribed May 27th, 2017, by Alana Vines,

19 Commissioner and Notary Public, State of Alabama

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<p style="text-align: right;">Page 2</p> <p>1 TRANSCRIPTION</p> <p>2</p> <p>3 MALE SPEAKER: Here.</p> <p>4 THE CLERK: Senator Singleton?</p> <p>5 SENATOR SINGLETON: Here.</p> <p>6 THE CLERK: Senator Holley?</p> <p>7 SENATOR HOLLEY: Here.</p> <p>8 CHAIRMAN: We do have a quorum. We</p> <p>9 have two bills on the agenda today, both --</p> <p>10 Representative Davis has both of these bills. I</p> <p>11 wonder if we may -- if we could, let's go to</p> <p>12 House Bill 550 first, it's going to be the least</p> <p>13 complicated, and I'm waiting for Senator</p> <p>14 Singleton to get here. So let's deal with this</p> <p>15 one. Mr. Davis will explain House Bill 550 to</p> <p>16 us.</p> <p>17 REPRESENTATIVE DAVIS: Thank you.</p> <p>18 Thank you, ladies and gentlemen, committee,</p> <p>19 Mr. Chairman. This is amending existing law</p> <p>20 here in the State of Alabama relative to state</p> <p>21 employees who travel in and out of the state</p> <p>22 relative to conferences, conventions, meetings</p> <p>23 with national organizations or meetings that</p>	<p style="text-align: right;">Page 4</p> <p>1 is subject to question without a provision. And</p> <p>2 so we have an amendment that was added to this</p> <p>3 that provides the president of the senate to</p> <p>4 approve travel for the senate and authorize that</p> <p>5 since we do not have a lieutenant governor and</p> <p>6 that would strike the language from the -- from</p> <p>7 the bill as well.</p> <p>8 CHAIRMAN: So, basically, what</p> <p>9 you're saying in the situation where you don't</p> <p>10 have a lieutenant governor in office, it reverts</p> <p>11 to the -- but if the lieutenant governor is</p> <p>12 there, they have that authority?</p> <p>13 REPRESENTATIVE DAVIS: That's</p> <p>14 correct.</p> <p>15 CHAIRMAN: Okay.</p> <p>16 REPRESENTATIVE DAVIS: That's</p> <p>17 correct.</p> <p>18 CHAIRMAN: And the way I did -- in a</p> <p>19 nutshell, what you're basically doing is trying</p> <p>20 to encourage some of these conferences to be in</p> <p>21 state by providing full pay like they do out of</p> <p>22 state, but still the state, in essence, saves</p> <p>23 money because they're not paying for air travel</p>
<p style="text-align: right;">Page 3</p> <p>1 they're involved in where it's sanctioned by the</p> <p>2 appropriate division of government, whether it's</p> <p>3 the governor's office, the lieutenant governor,</p> <p>4 the legislature, house of representatives, all</p> <p>5 the way down through. What we have is we have</p> <p>6 an inordinate number of people that are leaving</p> <p>7 the state and we have provisions in the state</p> <p>8 for conferences. And so, essentially, if you</p> <p>9 went out of state, you're reimbursed at full</p> <p>10 cost for what the conference is. And so what</p> <p>11 we're looking at for -- in this particular piece</p> <p>12 of legislation, it just is amending on Page 2</p> <p>13 other meetings of a state or national</p> <p>14 organization of which the state or any</p> <p>15 (inaudible) are dues paying members. Wouldn't</p> <p>16 change anything if I'm an auditor and I'm going</p> <p>17 to -- from Montgomery to Jefferson County to do</p> <p>18 an over day -- an overnight audit, none of that</p> <p>19 would change. It would be specifically for</p> <p>20 conventions.</p> <p>21 There's also an amendment,</p> <p>22 Mr. Chairman, in this that currently with the --</p> <p>23 not having a lieutenant governor, the senate pay</p>	<p style="text-align: right;">Page 5</p> <p>1 and other things; right?</p> <p>2 REPRESENTATIVE DAVIS: And distance</p> <p>3 and pretty expensive rooms. And, you know, with</p> <p>4 conference centers coming on in -- and I'm --am</p> <p>5 particularly interested in South Alabama, there</p> <p>6 are possibly 2,000 new rooms that will be coming</p> <p>7 in. Another facility in Foley will be opening</p> <p>8 up at the -- in the next year. So that there</p> <p>9 are a significant number of opportunities to</p> <p>10 host a 2,000-member conference in South Alabama.</p> <p>11 The gist of most conferences</p> <p>12 statewide here are 500 members plus. And being</p> <p>13 able to have our people stay in town and let</p> <p>14 people come to a conference in this state, I</p> <p>15 think encourages tourism from this shoals area</p> <p>16 all the way to, you know, the full state.</p> <p>17 CHAIRMAN: Any questions? Senate</p> <p>18 Smitherman?</p> <p>19 SENATOR SMITHERMAN: Mr. Chairman,</p> <p>20 in the same spirit that I talked yesterday, as</p> <p>21 it relates to my senator who is on the board in</p> <p>22 Athens, do you-all remember that conversation?</p> <p>23 I move in favor of voting the same bill in spite</p>

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<p style="text-align: right;">Page 6</p> <p>1 of yesterday. I move for favorable report. 2 CHAIRMAN: Do we have a second? Any 3 other questions? Okay. Let's call the roll on 4 passage. 5 THE CLERK: Senator Albritton. 6 SENATOR ALBRITTON: I. 7 THE CLERK: Senator Beasley? 8 SENATOR BEASLEY: I. 9 THE CLERK: Senator Melson? 10 SENATOR MELSON: I. 11 THE CLERK: Senator Pittman? 12 SENATOR PITTMAN: I. 13 THE CLERK: Senator Sanford? 14 SENATOR SANFORD: I. 15 THE CLERK: Senator Smitherman? 16 SENATOR SMITHERMAN: I. 17 THE CLERK: Senator Singleton? 18 SENATOR SINGLETON: I, with 19 reservation. 20 THE CLERK: Senator Marsh? 21 SENATOR MARSH: I. 22 CHAIRMAN: It receives favorable 23 report. Stay where you are, Representative.</p>	<p style="text-align: right;">Page 8</p> <p>1 federal court rule that the legislature 2 districts weren't constitutional. 3 Then in January of 2014, the Alabama 4 Black Caucus and the Alabama Democratic Caucus 5 became plaintiffs in that particular case and 6 filed a suit that enabled 15 of the supreme 7 court had a five, four decision that asked the 8 prior court to reconsider whether the 2012 9 district were constitutional or not. 10 Essentially, in January, what he -- 11 we was -- was asked to do was to consider nine 12 house districts and three senate districts. And 13 so those senate districts y'all have worked with 14 20, 26 and 28 and the House 32, 53, 54, 70, 71, 15 77, 82, 85, and 99. 16 Now, after that case was 17 established, we went in to look at redrawing the 18 district, putting precincts back together, split 19 precincts back together, and then reducing the 20 number of county cross district lines, if you 21 will, the county boundaries. Essentially after 22 that, we had the case in Virginia in March of 23 2017, which is known as the Bethune-Hill case</p>
<p style="text-align: right;">Page 7</p> <p>1 REPRESENTATIVE DAVIS: Staying where 2 I am. Okay. 3 CHAIRMAN: Okay. Now, we are coming 4 to House Bill 571, the reapportionment. And I 5 believe you are handling this as well, 6 Representative? 7 REPRESENTATIVE DAVIS: I can or -- 8 CHAIRMAN: Do you want to give us a 9 quick -- 10 REPRESENTATIVE DAVIS: Along with my 11 colleague, Mr. Dial, will be handling this. 12 CHAIRMAN: Well, this is the house 13 version; correct? 14 REPRESENTATIVE DAVIS: Yes. 15 CHAIRMAN: Okay. I would like to 16 hear what you got to say about it. 17 REPRESENTATIVE DAVIS: Okay. Well, 18 good. Let me just say that this has been an 19 ongoing process since early January with our 20 particular members of the reapportionment 21 committee. After Judge Prior's court had a 22 ruling that -- that came out -- of course, we 23 had in January or in December 2013 a three-judge</p>	<p style="text-align: right;">Page 9</p> <p>1 came out. And the opinion of the court that all 2 of the black districts need to be redrawn and -- 3 either in the senate and the house. 4 Essentially, what we've done is worked with the 5 plaintiffs attorney, who sent on this particular 6 day, this -- these are -- this is a list of 7 redraws that we've had. Senator Dial 8 reapportionment committee was reestablished. We 9 worked with each member. As the plaintiff 10 attorney sent in their requests, we would 11 overlay the existing district and see where we 12 needed to reduce the number of splits in 13 precincts, where we could reduce the size of the 14 scope of a person having multiple counties. 15 We were able to reduce the -- 16 significantly the number of dis -- of county 17 line splits. When you look at -- do the math on 18 4.7 million and our deviation at one -- one -- 19 one-to-one deviation, one man, one vote, we're 20 looking at 45,521 was the optimum number that we 21 were looking at plus or minus on either side of 22 one percent. 23 So, we were -- are within deviation</p>

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<p style="text-align: right;">Page 10</p> <p>1 of all of those things, which follows the 2 traditional principles of redistricting. As 3 I've said to most folks, this is not the 4 reapportionment year to do this. In 2020, the 5 census will pass that 2021 is what they will 6 probably ask for a redraw. So that is 7 completely coming. There was a debate about 8 Jefferson County, the number of senate seats in 9 Jefferson County. And now we've got the number 10 of house seats. We reduced in the house plan 11 from 10, 8 to 9, 8. The -- do -- 675,000 on 12 Jefferson County, just doing the math, it's a 13 flat, you know, 15-member district. 14 So it's -- you have to reach out to 15 the other counties to -- to bring in population 16 to complete a 18-seat district to complete the 17 45, 5 in Jefferson County. Communities of 18 interest are still held in the interest of those 19 committees, so we maintained that where we 20 could. And so that is generally what the 21 legislation has been about, and I'll be glad to 22 answer any questions at this point. 23 MALE SPEAKER: Any questions for</p>	<p style="text-align: right;">Page 12</p> <p>1 didn't do an 8, 8 or a 9, 8 or move from 10, 8. 2 We did -- were able to adjust -- 3 SENATOR SINGLETON: Well, I just 4 want to know could it have been done? 5 REPRESENTATIVE DAVIS: I'm sure it 6 could have been done. 7 SENATOR SINGLETON: Okay. With the 8 rippling effects, the Court made it clear and 9 even in Bethune and there are other cases out 10 there that talks about the rippling effect, that 11 you should not draw a district based on what the 12 rippling effect would be, trying to hold down 13 the ripple. And I think that, based on your 14 testimony right then, you was trying to hold 15 down the ripples. 16 REPRESENTATIVE DAVIS: Absolutely. 17 SENATOR SINGLETON: So but the court 18 said that you should not. 19 REPRESENTATIVE DAVIS: Well, I -- I 20 don't -- 21 SENATOR SINGLETON: As a part of the 22 process? 23 REPRESENTATIVE DAVIS: And I don't</p>
<p style="text-align: right;">Page 11</p> <p>1 Representative Davis? 2 SENATOR SINGLETON: Yes. 3 CHAIRMAN: Senator Singleton. 4 SENATOR SINGLETON: Representative 5 Davis, in your house district, when you was 6 doing traditional methods, and I understand that 7 you said that you was doing the lay overs from 8 our attorneys, and when we look at Jefferson 9 County, because Jefferson County seems to be the 10 contingent here, would you agree that you 11 probably -- could you have drawn an 8, 8 in 12 Jefferson County of the senate on the house side 13 without disturbing any other of the districts or 14 staying within the traditional principles about 15 which the court asked us to do so? 16 REPRESENTATIVE DAVIS: And in doing 17 that, like, we started out with the -- with the 18 idea of just drawing the -- the -- redrawing the 19 black districts. But what you had is a ripple 20 effect that we've redrawn 70 house districts. 21 Some -- some adjustment in -- in over 70 22 districts was created. And in that, that was 23 not a part of the (inaudible) and advice we</p>	<p style="text-align: right;">Page 13</p> <p>1 have that particular direction that says to do 2 that. 3 SENATOR SINGLETON: Well, you've 4 got -- that direction didn't come from your 5 attorney? Okay. See, but -- and I think that 6 your attorney, again, has advised you-all in the 7 wrong way in terms of, I think, where we're 8 going to be with this court case again is that 9 you did not go further enough in terms of what 10 the court said in terms of trying to hold down 11 rippling effects. You was trying to hold back 12 those ripples that maybe said that these 13 counties up here wasn't effected by this. But 14 you can't draw this many districts in the State 15 of Alabama without having some ripple effects. 16 Even if you try to minimize them as much as you 17 possibly can because we have maps to be drawn 18 and show that we could do what we're asking to 19 be done and plus minimize the rippling effect 20 to -- in terms of (unclear) and keep counties 21 hole and then communities of interest there. 22 And I'm sure Senator Smitherman would make that 23 -- that case here in a minute.</p>

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<p style="text-align: right;">Page 14</p> <p>1 So all I just wanted to say is that</p> <p>2 I think it can be done and I think that even</p> <p>3 with the senate plan, with the house plan, I</p> <p>4 still say the same thing, that you did it based</p> <p>5 on the rippling effects in trying to minimize</p> <p>6 them but you was holding back too many when the</p> <p>7 courts say that you shouldn't have.</p> <p>8 REPRESENTATIVE DAVIS: And, you</p> <p>9 know, our direction from the court was not about</p> <p>10 the rippling effect but to only deal with the</p> <p>11 districts that were relative to the Prior court,</p> <p>12 as in Judge Prior's court, and his Bethune-Hill</p> <p>13 court, so that's what we worked on.</p> <p>14 SENATOR SINGLETON: Bethune-Hill</p> <p>15 dealt with the rippling effect.</p> <p>16 REPRESENTATIVE DAVIS: Well, it also</p> <p>17 dealt with was drawing districts without race as</p> <p>18 a consideration.</p> <p>19 SENATOR SINGLETON: Exactly. So</p> <p>20 race is not a consideration in terms of what</p> <p>21 you're doing, so therefore the ripples will</p> <p>22 flow.</p> <p>23 REPRESENTATIVE DAVIS: And they did.</p>	<p style="text-align: right;">Page 16</p> <p>1 some comments?</p> <p>2 SENATOR DIAL: Yes, very quickly.</p> <p>3 And we all understand where we are today. We</p> <p>4 understand the process. We understand also this</p> <p>5 is house bill and you can change any bill we</p> <p>6 want to. But historically, and what the</p> <p>7 commitment I've made to the house member</p> <p>8 chairman and he had made to me is we would send</p> <p>9 them our senate plan, we didn't want them</p> <p>10 messing with our senate plan, and we agreed that</p> <p>11 we would try to pass what they planned. We</p> <p>12 understand the process. You can offer a</p> <p>13 substitute to a house bill, but this is a house</p> <p>14 bill. My commitment is the house has worked</p> <p>15 diligently on this and I'm going to try to pass</p> <p>16 the bill they want, they've sent to us,</p> <p>17 remembering that historically, as far back as I</p> <p>18 can remember, and I go back almost further than</p> <p>19 anybody in here, we have never taken a house</p> <p>20 bill or a senate bill and sent it to the other</p> <p>21 chamber where that other chamber begins to mess</p> <p>22 with their bill. So I would lay that</p> <p>23 foundation. I understand Senator --</p>
<p style="text-align: right;">Page 15</p> <p>1 And that's why we went from the 30 -- 28 drawn</p> <p>2 to 70 people we're including now. It's not to</p> <p>3 say that within each metropolitan area that we</p> <p>4 didn't work one on one with every member that</p> <p>5 wanted to. I asked members that just said, you</p> <p>6 know, if it's not 8, 8, don't show me a map.</p> <p>7 So, you know, I got that.</p> <p>8 I also worked, like, in South</p> <p>9 Alabama in Montgomery and Birmingham, in the</p> <p>10 Huntsville area, the Wiregrass area, we worked</p> <p>11 with the members to say here's the overlay,</p> <p>12 here's the plan, here's the reduction and, you</p> <p>13 know, and -- and they got to assist saying, you</p> <p>14 know, I want this school, I want this street.</p> <p>15 And so they were able to work in that respect on</p> <p>16 getting a really good district. Most of our</p> <p>17 members like their district. So, you know, they</p> <p>18 don't like the fact that it's 9, 8, but that</p> <p>19 was, to me, not a part of the core decree to say</p> <p>20 how many republicans or democrats are in any</p> <p>21 district, and that was not a part of what we</p> <p>22 worked at but just to work for the district.</p> <p>23 CHAIRMAN: Senator Dial, do you have</p>	<p style="text-align: right;">Page 17</p> <p>1 SENATOR SINGLETON: Senator, I think</p> <p>2 you lay an improper foundation to this committee</p> <p>3 before --</p> <p>4 SENATOR DIAL: Let me -- let me --</p> <p>5 SENATOR SINGLETON: -- we get into</p> <p>6 whether or not --</p> <p>7 SENATOR DIAL: -- finish my</p> <p>8 statement --</p> <p>9 SENATOR SINGLETON: -- it's</p> <p>10 constitutional or not. Here you are trying to</p> <p>11 bribe and tell the committee --</p> <p>12 SENATOR DIAL: No, sir.</p> <p>13 SENATOR SINGLETON: -- where we are</p> <p>14 going to --</p> <p>15 SENATOR DIAL: I'm trying to tell</p> <p>16 you my commitments.</p> <p>17 SENATOR SINGLETON: -- understanding</p> <p>18 what it is that --</p> <p>19 CHAIRMAN: Hey, hey, hey.</p> <p>20 SENATOR SINGLETON: That's wrong.</p> <p>21 SENATOR DIAL: I'm telling you my</p> <p>22 commitment.</p> <p>23 CHAIRMAN: Stop. Stop.</p>

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<p style="text-align: right;">Page 18</p> <p>1 SENATOR SINGLETON: That's the 2 problem we have here right now is -- 3 CHAIRMAN: Senators, stop. Listen, 4 as the chairman of this committee, let me tell 5 you the way it's going to work: I fully 6 understand your abstainment Senator Dial, and I 7 will say this to this committee, it would be 8 highly unusual, and I've never seen it, that a 9 reapportionment plan from the house was changed 10 by the senate or vice versa. But as respect to 11 Senator Smitherman, I would allow he to give a 12 presentation of what -- I guess, what the house 13 had perhaps offered. But -- and we'll have a -- 14 if he offers a substitute, we'll have a vote. 15 SENATOR SINGLETON: That's all we 16 ask. 17 CHAIRMAN: And the chairman is going 18 to give you that. 19 SENATOR SINGLETON: Well, I -- 20 CHAIRMAN: But the senator -- 21 SENATOR SINGLETON: I respectfully, 22 Mr. Chairman, that the chair of the committee, 23 when we all sit on the committee and we can talk</p>	<p style="text-align: right;">Page 20</p> <p>1 right, chairman of (unclear) counsel, you can 2 make this mic right. 3 I -- Mr. Chairman, in response to 4 some -- what was being said -- what's being said 5 is simply this, is that first of all, the -- 6 that the process -- I appreciate what you were 7 doing, allowing us to be able to present this. 8 I want to say that first. Because it is -- it 9 is a fact that last go round, we put the bill in 10 and the committee itself would not even take the 11 bill up. Now that's really what happened in 12 essence last go round. And in this particular 13 situation, and I don't mind sharing with you, I 14 chose to go to a substitute to where I could 15 actually get the bill before the committee to 16 present it. Last go round, we were blocked from 17 even being able to do that simultaneously. 18 I do want to go make a few, quick 19 comments in that I -- it's my understanding that 20 the courts sent us back to get together to see 21 if we could come up with a compromise plan. I 22 -- I'll stand corrected if anybody can show me 23 the court orders where it says that we're</p>
<p style="text-align: right;">Page 19</p> <p>1 about what -- fairness process and that -- okay. 2 We really can talk about what's been fairness 3 process. 4 CHAIRMAN: And, Senator, with that, 5 let's move on. Senator Smitherman. 6 SENATOR SMITHERMAN: Thank you, 7 Mr. Chairman. 8 MALE SPEAKER: His mic is this? 9 SENATOR SMITHERMAN: Okay. 10 CHAIRMAN: Whose mic is it? 11 SENATOR SMITHERMAN: It's mine. 12 MALE SPEAKER: You may want to 13 exchange mics. 14 MALE SPEAKER: Yeah. 15 SENATOR SMITHERMAN: I'll use this 16 one. Maybe it's a good one. Didn't nobody do 17 that on purpose. 18 CHAIRMAN: That's good, yeah. 19 SENATOR SMITHERMAN: Give me a bad 20 mic on purpose. 21 MALE SPEAKER: I was going to sit 22 there. 23 SENATOR SMITHERMAN: If you make it</p>	<p style="text-align: right;">Page 21</p> <p>1 sending you back and by the 22nd we want the 2 legislature to pass the plan. I think we keep 3 forgetting the concept that this is not sent 4 back based on the legislature as a whole to pass 5 any of the plans, we're sent back here because 6 the plaintiffs filed suit in court and the 7 courts ruled with the plaintiffs. So this is 8 not -- this is not something that they looked at 9 the overall plan to say that the legislature, we 10 want you to give us another plan. They said to 11 the legislator, we want you to give -- both 12 sides get together and we want both you-all to 13 bring us something back. 14 We do not meet the requirement of 15 the court if the -- only the legislature pass 16 the plan and one side passes the plan, i.e., 17 whether it be (unclear) and this case though 18 it's the majority. So I want to make just as -- 19 just as the Chairman of the Senate Committee 20 brought out some aspects and points that he just 21 did, I want to make sure everybody understood 22 that. Regardless of which way you vote, 23 understand that one point, that passing some</p>

<p style="text-align: right;">Page 22</p> <p>1 plan out of the legislature does not satisfy the 2 courts at all. 3 I'm not talking about the plan 4 itself. The first thing they're going to ask us 5 when we get there is did you all sit down and 6 come together on a plan as we instructed you, 7 and the answer is going to be no. Because the 8 senator was right about what he said that -- and 9 I think that nobody would deny that, when we 10 came to the meeting with this plan, the plan was 11 already put together and it was presented to the 12 committee. That's not -- that's just like y'all 13 being in here now and not getting a chance to 14 sit in this part, but you're a member of the 15 committee to decide whether or not you want to 16 make it whole or not from the beginning where we 17 start drafting something. 18 So it's not like a bill coming from 19 another legislator to a committee because the 20 committee itself was supposed to get together 21 and then produce a product. The process did not 22 do that. The process did the individual thing 23 that they're talking about. But, no, as a</p>	<p style="text-align: right;">Page 24</p> <p>1 with changes or not, so I just wanted to say 2 that first. 3 The -- the other thing that I -- I 4 do want to say that the -- the courts clearly 5 talked about the -- 6 CHAIRMAN: Senator? 7 SENATOR SMITHERMAN: Yes. 8 CHAIRMAN: I want to afford you the 9 time to present the plan. 10 SENATOR SMITHERMAN: Okay. 11 CHAIRMAN: So I would ask that we 12 follow the process. As we've all agreed, you 13 have every right to offer a substitute. I think 14 you made yourself very clear, you think this -- 15 it shouldn't matter. Senator Dial has made his 16 comments. 17 SENATOR SMITHERMAN: I leave my 18 comments -- 19 CHAIRMAN: But I want to see your 20 presentation. I want to have time to do it. 21 So, please let's try to get to the presentation. 22 SENATOR SMITHERMAN: Okay. 23 CHAIRMAN: If you want to offer your</p>
<p style="text-align: right;">Page 23</p> <p>1 committee, we didn't sit down as 22 -- whatever 2 number it is, as 22 people and say, "Here's a 3 piece of paper. All right. Now we've got to 4 get this mapped together." No, we did not do 5 that. So I want to be very clear that I don't 6 think anybody would dispute that fact, that we 7 didn't sit down as a committee and formally call 8 to do that. 9 Now the other thing is this: Is 10 that the -- the -- to -- I understand what's 11 been said about traditionally A, B, C and D, but 12 if we -- I think at the same time, you know, if 13 you look at the budget itself, the budget comes 14 from different chambers. But in those chambers, 15 those chambers make changes. And then those 16 changes goes to conference and they come out and 17 try to have a product that a compromise is made. 18 In this case, that's not the situation. 19 So there's nothing sacred about the 20 most important thing that we sit down and do, 21 and that was the budget. That's the only thing, 22 the major thing. And yet we change those all 23 day long, going back and forth, or we concur</p>	<p style="text-align: right;">Page 25</p> <p>1 substitute at this time. 2 SENATOR SMITHERMAN: Oh, we at the 3 point where we can offer the substitute? 4 CHAIRMAN: Well, I guess what we 5 need to do, we've got the bill before 6 us; correct? So you would be at the point if 7 you want to -- I would assume you want to offer 8 it -- 9 SENATOR SMITHERMAN: A motion to -- 10 MALE SPEAKER: We haven't adopted 11 it. 12 MALE SPEAKER: We haven't adopted 13 it. 14 CHAIRMAN: Okay. I make a motion to 15 adopt the Davis bill. 16 SENATOR SMITHERMAN: Mr. Chairman. 17 MALE SPEAKER: Second. 18 CHAIRMAN: Okay. And so it is 19 before us now, Senator. 20 SENATOR SMITHERMAN: Thank you. And 21 I would offer a substitute to SB571. 22 CHAIRMAN: Okay. And would you 23 please explain your substitute, Senator?</p>

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<p style="text-align: right;">Page 26</p> <p>1 SENATOR SMITHERMAN: I sure will, 2 Mr. Chairman. This -- this is the plan that we 3 offer as a substitute for Davis 571 and the 4 significance of this is that this is -- this 5 plan is based off of 571, which the committee -- 6 CHAIRMAN: It's working. 7 SENATOR SMITHERMAN: Yeah. Which 8 committee has presented as the bill before the 9 committee this morning. This plan modifies 10 HB571, the house plan, by taking H -- House 11 District 14, and I'll show it to you. This is 12 House District 14. It takes out District 14 all 13 the way out of Jefferson County. You see where 14 it is, it's up here in Washington. Right here 15 in Walker -- 16 MALE SPEAKER: Wintson. 17 SENATOR SMITHERMAN: I mean, Winston 18 and Walker. And the significance of this is 19 that the plan that you see here takes us right 20 back to where we were before we even filed this 21 suit, in that if this plan brings in 5,383 22 people so that it can be nine instead of 8, 8, 23 that's what you're looking at, the same problem</p>	<p style="text-align: right;">Page 28</p> <p>1 the county, there are 1, 2, 3, 7, 13, 17, 18, 2 41, 43, 49, 73 that have a small increase of the 3 population itself. All other districts in HB571 4 remain unchanged, but these were the only ones 5 that were necessary to have -- put those 6 populations in. It's that this modify increases 7 the number of whole districts. So, in essence, 8 this plan increases the number of whole 9 districts that we've talked about, and increases 10 from the number from 21 to 22 and the increase 11 is up here in Lamar. See, we made Lamar whole 12 again, completely whole up here. So we actually 13 increased the number of districts that were made 14 whole. 15 CHAIRMAN: Oh, you're saying you 16 have less ripple? 17 SENATOR SMITHERMAN: Well, you -- 18 you have -- you can -- you can say that the 19 ripple had no basis for what we were looking at. 20 We were trying to conform to what we consider 21 the rulings from the court in relationship to 22 our mandate. And so that's -- has been said up 23 here a little earlier, the rippling has --</p>
<p style="text-align: right;">Page 27</p> <p>1 we had with the -- with the senator from Walker 2 and the senator from Shelby where they brought 3 in, in the last plan that was drawn, brought in 4 a few thousand people to say now they're a part 5 of the delegation. 6 If you notice -- if you notice in 7 this plan not only to restore -- as I said to 8 restore the one percent deviation that the 9 committee has established in H house District 14 10 and House District 16, small changes have been 11 made in 13 other districts. Now, when you say 12 small changes because you've got 5,000 people, 13 you've got to put 5- or 600 or 700, whatever 14 that number here there, so that you can actually 15 keep with the one deviation -- one percent 16 deviation. So that was done in this particular 17 plan. 18 Also, so if the deviation came in 19 the districts of -- the small deviation in House 20 District 15 and 51 that's in Jefferson County, 21 there's 15, and there's 51 and House District 22 15. Those -- those are the two that have a 23 small deviation in the county. And then outside</p>	<p style="text-align: right;">Page 29</p> <p>1 was -- has no place in that order. 2 CHAIRMAN: But you're saying your 3 math has less -- less districts are impacted 4 than the other one is what you're saying? 5 SENATOR SMITHERMAN: Yes. I'm 6 saying in terms of the whole counties because 7 that's one of the things that we focused on was 8 making sure those county boundary lines were 9 respected. And in doing that, we were able to 10 even go a step further in respecting those 11 county boundary lines by making Lamar whole. So 12 if you look at Lamar over there -- over there -- 13 (unclear) you was talking about making Lamar 14 whole. It also reduces the number of house 15 districts in Jefferson County from 17 to 16 16 because you're not sticking 5,000 people to give 17 yourself a ticket in there. And if -- from 17 18 to 16. The number of districts in Winston 19 County from 3 to 2. So Winston County, instead 20 of having three people that represent them, now 21 they only have two: One representative down and 22 the other representative in that part. And the 23 number of districts in Lamar County, as</p>

<p style="text-align: right;">Page 30</p> <p>1 I mentioned, from two to one. It makes H House 2 District 17 a complete district out of two whole 3 counties, Marion and Lamar. And increases the 4 number of house districts in Walker County from 5 two to three. All other counties retain the 6 same number of districts as in HB71. 7 So his plan provides not only 8 respecting county boundary lines and making 9 another county whole, but it also respects the 10 fact that it makes Jefferson County whole and it 11 makes every person that represents Jefferson 12 County in here living in the county. So, in 13 other words, what we have a situation that 14 addresses -- the whole reason -- one of the 15 whole reasons why we are in court and that is 16 because we had all the people coming into the 17 county who did -- who only had a small number of 18 people and that didn't have a necessary 19 representation. So this plan does provide each 20 and every one of those steps that the court has 21 laid out and it improves it first from the plan 22 that the reason it was put in by the plan as 23 well it improves it tremendously from committee</p>	<p style="text-align: right;">Page 32</p> <p>1 SENATOR SANFORD: Right. 2 SENATOR SMITHERMAN: So that was the 3 aspect that keeping the county would have 4 representation for -- for the people in the 5 county that represented their interest. Their 6 interest with the person like that then of 7 course would be interest of those people who 8 they represent the majority would be controlling 9 but they would make decisions. 10 SENATOR SANFORD: So my question is: 11 Does that court order consider Jefferson County 12 more important than Madison County? Because in 13 the senate map, I believe there's only two 14 senators that live in Madison County, and so the 15 same argument could be made that there's not 16 representation in Jefferson County because folks 17 live outside the district but represent it. 18 Because where I live, there literally may be two 19 or three out of the six that live in the county, 20 but we didn't address that in the senate bill. 21 So I'm -- I'm just -- that's why I asked was 22 that a consideration that in order to represent 23 a county, you needed to live in it.</p>
<p style="text-align: right;">Page 31</p> <p>1 plan as well. 2 CHAIRMAN: Thank you, Senator 3 Smitherman. Are there any questions of Senator 4 Smitherman? If not, I want to go back to 5 Representative Davis so he can kind of give his 6 view of this plan versus what they've got. 7 Senator Sanford? 8 SENATOR SANFORD: Can I ask you a 9 question? You mentioned -- you mentioned that 10 everyone representing Jefferson County lived in 11 there. Was -- was that a goal from the court 12 order or is that just a personal desire that you 13 had? 14 SENATOR SMITHERMAN: Well, the -- 15 the -- one of the things that was brought before 16 the court was the -- was the fact that you had 17 -- the people in Jefferson County, their 18 decisions were made by legislators outside of 19 the county, whoever the majority of that 20 district -- I made (unclear) simply majority of 21 that district and that legislator himself didn't 22 live in there. So, in other words, you have all 23 these people that live in Jefferson County.</p>	<p style="text-align: right;">Page 33</p> <p>1 SENATOR SMITHERMAN: Well, let me 2 say this: To represent a county, you have to -- 3 you have to at least represent the majority of 4 that county because they're the majority of 5 constitutes. In the these cases, they were 6 representing five and ten percent of the county, 7 so that was concerning. And one of the main 8 things was the county -- was county boundary 9 lines and that was one of the things that was 10 actually mentioned in that order from the court. 11 The problem that -- because we perceive it here 12 is that the committee in its rules refused to 13 make that part of the operating rules in which 14 the committee will operate on. I know that to 15 be a fact because I made the motion to put -- to 16 put in our rules out of the case out of Virginia 17 to -- not just put half of it. See one of the 18 ones with the half for convenience to justify 19 this, but ignore the second half of the ruling 20 as if it didn't exist, and that was the county 21 boundary line part. 22 His plan was drawn on the first -- 23 if you look at the plans, this is not a comment,</p>

<p style="text-align: right;">Page 34</p> <p>1 they give you what our rules, operating 2 procedure, the rules we voted on, then you will 3 see yourself that it only took in the first part 4 of the district -- I mean, of the order. And 5 the second part there with the county lines, 6 they refused to embrace it, adopt it or operate 7 it as a rule to come up with a plan. 8 SENATOR SANFORD: Okay. 9 SENATOR SMITHERMAN: So, in essence, 10 we -- this plan was drawn with part of the order 11 as its primary focus and not the complete order, 12 which dealt with the county boundary lines. 13 CHAIRMAN: Any other questions to 14 Senator Smitherman? 15 MALE SPEAKER: I'd just like to 16 follow up. What you realize is that the case 17 (unclear) on the basis of the fact that these 18 lines was drawn unconstitutional. That's why 19 we're back here. That was gerrymandering and 20 basically packing African-Americans in a 21 district. And what the court basically said 22 that you could have drawn Jefferson County 23 without bringing in those other people from</p>	<p style="text-align: right;">Page 36</p> <p>1 and 75,000 more people, so we have more people, 2 but yet they take a district out -- they took a 3 district from a county that increased its 4 population, not reduced its population. 5 MALE SPEAKER: But aren't you asking 6 to even reduce it further? If one plan says 9, 7 8 and you're wanting 8, 8, you're wanting even 8 less districts? 9 SENATOR SMITHERMAN: No, no, no. I 10 was talking about the population of the county, 11 why we lost -- I mean, that -- when they took 53 12 out of -- out of Jefferson County. 13 MALE SPEAKER: Right. 14 SENATOR SMITHERMAN: That during 15 that period they took 53 out, we actually were 16 gaining population. It was -- that was one of 17 the reasons why -- you know, that's what they're 18 saying, the same thing that -- that he mentioned 19 that you asked, it was the court saying -- 20 they're saying, look, y'all are going in now and 21 violating the constitution by trying to snatch 22 folks -- snatch the districts out and stick in 23 -- let me just say it like this: Snatch out a</p>
<p style="text-align: right;">Page 35</p> <p>1 outside had you not packed all of those 2 Jefferson County blacks into just those black 3 districts. You wouldn't need Walker County or 4 Lamar County coming in had you spread out the 5 number Jefferson County-ians in Jefferson 6 County. That's what basically the court was 7 saying. So what you realize is the house, they 8 took a district out of Jefferson County and put 9 it up in Madison County and they didn't have to 10 do that, and that was one was the things that -- 11 where the court basically said that was, you 12 know, it was unconstitutional. 13 MALE SPEAKER: Wasn't that due to 14 population? 15 SENATOR SMITHERMAN: No. 16 MALE SPEAKER: Population growth in 17 my area. 18 SENATOR SMITHERMAN: Jefferson 19 County has never lost any population. So, yes, 20 you -- I don't know about that part in your 21 area, but in terms of Jefferson County, we have 22 increased by -- and I'm just guesstimating, 23 we've increased by 75,000 people, between 69-</p>	<p style="text-align: right;">Page 37</p> <p>1 democratic district and stick in two republican 2 districts. That's what happened and that's what 3 happened in the senate when they stuck the 4 (unclear) Senator Ward. I left and they stuck 5 Senator Reed in there with about 2- or 3,000 6 people and snatched (inaudible) see, remember, 7 from 2012 going off to -- 2010 or 2012 going 8 back, Jefferson County house was always 8, 8. 9 It only changed when -- when the legislature 10 drew the plan. That's why the court said, no, 11 it has always been 8, 8. You can go back and 12 look at the plan. It has always been -- 13 MALE SPEAKER: But if the population 14 grew by 75,000 folks, wouldn't you need an extra 15 district at that point? Wouldn't you need 9, 8? 16 SENATOR SMITHERMAN: Huh-uh, no, 17 because you didn't have all the districts in 18 county. See, so in other words, now you have 19 more people, you can be able to make -- like we 20 did here. Like we did right here on -- you've 21 got 51 all the way in now, you've got 15 all the 22 way in now. Look at the old plan that had 15 23 was all down in here. But because we have the</p>

<p style="text-align: right;">Page 38</p> <p>1 population in the county now, we -- we are able 2 to do what the court says in Jefferson County 3 about the county boundary lines because now in 4 that pot -- in that bowl, you've got more 5 people. See, we don't have to journey out to 6 get the number that's in the -- what is it, 7 45,000 43-, 48-, what he said. We don't have to 8 journey out to get those numbers to complete 9 that district because we've got so many people 10 in there now that if you do it within -- in that 11 lines, you can get the 8, 8 right in there and 12 meet the one-percent deviation and the 13 population amount, and that's what the plan is. 14 CHAIRMAN: Thank you, Senator. Any 15 other questions of Senator Smitherman? I see 16 none. Represent Davis, would you like to follow 17 up on the comments? 18 REPRESENTATIVE DAVIS: And let me 19 say that we used the plaintiff's maps that they 20 sent and submitted, those maps carried their 21 requests with them all the way through. We work 22 those with our -- the reapportionment attorney. 23 We met with all the members relative to their</p>	<p style="text-align: right;">Page 40</p> <p>1 fails we'll come back to the bill. But before 2 we do that, we're going to get to that vote, I 3 want Senator Smitherman, you can finish up. 4 SENATOR SMITHERMAN: Just a comment. 5 I want to comment. 6 CHAIRMAN: Okay. 7 SENATOR SMITHERMAN: And I want this 8 for everyone to hear these facts and I will be 9 through in just a second. It says that the 10 constitutional remedy constitutional 11 redistricting plan in the racial gerrymandering 12 case is supposed to have statewide ripple 13 effect. The supreme court said in the Georgia 14 racial gerrymandering case, Abrams versus Johnson, 15 the district court was justified in making 16 substantial changes to the existing plan 17 consistent with Georgia's traditional 18 districting -- traditional districting 19 principles and considering race as a factor but 20 not allowing it to predominate. That's what the 21 court said. 22 So this thing that you're saying 23 about -- that's being said about whether race,</p>
<p style="text-align: right;">Page 39</p> <p>1 district. If you fix Jefferson County currently 2 now you look at 95 other districts that have had 3 no input in the plan, and I've spent significant 4 amount of time doing this with the members and, 5 you know, I -- with the fact that there are 105 6 districts in this state, you're going to have 7 county splits. You're going to have counties 8 with multiple counties. I'm the result of a 9 county split. When Mobile County lost 10 population, the shift had been to -- to the 11 eastern shore and I ran, you know, in a two 12 county area and enjoy that. A lot of folks do 13 as well. 14 And so if a tabling motion would be 15 a request, that would be something -- 16 CHAIRMAN: Well, I think we can have 17 a straight up vote on -- Senator? 18 SENATOR SMITHERMAN: I just had a -- 19 I wouldn't -- I thought what you asked but I 20 have both a comment to make. 21 A. Oh, we'll allow that. But, Senator, 22 we're going to do a straight up vote on the 23 substitute and then we'll cut -- you know, if it</p>	<p style="text-align: right;">Page 41</p> <p>1 no, the court did say you consider it, it was 2 not to be the dominant factor. So the 3 legislature cannot justify by changing on the 4 grounds that it has too much ripple effect 5 because rippling is not a consideration in the 6 court's order. Since 1993 to 2012, which is 7 some nine -- that's some, what, twenty years, 8 1993 to 20 -- 19 years -- for 19 years there was 9 equal number of majority black and majority 10 white house district in Jefferson County. The 11 2012 draft is unconstitutional to use race as a 12 proxy to impose republican control over both 13 Jefferson County delegations. Failure to 14 restore racial equality in Jefferson County 15 delegations would violate both the constitution 16 and the voter rights act. The only way the 17 white majority can be maintained in Jefferson 18 County delegation is by including thousand of 19 voters who live outside Jefferson County and 20 that violates the Alabama constitution itself 21 when -- because it states whenever possible to 22 comply with one person, one vote without 23 crossing county lines. That's our state</p>

<p style="text-align: right;">Page 42</p> <p>1 constitution. We haven't even got to the state 2 issues yet, we're dealing with the federal 3 issues in court. The Black Caucus has submitted 4 several plans to demonstrate how all but one of 5 the two houses in senate district can be 6 contained entirely within Jefferson County but 7 they are many other ways to accomplish this. 8 So I just want to share that with 9 the body that for 19 years that it's been 8, 8 10 only on the last plan, which was found 11 unconstitutional, where it changed that number. 12 And now we are bringing -- and I'll be through, 13 this last thing. And now we are bringing back 14 another plan, it does the same thing and, of 15 course, that's subject to interpretation of the 16 court. Thank you. 17 CHAIRMAN: Thank you, Senator. With 18 that, we have a motion and a second to adoption 19 of the substitute -- the Smitherman substitute, 20 so we're going to have a vote, a roll call vote. 21 If you want to adopt the Smitherman substitute 22 it's yay. If you don't, it's no. Call the 23 role.</p>	<p style="text-align: right;">Page 44</p> <p>1 vote on the Davis bill. 2 THE CLERK: Senator Albritton? 3 SENATOR ALBRITTON: I. 4 THE CLERK: Senator Beasley? 5 SENATOR BEASLEY: No. 6 THE CLERK: Senator Melson? 7 SENATOR MELSON: Yes. 8 THE CLERK: Senator Pittman? 9 SENATOR PITTMAN: I. 10 THE CLERK: Senator Sanford? 11 SENATOR SANFORD: I. 12 THE CLERK: Senator Smitherman? 13 SENATOR SMITHERMAN: No. 14 THE CLERK: Senator Singleton? 15 SENATOR SINGLETON: No. 16 THE CLERK: Senator Marsh? 17 SENATOR MARSH: I. 18 CHAIRMAN: It received a favorable 19 report in a five, four vote. That concludes our 20 -- thank you everybody for participating today 21 and we stand adjourned. 22 (End of the recording.) 23</p>
<p style="text-align: right;">Page 43</p> <p>1 THE CLERK: Senator Albritton? 2 SENATOR ALBRITTON: No. 3 THE CLERK: Senator Beasley? 4 SENATOR BEASLEY: Yes. 5 THE CLERK: Senator Melson? 6 SENATOR MELSON: No. 7 THE CLERK: Senator Pittman? 8 SENATOR PITTMAN: No. 9 THE CLERK: Senator Sanford? 10 (Inaudible.) 11 THE CLERK: Senator Smitherman? 12 SENATOR SMITHERMAN: Yes. 13 THE CLERK: Senator Singleton? 14 SENATOR SINGLETON: Yes. 15 THE CLERK: Senator Marsh? 16 SENATOR MARSH: No. 17 MALE SPEAKER: No. 18 CHAIRMAN: That substitute fails in 19 a vote of 5, 4. So now we're back to the bill, 20 the Davis bill, and there was a motion and a 21 second on that if I remember correctly. 22 MALE SPEAKER: Yes, sir. 23 CHAIRMAN: And so we will now have a</p>	<p style="text-align: right;">Page 45</p> <p>1 C E R T I F I C A T E 2 3 STATE OF ALABAMA) 4 JEFFERSON COUNTY) 5 6 I hereby certify that the above 7 and foregoing transcription was taken down 8 by me in stenotype, and the questions and 9 answers thereto were reduced to computer 10 print under my supervision, and that the 11 foregoing represents a true and correct 12 transcript of the recording to the best of my 13 ability. 14 15 I further certify that I am 16 neither of counsel nor of kin to the 17 parties to the action, nor am I in 18 anyway interested in the result of said 19 cause. 20 21 _____ 22 Alana Vines, Commissioner 23 ACCR #473</p>

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