

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

THE CHRISTIAN MINISTERIAL
ALLIANCE, PATRICIA BREWER,
CAROLYN BRIGGS, LYNETTE
BROWN, MABLE BYNUM, and
VELMA SMITH, on behalf of
themselves and all other similarly
situated persons,

Plaintiffs,

vs.

JOHN THURSTON, in his official
capacity as the Secretary of State of
Arkansas,

Defendant.

CIVIL ACTION

Case No. 4:23-cv-471-DPM-DRS-
JM

THREE-JUDGE PANEL

EXPERT REPORT OF TRACI BURCH, Ph.D.



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Qualifications

I am a Professor of Political Science at Northwestern University and a Research Professor at the American Bar Foundation. I received my Ph.D. in Government and Social Policy from Harvard University in 2007.

Over the past 15 years, I have led several large, long-term quantitative and qualitative research projects on political participation in the United States. I have participated in and coauthored several book chapters and articles that examine race, political participation, and inequality, and I am widely regarded as an expert on political behavior, barriers to voting, and political participation. My work has been widely cited and replicated and has won several awards, including the Ralph Bunche Award for my book *Trading Democracy for Justice* and the E.E. Schattschneider Award for my dissertation from the American Political Science Association. I have received several grants, including from Stanford University and the National Science Foundation. I am Editor-in-Chief of a leading peer-reviewed law and social science journal, *Law and Social Inquiry*. I also served as associate editor of *Political Behavior*, the peer-reviewed journal of the American Political Science Association's Elections, Voting Behavior, and Public Opinion section. In addition to these duties, I routinely review the work of my peers for tenure, scholarly journals, university presses, and grants, and have served as a reviewer for many entities, including the American Political Science Review, The American Journal of Political Science, The Journal of Politics, Political Behavior, the National Science Foundation, Cambridge University Press, Princeton University Press, the University of Chicago Press, and Oxford University Press.

I am the author of several books and articles examining voter turnout and political participation, race and ethnic politics, and criminal justice using multiple methods. In particular, my articles "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout and Party Registration of Florida's Ex-Felons" and "Turnout and Party Registration among Criminal Offenders in the 2008 General Election," which appeared in the peer-reviewed journals Law and Society Review and Political Behavior, respectively, included my calculations of felony disenfranchisement and voter turnout among people with felony convictions. My academic book on the community-level effects of criminal convictions on political participation, *Trading Democracy for Justice*, was published by the University of Chicago Press and also won multiple national awards from the American Political Science Association and its sections, including the Ralph J. Bunche Award for the best scholarly work that explores the phenomenon of ethnic and cultural pluralism and best book awards from the Law and Politics and Urban Politics sections. *Trading Democracy for Justice*, along with many of my articles, relies on the analysis of large criminal justice and voter registration data files.

In addition to my published work, I have conducted analyses of legal financial obligations, re-registration after felony convictions, and other barriers to voting as an expert witness. I have testified in nine cases involving evidence under the U.S. Supreme Court's *Village of Arlington Heights* and/or the congressionally-delineated Senate Factor frameworks for Section 2 of the Voting Rights Act and/or the U.S. Constitutional claims. I examined legislative procedures and intent in five cases. I have also testified before the U.S. Commission on Civil Rights about the collateral consequences of felony convictions with respect to voting and other issues.

My curriculum vitae is provided as **Appendix A**. I am being compensated at the rate of \$400 per hour for work in this case, plus any expenses. My compensation does not depend on the opinions I render. A complete list of my prior expert engagements in which I have provided deposition and/or trial testimony can be found in my CV. In all cases where an opinion was issued, the courts accepted my expert testimony in whole or in part.

Scope, Methods & Sources

I was asked by counsel for the plaintiffs to conduct an analysis of the adoption of the Arkansas Congressional District map in House Bill (HB) 1982 and Senate Bill (SB) 743 in light of the guidelines for assessing any racially discriminatory purpose set forth in *Vill. of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252 (1977). As I understand that other experts will focus on the historical background and any racially disparate impact of the new plan, I focus my report on other *Arlington Heights* factors: the sequence of events leading up to the enactment of the redistricting plan, the procedural or substantive deviations from the normal decision-making process, and contemporaneous statements by the decision-makers. In doing so, I examine any indications in the record regarding the foreseeability of any discriminatory impact of HB1982/SB743, the availability of less discriminatory alternatives to the enacted congressional redistricting bills during the legislative process, and reasons offered for the enactment of the bills. In my analysis, I rely on methods and sources that are used commonly among political scientists and other social scientists, such as analyzing legislative hearings and debates, newspaper articles, and other records and administrative documents. The materials I considered are those that I cite in this report, as well as the materials I list in **Appendix B**.

Summary of Opinions

I offer the following key opinions in this report:

- Based on my analysis of the legislative record, members of the Arkansas General Assembly were aware of the racial impact of the enacted plan HB1982/SB743 and understood that the precincts moved out of Pulaski County were disproportionately Black and Hispanic relative to the rest of Pulaski County. No one disputed the racial impact of the enacted plan on the record.
- Supporters of the enacted map refused to consider the negative effects of HB1982/SB743 on minority voters and the dilution of their voting power despite being warned about those effects by other legislators and the Governor of Arkansas.
- My analysis of the sequence of events leading up to the passage of HB1982 and SB743 shows that the bills were adopted in a rushed process that lacked transparency. Both Republican and Democratic legislators agreed that this was the case.
- The efforts to force HB1982 and SB743 into law quickly involved the use of anomalous procedures that deviated from the process that legislators articulated for considering congressional redistricting maps following the 2020 census. Both Republican and Democratic legislators objected to these departures repeatedly on the record.

- My analysis of the legislative record shows that the priorities of legislators were to enact a map that kept population deviations below 1%, kept all counties and cities whole and respected certain communities of interest. Proposed maps were introduced that met those goals. These goals were abandoned in favor of a map that split counties and cities and cracked the minority population of Pulaski County. In particular, while the enacted map split fewer counties than in the 2011 enacted map, it split Pulaski County for the first time in history among three congressional districts and even split cities within Pulaski County like Little Rock and North Little Rock.
- Political motivations do not explain the effect of the map on minority voters in Pulaski County, as it was possible to rebalance the populations among the congressional districts while producing four solidly Republican congressional districts and without splitting any counties or cities, a fact that both Republican and Democratic legislators stated on the record.

Introduction

In the fall of 2021, Arkansas redrew its four congressional districts. The 2020 Census showed population imbalances among the four congressional districts that required the legislature to move approximately 16,000 people out of the overpopulated 2nd congressional district. In redrawing the congressional map, the enacted plans, HB1982 and SB743, moved more than 41,000 people out of Pulaski County,¹ dividing the county across the 1st, 2nd, and 4th congressional districts. The areas that were moved out of Pulaski County were disproportionately Black relative to the areas that remained.²

In the following pages, I examine evidence relevant to the analysis of racially discriminatory intent as instructed by the U.S. Supreme Court in *Arlington Heights* to shed light on the legislative motivation behind the passage of Arkansas' congressional districts. In my analysis of intent, I consider whether legislators were aware of the racially disparate impact of their actions and whether they considered alternatives that might avoid those negative effects on minority voters. My analysis shows that the members of the General Assembly were aware of the racially disparate impact of the congressional map: legislators had access to data on the racial makeup of voting precincts both when redistricting plans were drawn and when the legislature was debating and considering plans. Moreover, legislators were warned explicitly about the racial effects of splitting Pulaski County among three congressional districts and how the changes made by HB1982 and SB743 would dilute the strength of Black voters in the district (as compared to when Pulaski County had been wholly contained in the 2nd district in the 2011 map). Legislators were warned repeatedly or given data during consideration of proposed congressional maps by other legislators and the Governor of Arkansas of the minority communities that would be harmed by the changes under the enacted map. Supporters of the map disregarded those warnings and refused to consider mitigating the disparate racial impact of the map.

¹ 3:19:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

² 3:14:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

Consideration of the specific *Arlington Heights* factors, such as the sequence of events of enactment, departures from the normal procedural sequence, and contemporaneous statements and records, adds further evidence that the legislation was adopted for invidious purposes. Not only did the legislature enact a congressional redistricting plan with the knowledge that it cracked the minority population of southeast Pulaski County, that plan was enacted through an anomalous process that was excoriated by multiple Republican and Democratic legislators as rushed and procedurally irregular. The process was so rushed that early versions of HB1982 and SB743 contained mistakes such as missing counties, the sponsors of the bills had difficulty answering basic questions about the bill accurately, and legislators had a difficult time knowing exactly what they were voting for. The rushed timeline also meant that members of the public had difficulty getting to the capital to comment on what became the enacted map. A bipartisan group of lawmakers, including the President Pro Tempore of the Senate, Senator Hickey (R), admitted that the pressure to force the bills through committee quickly was designed to shut down complaints from the affected counties.

After the General Assembly passed the redistricting plan, supporters of the plan praised it as achieving the goal of low population deviations. However, minimizing population deviation to achieve exact parity among the four congressional districts to the exclusion of all other considerations was not the goal of most legislators who spoke on the record during consideration of proposed congressional maps, including the sponsors of HB1982 and SB743. Instead, members from both parties stressed the importance of keeping counties and/or cities whole and respecting certain communities of interest, while keeping population deviations below one percent. These goals were abandoned in favor of splitting the minority community in Pulaski County into three separate districts.

As I will document in the following pages, the evidence supports the inference of racial intent in the adoption of HB1982/SB743. Not only does the record support that race was accessible during the map drawing process and that legislators knew the racial effects of their actions, the record also allows for the ruling out of the usefulness of other factors in explaining the adoption of the map such as concerns about partisan outcomes or population deviation.

Sequence of Events Leading to the Passage of HB1982 and SB743

The Supreme Court emphasized in *Arlington Heights* that “[t]he specific sequence of events leading up to [a] challenged decision also may shed some light on the decisionmaker’s purposes.”³ HB1982 and SB743 were introduced in the House and Senate on the evening of October 4, 2021. The legislature passed the laws less than three days later. There was bipartisan agreement that the process by which Arkansas adopted its Congressional redistricting map was rushed, chaotic and opaque. The rushed time frame was not due to external pressures such as delayed release of the Census redistricting data: even though census data were delayed, the

³ 429 U.S. at 267.

legislature still had months to meet important deadlines such as the candidate filing deadline to run for Congress, which was not until March the following year.⁴

In the following section, I review the contemporaneous statements of legislators, records of the General Assembly, and other records to document the redistricting process leading up to the enactment of HB1982/SB743 in Arkansas. I outline major events in the process and establish the timeline for the introduction, consideration, and passage of HB1982 and SB743. As I show below, the record reflects that HB1982 and SB743 were rushed through the General Assembly in a way that confused and frustrated many legislators who were not involved in drafting the maps. The rushed process represented an abandonment of the initial procedures outlined by the House and Senate State Agencies and Governmental Affairs committees with respect to the consideration of redistricting bills. At the same time, this rushed process effectively foreclosed all but a small window for public input on the enacted plan.

Consideration of Redistricting Maps

At the initial meeting of the Joint House and Senate Committee on State Agencies and Governmental Affairs (“joint committee”), Chairman Tosh (R) described the plan to hear and then rank all redistricting bills to get a recommendation out of the committee. According to the plan, bills of proposed congressional maps filed through September 17, 2021 were to be heard and discussed at the meeting on September 20, 2021; bills filed September 20-22 were to be heard and discussed on September 23, 2021; and bills filed September 23-27 were to be heard and discussed on September 27, 2021. The members were to rank the bills at the end of the process on September 27, 2021.

The joint committee followed this process initially. At the meetings on September 20th, 23rd, and 27th, members presented several congressional redistricting proposals to the joint committee.⁵ Members of the legislature were allowed to ask questions, and members of the public had the opportunity to provide feedback on the proposals. However, the joint committees did not finish hearing all the bills by September 27th because additional bills were filed.

After the start of the session, the House and Senate committees met separately to finish considering redistricting plans.⁶ The House committee, as planned, ranked all the proposals that were still standing on September 29, 2021. HB1971, sponsored by Representative Speaks (R), received the most votes at 43 points; HB1970 by Representative Dotson (R) was second with 22 points, and HB1969 by Representative Gonzales (R) was third with 17 points. The House committee came back and amended Rep. Speaks’ HB1971 on September 30, 2021. At the end of

⁴ Federal Elections Commission. “2022 Congressional Primary Dates and Candidate Filing Deadlines for Ballot Access.” Available online <https://www.fec.gov/resources/cms-content/documents/2022pdates.pdf>. Accessed 2 Jul 2022; see also Bridges Deposition, pp. 135-149, which suggests a deadline of February 15, 2022 for redistricting and post-redistricting administrative changes.

⁵ HB1959, HB1960, HB1961, SB721, HB1962, SB722, SB723, SB720, SB724, HB1963, HB1964, SB725, HB1965, SB727, SB728, HB1966, and SB729.

⁶ HB1968, HB1969, HB1970, HB1971, HB1976, and SB725.

that meeting, Chairman Tosh said, “We will now let the bill--we are just going to leave it where it’s at, at this time for the public to view it, in the case in the event there is any public comments on it.”⁷ However, some legislators continued to work on redistricting even though HB1971 had received the most votes from the committee.⁸

Consideration of HB1982/SB743 in Committee

No further substantive action on redistricting was taken on the record in the House or Senate State Agencies and Governmental Affairs committees until the legislature deviated abruptly from their agreed-upon process on October 4, 2021. From that point onward, the redistricting process was neither transparent nor careful. Instead, the process was characterized by confusion on the part of many legislators and attempts by supporters of the bill to limit debate and public comment.

The timeline presented in **Figure 1** below summarizes the major events in the Arkansas redistricting process. Beginning with the introduction of HB1982 and SB743, I also make note of the exact times of certain events to highlight the speed, often a matter of minutes, that HB1982 and SB743 moved through the General Assembly.

Figure 1: Timeline of Redistricting Process

Date	Event
8/9/21	Redistricting Overview presented to House State Agencies and Governmental Affairs
8/19/21	Redistricting Overview presented to House & Senate State Agencies and Governmental Affairs
9/20/21	First joint meeting of House & Senate State Agencies and Governmental Affairs Committees to consider HB1959, HB1960, and HB1961
9/23/21	Second joint meeting of House & Senate State Agencies and Governmental Affairs Committees to consider SB721, HB1962, SB722, and SB723
9/27/21	Final joint meeting of House & Senate State Agencies and Governmental Affairs Committees to consider SB720, SB724, HB1963, HB1964, SB725, HB1965, SB727, SB728, HB1966, and SB729
9/29/21	Meeting of House State Agencies and Governmental Affairs to consider HB1968, HB1969, HB1970, and HB1971. The committee ranked HB1971 first of all bills
9/29/21	Meeting of Senate State Agencies and Governmental Affairs to discuss SB725 and SB728
9/30/21	Meeting of House State Agencies and Governmental Affairs to consider HB1971 and HB1976
10/4/21 8:40PM	HB1982 Filed

⁷ 2:12:56 9/30/21 House State Agencies and Governmental Affairs Committee Meeting.

⁸ Herzog, Rachel. “Redistricting Map on Pause, State Lawmakers Say They Moved Needle on Consensus.” *Arkansas Democrat-Gazette*. 1 Oct 2021, Front Section.

10/4/21 8:45PM	SB743 Filed
10/4/21 9:03PM	Revised Agenda for House State Agencies and Governmental Affairs adds HB1982 to agenda
10/5/21 10:30AM	Meeting of the Senate State Agencies and Governmental Affairs Committee: SB743 discussed for the first time
10/5/21 10:30AM	Meeting of the House State Agencies and Governmental Affairs Committee: HB1982 discussed for the first time, HB1980, HB1981 also presented
10/5/21 11:27AM	Senate State Agencies and Governmental Affairs Committee: Do Pass vote on SB743 fails
10/5/21 12:23PM	Senate Chamber: Motion to extract SB743 from committee fails
10/5/21 3:38PM	Meeting of the House State Agencies and Governmental Affairs Committee reconvenes. HB1982 substituted for HB1971. Dr. Anika Whitfield provides public testimony on HB1982
10/5/21 4:00PM	Meeting of the Senate State Agencies and Governmental Affairs Committee: SB743 returned by the Committee with the recommendation that it Do Pass as amended, Amendment #1
10/5/21 4:01PM	Senate Chamber: Amendment #1 on SB743 read the first time, rules suspended, read the second time and adopted, ordered engrossed
10/5/21 4:30PM	Meeting of the House State Agencies and Governmental Affairs Committee: returned HB1982 with Do Pass recommendation as amended
10/6/21 9:17AM	Senate Chamber: SB743 Amendment #2 adopted, ordered engrossed
10/6/21 11:10AM	Senate Chamber: SB743 read the third time and failed to pass
10/6/21 11:23AM	House Floor: HB1982 Amendment #1 & 2 read and adopted
10/6/21 1:29PM	Meeting of the House State Agencies and Governmental Affairs: HB1982 Returned by committee with Do Pass recommendation
10/6/21 2:22PM	House Floor: HB1982 Read third time and passed 59 Yay-30 Nay (5 present)
10/6/21 2:25PM	Senate Chamber: SB743 passed
10/6/21 3:21PM	Meeting of the House State Agencies and Governmental Affairs Committee returned SB743 with a Do Pass recommendation
10/6/21 8PM	Meeting of the Senate State Agencies and Governmental Affairs Committee: HB1982 returned with Do Pass recommendation. Ms. Evans gives her public comments
10/6/21	Governor Hutchinson warns legislature about minority representation
10/7/21 9:52AM	Senate Chamber: HB1982 passed 21-12
10/7/21 10:18AM	House Floor: SB743 passed 53-35-3
10/7/21 10:35PM	SB743 Delivered to Governor

Bipartisan Complaints about the Rushed and Careless Process

HB1982 was introduced at 8:40 PM and SB743 was introduced at 8:45 PM on the evening of October 4, 2021. These new bills, which proposed identical congressional maps, were heard at meetings of the House State Agencies and Governmental Affairs and the Senate State Agencies and Governmental Affairs Committees, respectively, at 10:30 AM the next morning, October 5, 2021, less than fourteen hours after the bills were filed. According to Chairman Rapert, the timing of the introduction of HB1982/SB743 was so rushed that he felt the need to text members to make sure they were prepared to discuss the bills in committee the next morning.⁹

The rushed pace of the introduction of HB1982 and SB743 led to confusion and frustration among a bipartisan group of legislators. At the separate morning meetings of both the House and Senate State Agencies and Governmental Affairs Committees on October 5, 2021, legislators were confused and frustrated because of a lack of information and apparent errors in the map. For instance, in the House State Agencies and Governmental Affairs Committee Meeting, Representatives Dotson and Beck (R), after an exchange with Representative Speaks, who was presenting the bill, concluded that the document they received had the wrong precincts:

REPRESENTATIVE DOTSON: I'm assuming this is--cause I followed the bill not the--I guess what the map that you're working off of, and just put the precincts into a map, and so we may just have the wrong precincts in here to do what you're wanting it to do. Because that's not exactly what the map does, or the bill does. Thank you.¹⁰

REPRESENTATIVE BECK: Thank you, Mr. Chair. So now my concern is, is if the precincts are wrong in the map or whatever, do we need to maybe give them some time to resolve that issue . . .¹¹

The bill sponsor also was confused about whether the Clinton National Airport in Little Rock was in the 2nd or 4th congressional district,¹² and whether cities were split.¹³ Later, Representative Dotson (who was not the bill's sponsor) notified the rest of the committee that the map did split cities even though Representative Speaks said that it did not:

Thank you, Mr. Chair. Just for clarification I looked at the map here and it is following the City of Little Rock along I-30 on the, I don't know if it's north or south or east or west, how it angles across. On the south side of I-30 is in the Fourth. On the north side it's in the Second. So, the City of Little Rock along the I-30 is a natural border there and then there's a precinct (inaudible) so the tip of North Little Rock goes into the First. So those two are, those two municipalities are in different--have some split along those.¹⁴

⁹ 11:23:30 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹⁰ 1:33:27 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹¹ 1:33:54 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹² 10:55:19 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹³ 10:55:25 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹⁴ 4:02:48 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

Despite these concerns, the House State Agencies and Governmental Affairs committee recommended that the House pass HB1982 after several recesses.

Members in the Senate State Agencies and Governmental Affairs committee shared similar concerns about SB743. Senator Davis (R) noted that the cities of Sherwood and Jacksonville were split in the current version of the map and suggested that the committee wait and pass an amended version of the map after fixing those problems.¹⁵ Senator Ballinger (R) also said that the map needed “fine tuning” because of errors.¹⁶ In the end, the Senate Committee on State Agencies and Governmental Affairs voted not to pass SB743 out of committee because of these concerns.

A bipartisan group of legislators continued to raise concerns about the rushed nature of the process. Senator Ingram (D) said in the Senate Chamber that supporters of SB743 were “trying to rush something through”¹⁷ and Representative Beck said in the House that the process was rushed.¹⁸ On the House Floor, then-Representative Payton (R) said:

I’m sure most of you probably didn’t even see the map until 15 minutes ago, but this bill was rushed. It was being modified right up to the last minute yesterday. It was rushed through committee yesterday, and this amendment is evidence of that. It needs corrected because it was rushed.¹⁹

Representative Allen (D) also said:

And there’s no sense enough rushing to get this bill passed when all we have to do is spend a little bit more time, energy, and effort to correct it and to come up with something that’s workable for everyone.”²⁰

Earlier in committee, Chairman Rapert (R) defended the process of SB743’s consideration in committee but acknowledged the rushed way that SB743 was being considered:

Do I like it that there’s condensed times? Do I always like it that a bill gets filed and read across and that sort of thing? It happens here. This is why I took the position last night, and these members can tell you, I actually texted members in addition to let them know that there is an email that just came in that’s got a map and you need to be aware that we’ve got to look at this.²¹

¹⁵ 10:51:57 10/5/21 Meeting of Senate State Agencies and Governmental Affairs Committee.

¹⁶ 10:55:41 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹⁷ 11:45:15 10/5/21 Senate Chamber.

¹⁸ 12:47:43 10/6/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹⁹ 11:15:07 10/6/21 House Floor.

²⁰ 11:18:35 10/6/21 House Floor.

²¹ 11:23:30 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

Chairman Rapert repeated his agreement that the times were condensed for considering the bill during debate in the chamber.²²

Several Republicans also noted that the process by which HB1982 and SB743 came about was characterized by a lack of transparency. Senator Ballinger argued that the process was not open:

And otherwise, I will feel like it's just a matter of the committee process getting rolled over, and pushed over and frankly things not being deliberated in the open, the way it's supposed to be.²³

Representative Beck also argued that the process lacked transparency:

I do appreciate the process, at least the way we started it. I will be voting no on this. I appreciate Nelda [Speaks]'s map. As a matter of fact, it's probably better than the original map that it was. So, I do like it, but I can't vote for this because the process in which we got here I think was less than transparent, but I appreciate your work on this.²⁴

Senator Pitsch (R) lamented that all the decisions get made in after-hours meetings with just a few legislators:

Somehow as you said everybody's involved except, I'm the one that has mentioned, I keep missing the after-hours meeting, because I get phone calls from people late at night, we carved up your county again, it's not there.²⁵

This criticism of the process came not only from opponents of the bills. Republicans, some of whom supported the plan, raised concerns about the rushed, opaque process by which the General Assembly adopted HB1982 and SB743.

The rushed process and lack of transparency meant that legislators who were not involved with the drafting of the maps often were expected to vote on amendments without a clear understanding of what those amendments did. For instance, legislators were expected to vote even when the sponsor of the parallel SB743, Senator English (R), could not provide answers to basic questions about her bill. For instance, Senator English could not answer a series of questions posed to her in the Senate chamber about the most recent changes made to her proposed map. When asked by Senator Pitsch about the changes to Sebastian County, she said:

SENATOR PITSCHE: But my question centers around, can you give me--because it didn't come out in the committee, what Sebastian County is now losing? Because geography wise, we are losing a lot more than we were losing two and a half hours ago. Can you give me a number of how many we're going to lose now?

²² 12:00:21 10/5/21 Senate Chamber.

²³ 11:07:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

²⁴ 4:07:25 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

²⁵ 11:18:46 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

SENATOR ENGLISH: I don't--I can't--I can't give you that number. Did you say that the House had changed?²⁶

Similarly, Senator English lacked answers about her own proposed map in response to questions from Senator Rice (R):

SENATOR RICE: . . . I would like to know what the numbers are from ten years ago, when Sebastian County was divided and what this map does. Can you tell me, are we worse off than it looks--looks--looking at the maps. I don't have the detailed ones, but I'm looking at the maps. It looks like we are. Can you tell me this?

SENATOR ENGLISH: I can get that information for you. I don't have it.

SENATOR RICE: Well. That concerns me. It really does. With all the options we've had and--and to come up with this and I--and like Senator Pitsch said, you know, I -- I'd like to at least have some credible answers for somebody and I can't give them one right now. Thank you.²⁷

The confusion continued in the Senate State Agencies and Governmental Affairs committee that afternoon. At that meeting, Senator English presented a new amendment to SB743 because the earlier map mistakenly "did not include a whole different county" because it was so rushed.²⁸ When asked questions about the areas affected by the changes, Senator English still could not provide information:

SENATOR GARNER (R): Okay. And in what precincts are you changing out, Sebastian, what's the changes in the population number, what's the difference--did you change in Pulaski County?

SENATOR ENGLISH: I don't know, I just know there's about two counties, I mean two precincts in Pulaski County.

SENATOR GARNER: You can't say you don't know.

SENATOR ENGLISH: I don't have that information.

SENATOR GARNER: Well, how do you not have the information on a map that we're about to be voted to, with an amendment we just got, whenever it shifts parts of these counties that we came back on to do?

SENATOR ENGLISH: I just don't have those population numbers. I'm sure that the Bureau would be glad to get them for us.²⁹

²⁶ 3:45:25 10/5/21 Senate Chamber.

²⁷ 3:51:55 10/5/21 Senate Chamber.

²⁸ 3:05:03 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

²⁹ 3:05:46 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

Other members of the Senate committee eventually provided demographic information about the affected population in Pulaski County.³⁰

Concerns about Public Input and Access

In addition to the difficulties faced by legislators, members of the public also had a difficult time providing feedback on HB1982 and SB743. HB1982 and SB743 were added to the Senate and House State Agencies and Governmental Affairs agendas less than fourteen hours before the committees met to consider the bills the next morning, less than the standard amount of time required by the rules of the General Assembly. House rules for the 93rd General Assembly recognized the need for sufficient advance notice to the public, requiring 18 hours' notice for scheduled public meetings: agendas must have been posted 18 hours in advance of the meeting unless two-thirds of the committee agreed there was an emergency, then the notice period was shortened to two hours.³¹ In the 93rd Senate, the rules required "one intervening day" between "the day of referral and the day the committee meets to conduct business."³² Exceptions were allowed for emergencies with a two-thirds vote of the committees in the Senate as well.

Several senators acknowledged that the public could and did provide feedback earlier in the redistricting process.³³ However, according to several legislators and members of the public, discussions specific to HB1982 and SB743 proved difficult because of the rushed timeline. HB1982 and SB743 were posted to the agendas of the House and Senate State Agencies and Governmental Affairs committees just before 9:00 PM on October 4, 2021.³⁴ Representative McCullough (D) noted that notices for the initial committee hearings on HB1982 and SB743 were not posted online in time:

I think there was mention made of Pulaski County people maybe not showing up to these meetings or emailing or whatever. It's been hard enough for us to follow the calendar and to be up here and to break for 30 minutes and then it not being posted online in time for anybody to get here. To try to get somebody to get here is nearly impossible, especially people that have families and they're working and trying to live their lives and trusting us with those lives.³⁵

³⁰ For example, see 3:10:17 and 3:07:17 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

³¹ Arkansas House of Representatives. *Rules of the House, 93rd General Assembly*. Available online <https://www.arkansashouse.org/assets/uploads/2021/03/20210316084719-93rd-house-rule-book-for-webpdf.pdf>. Accessed 24 Jun 2024, p. 55.

³² Arkansas Senate. "Parliamentary Manual of the Senate, Ninety-Third General Assembly," p. 17.

³³ 11:50:15 and 11:59:45 10/5/21 Senate Chamber.

³⁴ "REVISED AGENDA (10-4-2021 @ 9:03 PM) BILL ADDED Senate Committee on State Agencies and Governmental Affairs." BLR-CMA-00515; "REVISED AGENDA (10-4-2021 @9:05 PM) BILLS ADDED House Committee on State Agencies and Governmental Affairs." BLR-CMA-00516.

³⁵ 2:17:46 10/6/21 House Floor.

Senator Pitsch argued at several points that the rushed timeline was not fair to the residents of Sebastian County.³⁶ He said:

8:50 last night. My folks back--my folks back home are lighting me up that we filed a bill at 8:50 on Monday night when I told them yesterday afternoon that the chairman of that committee handed me a bill that was to their liking, and we're going to extract it out before noon the next day. That is not how we function in this chamber, folks. We don't file a bill at 8:50 PM. Running into a committee at 11 o'clock is bad enough. ... I'd already been there once and espoused why our folks, 24 CEOs, 2 mayors, and a county judge, came down here to speak on that bill. They wrote and informed me we can't get a busload from three and a half hours away organized and down there with people. That isn't how we want to function.³⁷

As a result of the inadequate notice, only one person commented on HB1982 during the brief public comment period in the House State Agencies and Governmental Affairs committee meeting on October 5, 2021, right after HB1982 abruptly was substituted for HB1971 at 3:30 PM. Dr. Anika Whitfield said that she was concerned about minority representation and the disparate treatment of minority voters as a result of carving up Pulaski County:

Yes, I'm concerned about the congressional districts for many different reasons. As you can see at this board there's not a lot of diversity on this committee. But in our state, there are at least 17% of African Americans in our state and disproportionately concentrated in certain areas. And what I don't understand is why Little Rock would be carved out as one of the districts that would not be made whole. Why there's specific areas in the city of Little Rock that would be pulled away that are more concentrated on African Americans that are in that area pulled out of the second congressional district into the fourth. I think it shows the inequity that we see even in this committee but sadly the inequities that we've been seeing in our nation. So, I would ask that you would rise above, try to separate people that are African American, rise above trying to continue to discriminate and that you would provide the entire area--I don't understand why you would carve out part of the area to go into District One and then another part to go to District Four. But the rest of Pulaski County and parts of Little Rock to be in the second congressional district.³⁸

Public comment on the bills in the Senate State Agencies and Governmental Affairs committee happened on October 6th at a meeting held at the call of the chair. Only Lorrie Evans of the organization Indivisible Little Rock was there to comment on HB1982. She expressed concerns about the difficulty of providing her input on the map:

I am literally still out of breath because I was rushing here to get here to be able to enter in some of the information that I have into the public record, and it was--I have had been texting all day long with a number of people about when this bill might be heard so that I might have an opportunity to enter in comments in the public record. I don't--if you

³⁶ 11:18:16 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

³⁷ 11:47:52 10/5/21 Senate Chamber.

³⁸ 3:57:52 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

didn't have that kind of flexibility that I had today, which most people don't, and certainly if you're not in the Little Rock region, you do not have an opportunity to speak on this bill, so that includes most Arkansans.³⁹

Ms. Evans also noted that the inability to make comments on the redistricting maps made public input even more difficult:

And so, I just wish that there were a means available for more citizens and voters to have been able to give comments and feedback, public comments and feedback, on all of these redistricting bills. It was really almost impossible to do that because there was no online means. There were no online hearings, and then the notice sometimes you know would be these bills were filed at 8:45 and being heard the next day.⁴⁰

Ms. Evans and Dr. Whitfield were the only two members of the public to comment specifically on HB1982 and SB743.

Despite the fact that HB1982 was added to the committee agenda late at night for discussion at the meeting the following morning,⁴¹ some members were not sympathetic to the logistical difficulties the public faced in providing feedback on HB1982 or SB743. In response to Ms. Evans saying how difficult it was for people from Pulaski to provide input on the bills, Senator Rapert argued that the House and Senate joint committee meetings held before the introduction of HB1982 and SB743 were enough for the public:

For the record as well, you may not be aware we had several weeks scheduled where people, three different times, meetings where we had people that came in. Some of them came to every meeting and spoke against various maps, including these very maps that we're talking about. . . This bill was scheduled in the House. I don't want to argue with you, but I'm not going to let you disparage the process without at least giving a response. So now at this time, you can speak to the bill, or I will be done with you and we can just go vote it.⁴²

Representative Wooten (R) took the fact that he had not had calls from Pulaski County especially as a sign of apathy or laziness. He said:

People from Pulaski County had every effort possible made to them to come and appear before the State Agency Committee. They had every opportunity to contact every member of this body, and I have not heard from a person in Pulaski County. You say, well, you won't. I said, well, let me tell you one thing. . . So you tell me that the people

³⁹ 2:58:08 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

⁴⁰ 2:58:48 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

⁴¹ "REVISED AGENDA (10-4-2021 @9:05 PM) BILLS ADDED House Committee on State Agencies and Governmental Affairs." BLR-CMA-00516.

⁴² 2:59:49 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

of Pulaski County can't stand up and dial a phone--or punch a phone--excuse me, I age myself--punch a phone and call the state representative in another district?⁴³

However, Representative Speaks said that she had received calls from Pulaski County, but she did not speak to anyone from the county personally:

I did not speak to them personally. In fact, I've had some phone calls from Pulaski County, and we did have some folks from Pulaski County, and we did have some folks that did come and speak to us.⁴⁴

Representative Speaks later said that she had received many emails from Pulaski County about the map:

REPRESENTATIVE SPEAKS: No. I said I had received an email from someone that said they lived in or a text; I think it was an email that they lived in Pulaski County. But speaking to someone personally, I have not.

REPRESENTATIVE SPRINGER (D): Follow-up, Mr. Chair. What did that person tell you in that email? What did they indicate to you?

REPRESENTATIVE SPEAKS: Oh, I got so many. They were asking us to protect them, basically was all it was. I mean, nothing in specific.

REPRESENTATIVE SPRINGER: Last question, Mr. Chair. Did they indicate to you that by doing your map the way that you were doing it, that you were diluting their voting power? That you were causing it to, be diluted?

REPRESENTATIVE SPEAKS: No, ma'am, They did not.⁴⁵

Contacting representatives directly is not equivalent to giving public testimony, where all may hear voter concerns. Because these emails were never made part of the legislative record, I was unable to examine their content.

Departures from the Normal Procedural Sequence

The Court in *Arlington Heights* held “Departures from the normal procedural sequence also might afford evidence that improper purposes are playing a role.”⁴⁶ The record establishes that there were significant departures from the normal procedural sequence during the enactment of the 2021 congressional map. Legislators objected to the introduction of HB1982/SB743 late at night for consideration at 10:30 the next morning. As I discussed in the previous section, legislators on both sides of the aisle also objected to deviating from the established process of

⁴³ 2:00:16 10/6/21 House Floor.

⁴⁴ 1:36:23 10/6/21 House Floor.

⁴⁵ 1:38:52 10/6/21 House Floor.

⁴⁶ 429 U.S. at 267.

ranking bills in the House and Senate State Agencies and Governmental Affairs Committees. Legislators said that they felt pressured to rush the bills through the committee process rather than giving the committees a chance to discuss and amend the bills. The attempt to rush the bills through committee occurred through the use of procedures that generated bipartisan frustration and that ultimately failed in the Senate but not in the House. The Senate President and other legislators explained this pressure to rush the bills through committee as intentional and necessary to avoid hearing from people who objected to the maps, particularly those from Pulaski, Sebastian, and Cleburne Counties.

The rushed process that confused legislators and excluded the public was the result of departures from the agreed-upon procedure for considering the redistricting maps. As described previously in this report, the Joint House and Senate Committees on State Agencies and Governmental Affairs set out to hear redistricting bills at several meetings, with a plan to rank all contenders at the end of the process. For the most part, the committee followed the ranking process, and the House ranked Representative Speaks's HB1971 highest on September 29, 2021. The Senate committee never ranked the bills.

Departure from the Ranking Process

Suddenly, the House Committee on State Agencies and Governmental Affairs departed from their plan when a new bill sponsored by Representative Speaks, HB1976, was filed and considered on September 30, 2021.⁴⁷ Several representatives from both sides of the aisle noted that the introduction of the new bill after the committee had already ranked several maps was a departure from the agreed-upon process. For instance, Representative Beck objected to considering new bills without comparing them to all the previous bills heard by the committee:

REPRESENTATIVE BECK: Just to clear things up a bit, so when we come back up at 2:00 are we going to re-vote on all the bills again?

CHAIRMAN TOSH: No, no we are not.

REPRESENTATIVE BECK: Isn't it a bit unfair, because now we're going to be comparing another bill and the other bills that might have gotten different consideration had this bill been in the mix or something. It seems like we're kinda, it almost seems like we're going backwards at this, where we're saying okay this is the best bill that we want, okay so now, here's another bill, but it's not going to be compared to the previous bills that we looked at.⁴⁸

Later in the hearing, Representative Love (D) agreed with Representative Beck that introducing new bills without considering them against the old alternatives felt unfair:

REPRESENTATIVE LOVE: Mr. Chairman I do have a statement, and I will say I'm kind of in agreement with Representative Beck now, and the reason being is because the

⁴⁷ HB1976 was similar to HB1982.

⁴⁸ 10:54:46 9/30/21 Meeting of the House State Agencies and Governmental Affairs Committee.

original bill, I think I did score it higher. And if the bill would've looked like this, I would've scored it lower cause I'm not, I'm not for dicing up Pulaski County. And so I am in agreement with Representative Beck because this does kind of change my perspective of what the bill, what I would have . . .⁴⁹

These comments show that members took seriously their commitment to the original ranking process. Ultimately, the committee took no action on HB1976 and voted in favor of an amendment to HB1971 that was introduced at that meeting.

HB1982 and SB743 were filed at 8:40 PM and 8:45 PM on October 4 for consideration by the House and Senate State Agencies and Governmental Affairs committees beginning at 10:30 AM the following morning, October 5th. The filing of HB1982 and SB743 after members had ranked HB1971 as the best map pushed the legislature even further away from the original agreed-upon process. Supporters of the new maps were determined to push them through committee quickly using procedures that generated bipartisan disapproval.

In the afternoon session of the House committee, supporters of HB1982 tried to push the map through the process by substituting the new map for HB1971, the map that garnered the most support in the committee on September 29th. Representative Wardlaw (R) made the motion to substitute HB1982 for HB1971.⁵⁰ The anomalous move caused an uproar, even among Republicans who supported the map. Representative Beck said:

We are now taking maps that we went, and we took an hour-long recess, and we looked at, and we decided which ones were the best, and we rated them. And now we're substituting maps that have nothing to do with those original maps. They're modified maps. So, I guess my point is I have some concerns as to this process. It's almost like we went through a process where we gave everything a weighted average and then now, we're going to throw that out the door by saying that all you really needed was just to get a map file; that you can substitute another map without it being weighted at any point in the process. And that doesn't seem like--I truly liked the way you were handling (inaudible) and that helped narrow it down. But now it looks like we're throwing that all out the door and just like, you know, who's going to stop someone else from another motion here in just a second to substitute something else in there. So, I just have my concerns about the validity of this.⁵¹

Representative Payton also raised concerns about the process by which the committee considered HB1982:

I'm going to vote against this, and I want you to understand why. Part of it is the bill. There are things in this bill that I don't like and I'm not willing to vote for. But another big portion of why I'm voting against this is the process. Our Chair Tosh has done a great job of trying to lay out a framework and follow it to a point, but right now to vote on this bill up or down, is to vote your approval on the process. Because when we ranked

⁴⁹ 11:01:58 9/30/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁵⁰ 3:40:00 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁵¹ 3:44:50 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

our top three out of eight or ten that we were looking at, the number one bill on your list got three points. There's twenty members. That's a possibility of sixty points. House Bill 1971 got forty-four, if my memory serves correct, out of sixty. Now the reason it did, or part of the reason it did, is because I ranked 1971 number one on my list.⁵²

The committee ultimately adopted Representative Wardlaw's substitution (12 in favor, 5 opposed, 2 not voting) and recommended "Do Pass" for HB1982. However, legislators continued to raise concerns about the procedural departure. Representative Beck said on October 6th:

During our initial discussions, it was said that if a new map was introduced that we would throw it in with the other maps that we had already weighted and go back through that process so that we would get a full--the committee's feelings on which one of the maps got the most votes. My point is, is that there's been new maps introduced to this committee. There has been maps that have been--and we've heard this--major amendments made to them, but they were never weighted on the original like we weighted the original. We just said, okay, we're going to take these maps forward. And I think, just for transparency purposes, I don't know that it will change anything, or it may change some things, it may not. But I think for transparency purposes, we ought to go back to the original process and weight all of the maps, as amended, together so we can get the true feeling of how the committee feels.⁵³

Representative Allen said on the House floor on October 6th that he was originally in favor of Representative Speaks' bill but was opposed to HB1982 because "this map is totally different from the original map."⁵⁴

The Push to Extract SB743 from Committee

On the Senate side, Senator Hickey was determined to push SB743 through committee. The committee met at 10:30 AM on October 5th, 2021, to consider SB743. The Senate was scheduled to go into session at 11:00 AM. After Senator English introduced her bill, Senator Ballinger followed with suggestions to correct errors in the map. Chairman Rapert interjected, saying that there was pressure from Senator Hickey to pass the bill as-is:

I've discussed this with Senator Hickey about the fact that is there a way to find those numbers, to tighten the numbers even more? I think you all know that with the past week and a half that we've been here with all of this, there's a lot of pressure now to get something going. The pressure is to the point where I don't think it's outside of the knowledge of anybody on the committee that we're talking about that the Senate body considering extracting the bill from this committee if the bill doesn't move forward.⁵⁵

⁵² 4:03:59 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁵³ 12:49:08 10/6/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁵⁴ 11:18:15 10/6/21 House Floor.

⁵⁵ 10:44:43 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

Later in the meeting, Senator Hickey, the President Pro Tempore of the Senate, appeared before the committee in person and reiterated his insistence that the committee vote the map out as-is.⁵⁶ As Chair Rapert noted, Senator Hickey was so determined to push SB743 through quickly that he threatened to extract the bill from the Senate State Agencies and Governmental Affairs Committee if the members did not follow through and vote the bill out of committee.

Some House committee members also said that they felt pressure from the Senate to pass HB1982 out of committee. Representative Miller (R) said:

But the original bill that Representative Speaks brought had pretty overwhelming support it seemed like, in this committee. And then somewhere over the last few days, you know, all I keep hearing is, well the Senate, well the Senate. What's the Senate give up? Given up, pardon my grammar.⁵⁷

Representative Payton said on the House Floor:

The Senate just failed to pass the companion bill to this bill. We were told yesterday in committee that this is what we had to do because this is what the Senate wanted, which goes against my grain, and I voted against it in committee. But anyway, evidently it's not what the Senate wanted. They just failed to pass it on the Senate floor. This bill is rushed. This amendment is also rushed. This amendment is necessary because the bill was rushed. It's time that we quit rushing with the people's business.⁵⁸

Despite this resistance, the House State Agencies and Governmental Affairs Committee did bow to the pressure and passed HB1982 out of committee the afternoon of October 5th.

Meanwhile, senators on the State Agencies and Governmental Affairs Committee chafed at the pressure to vote out legislation that they felt had problems. Members said that they saw no reason for the rush, asking to take "a short amount of time" to make necessary changes in order to get the map out later that day. Senator Davis said:

Thank you, Mr. Chair. In looking at this map, it does split Sherwood and Jacksonville and if we could take a short amount of time and correct the map here in committee – I'm not sure why we would pass something out, that's not fixed and correct.⁵⁹

Senator Ballinger echoed these comments:

I mean the work that you guys did last night to come up with something is great, I just don't feel like it is fine-tuned as it can be and we can keep the same thing without creating any new fires and that we can get it out today. But it's just going to take those changes. And otherwise, I will feel like it's just a matter of the committee process,

⁵⁶ 10:53:40 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

⁵⁷ 4:08:32 10/5/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁵⁸ 11:15:36 10/6/21 House Floor.

⁵⁹ 10:51:57 10/5/21 Senate Meeting of Senate State Agencies and Governmental Affairs Committee.

getting rolled over, and pushed over and frankly things not being deliberated in the open, the way it's supposed to be.⁶⁰

Senator Bledsoe (R) said:

I don't usually go against the President Pro Tem of the Senate, but I do have concerns about passing something out that several of us don't want. And I would ask that maybe you allot thirty minutes, an hour, after session for us to come back and work on this a little bit more. Thank you.⁶¹

The committee overwhelmingly voted against the Do Pass motion regarding SB743. Senator Hickey immediately moved to extract the bill from the committee as he had threatened.

In the Senate chamber, members also made clear they viewed the pressure to extract SB743 from the committee as unusual. Senator Davis argued that extracting the bill from committee went against normal procedures:

Senator Hickey, throughout your time as Pro Tem, you've been one who's been a stickler for details, for getting things right before we take them out of committee and making sure that we do things the right way the first time around. So we're about to vote to extract the map out of committee with wide deviations, with cities split and it is not up to the standard of correctness. We know we're going to have to amend it. Does your motion here to extract this out of committee follow your standard that you have set for this chamber and for yourself?⁶²

Senator Ingram also spoke against extracting the bill:

Don't extract a bill. It sets a terrible precedent. It shows that this body--that there is something flawed in all of the maps that we would have to extract a piece of legislation out to bring it in front of this body. I would ask you to vote no on extraction.⁶³

Senator Ballinger decried efforts to jam the bill through committee:

And instead--and, frankly, instead of--instead of talking about pulling it out of committee and instead of talking about jamming it through this morning in committee, we could have sat down, and we could have put that together. We could meet in 15 minutes, and we could sit down there, and we could talk, and we could debate, and we could have a map that we could all agree on, and instead, we're going to extract it, like now, when today we could vote something out of committee? I mean, to me, it's just ridiculous that we're not honoring the committee process.⁶⁴

Senator Tucker (D) noted:

⁶⁰ 11:06:52 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee

⁶¹ 11:13:08 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

⁶² 11:42:34 10/5/21 Senate Chamber.

⁶³ 11:44:45 10/5/21 Senate Chamber.

⁶⁴ 11:54:50 10/5/21 Senate Chamber.

In that case, that's only two yes votes on the State Agencies committee. And then a large group of bipartisan senators voted against it. And we just need to follow that process, and do the right thing. Let the committees do their work. Otherwise, what's the point of having committees?⁶⁵

Senator Pitsch also lamented the move to extract SB743:

All of a sudden a bill comes out at 8:50 last night. Whether you like or hate that bill, we are about to extract a bill out of a committee that got one vote in State Agencies to take that bill off the floor.⁶⁶

Ultimately, the motion to extract the bill from the Senate State Agencies and Governmental Affairs Committee failed, as a bipartisan group of senators voted against the measure.

Rationales for the Procedural Departures

Although the pressure to rush SB743 through the Senate State Agencies and Governmental Affairs Committee ultimately failed, the pressure to push the bills through the House and Senate Committees provides insight into the rationale for rushing the bills. As described in the previous paragraphs, a bipartisan group of legislators argued that there was time to consider and amend the bills properly. Why, then, was President Hickey trying to push the bills through so quickly?

Supporters of SB743 were clear that moving the map along quickly was a way to foreclose debate and dissent. Senator Hickey's own words confirm that he was pushing for the maps to be passed out of the Senate State Agencies and Governmental Affairs Committee as-is to avoid further discussion of problem areas in the map. When asked by Senator Ballinger why the committee could not take some time to amend the obvious problems with the map, such as city splits and other errors, Senator Hickey responded by saying that amending the map would then require that the legislature spend time hearing from dissatisfied people in Sebastian, Cleburne and Pulaski Counties:

Respectfully members, I really want us to go ahead and pass this, because here's--Senator Ballinger, I know exactly what you're saying but kind of the flaw I guess within, within that and I'm not being disrespectful with that; the flaw within that is that it's not just about in here with this particular map, we would have to be working that same way with the whole House State Agencies committee and whenever--if we don't pass this out of here, whenever you go do that, then I know for a fact with all of this stuff that's going on, we're going to be talking about Pulaski, we're going to be talking about Cleburne, we're going to be talking about Sebastian. All of those conversations are going to resume immediately again.⁶⁷

⁶⁵ 11:51:10 10/5/21 Senate Chamber.

⁶⁶ 11:47:35 10/5/21 Senate Chamber.

⁶⁷ 11:11:51 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

Senator Garner also indicated that he was in favor of passing the map out of committee to avoid “the same conversation again” with dissenters:

So, I’m to the point that we need to move forward and make something tangible here, because I guarantee you in the next two or three hours whenever you change something, I’m probably going to hear from the same people I’ve heard from the last few weeks when I said wait, we’ll have a final map, we’ll have something. I’ve run the traps with those people. The people I think I should discuss this with across the board are fine with this map. Once we change it, it’s going to be the same conversation again. You can argue that well those people don’t matter, but you’re gonna give them a two-hour window before this thing is going to be passed out.⁶⁸

Senator Garner reiterated this point again in the Senate Chamber when discussing the motion to extract the bill, arguing that the committee’s desire to fix the problems in SB743 would lead to dissent: “And then once you open it back up, there’s another argument. There’s another thing. There’s another fight.”⁶⁹ In the Senate Chamber, Senator Hickey first presented his motion to extract as necessary to be able to vote on a map by Friday because “[w]e’re getting late in the year with redistricting, and we have got to do something.”⁷⁰ However, to close on his amendment, Senator Hickey clarified that the motion to extract was about quashing dissent:

What happens if we don’t put this as a placemat or a place setter, whatever you want to call it? Just let me just tell you some of the things. I probably shouldn’t go there. Then all of a sudden we get some issue with Madison. You’ve already heard the deal with Sebastian. We get Pope, we get Cleburne, we get Lincoln, we got Chicot and Desha, and me and Pulaski on top of all those. There is [*sic*] multiple, multiple things that are going on out here, and you’re not going to make everybody happy.⁷¹

Senator Ballinger also noted the procedural anomalies:

I mean, like the process itself has been a mess and everybody agrees with that. I think that’s probably partly by design. Every ten years we go through something like this.⁷²

Based on these statements, it is clear that pushing the error-filled bills through committee quickly as-is without amendments was a way to get around hearing from people who disagreed with the changes in the map.

In sum, HB1982 and SB743 were passed by the Arkansas legislature in a rushed process that bipartisan legislative members agreed departed from the normal procedural sequence. The supporters of the redistricting plan tried to force it through the committee process with little consideration or debate, despite the fact that the map had obvious and complained about

⁶⁸ 11:05:15 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

⁶⁹ 11:47:09 10/5/21 Senate Chamber.

⁷⁰ 11:40:50 10/5/21 Senate Chamber.

⁷¹ 12:05:10 10/5/21 Senate Chamber.

⁷² 11:53:45 10/5/21 Senate Chamber.

problems. The record reflects that the supporters rushed the map through the process to stifle dissent.

Redistricting Goals as Evidenced by the General Assembly's Contemporary Statements and Documents

When redistricting, legislatures must balance several goals. As the Supreme Court noted in *Arlington Heights*, “legislative or administrative history may be highly relevant, especially where there are contemporary statements by members of the decision-making body, minutes of its meetings, or reports.”⁷³ In the following discussion, I examine legislative meetings, debates, and documents to provide a sense of the goals of the Arkansas General Assembly in producing HB1982 and SB743. The evidence shows that although a broad, bipartisan consensus developed in favor of keeping counties and cities whole and respecting certain communities of interest, those goals were abandoned in favor of a map that cracked the minority population of Pulaski County into three separate congressional districts. Legislators knew that the enacted plan would remove disproportionately minority precincts from the 2nd congressional district and dilute the voting strength of those communities. However, legislators passed the plan anyway, even in the face of warnings from and information provided by fellow legislators, the Bureau of Legislative Research, and even the Republican Governor of Arkansas about the disparate racial impact of the plan. Moreover, the design of the map cannot be explained solely by partisan goals because several Republican legislators submitted maps that would have elected a Republican from the 2nd congressional district while also keeping counties whole and without cracking the minority population in Pulaski County as compared to the enacted map.

Traditional Redistricting Criteria

At the beginning of the redistricting cycle, Matthew Miller and Michelle Davenport, lawyers working for the Bureau of Legislative Research (BLR), joined several legislators including Chairman Tosh, and Representative Speaks at a redistricting conference hosted by the National Conference of State Legislatures in Utah.⁷⁴ Matthew Miller and Michelle Davenport presented material from the conference to the House State Agencies and Governmental Affairs committee on August 9, 2021, and to a joint session of the House and Senate State Agencies and Governmental Affairs Committees on August 19, 2021. Their overview of redistricting discussed best practices with respect to adhering to legal requirements and traditional redistricting principles when choosing a map.

Michelle Davenport, as an attorney with the Bureau of Legislative Research, stressed the importance of drawing districts “so that each district is about the same size in population as the

⁷³ 429 U.S. at 268.

⁷⁴ 1:12:15 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

others.”⁷⁵ Ms. Davenport articulated that the court expects equal population “as nearly as practicable.”⁷⁶ Ms. Davenport said that one standard for the population deviation from equality is below one percent; however, she noted that was not a safe harbor.⁷⁷ Mr. Miller and Ms. Davenport stressed that pursuing low population deviations should be balanced against other traditional redistricting criteria.⁷⁸ Mr. Miller further explained the tradeoff:

So you could have a very high deviation for a good reason, you could drill it down to almost zero, and the courts say you violated one of the standards in reaching that goal.⁷⁹

Later, Mr. Miller reiterated:

I mean, it--but you can't just look at the deviation alone, as Michelle was saying. That's not going to win the day. You know, the court is going to look beyond just that percentage that pops up on the map when we print it out.⁸⁰

Mr. Miller and Ms. Davenport were careful to avoid saying that population deviations had to be as low as possible; in fact, they considered and struck such language from their presentation to the legislators.⁸¹ By the end of the discussion, Chairman Rapert understood that higher population deviations were possible, but a high deviation “has to be justified by some particular governmental reason.”⁸² Ms. Davenport confirmed Chairman Tosh’s understanding that a court’s judgment of the plan was “based on individual--each individual line, and as long as, I guess, it’s data driven and we can justify it, is that pretty much what we need to look at, and stay away from trying to get it into a certain percentage?”⁸³ Representative Ladyman (R) also understood population deviations as just one of many factors that the legislature needed to balance:

The discussion on the variation, the way I understand what you’re saying is, there’s multiple criterias [*sic*], maybe four or five things, and we, as a legislature, would

⁷⁵ 1:13:10 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁷⁶ 1:13:30 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁷⁷ 1:14:18. 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁷⁸ 1:16:10 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁷⁹ 1:17:02 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸⁰ 1:19:40 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸¹ BLR-CMA-04093 at -4102. Slide 10 deletes the language “but generally the lower the population variance, the greater the chances a map would survive a challenge on those grounds” found in earlier drafts such as BLR-CMA-03856 AT -859.

⁸² 1:17:13. 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸³ 1:19:11 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

establish what we're trying to do with those criterias [*sic*]. And variation might be number four.⁸⁴

Chairman Tosh also stressed to Representative Deffenbaugh (R) that “I think the testimony and what’s been said here today is that actually what percentage it is not as important as the justification, as long as it’s data driven, and you can show that justification.”⁸⁵ Thus, the legislators understood that population deviation, while important, was just one of several redistricting criteria that they needed to consider when drawing their map.

Ms. Davenport also outlined several other traditional redistricting criteria that courts and other states have used for redistricting.⁸⁶ These include compactness, contiguity, preservation of counties and other political subdivisions, preservation of communities of interest, preservation of the cores of prior districts, and avoiding pairing incumbents. Finally, Ms. Davenport stressed that compliance with the Equal Protection Clause of the 14th amendment to the U.S. Constitution and the Voting Rights Act also are traditional redistricting criteria.⁸⁷

Legislators agreed that several of these criteria were important. However, the priorities that legislators discussed most were keeping population deviations under one percent, keeping counties and cities whole, and respecting communities of interest. Other redistricting principles were mentioned less frequently in the record. Multiple legislators expressed their commitment to these principles throughout the process, as I show in more detail below.

Keeping Population Deviations Under One Percent

First, legislators discussed adhering to the principles of one-person-one-vote (i.e., rebalancing populations as near as practicable to equal numbers of people). Typically, when legislators discussed population deviation during the discussion or presentation of particular bills, most mentioned the one percent threshold (i.e., that no district should be overpopulated or underpopulated by more than 1%) described in the BLR redistricting. For instance, when presenting her first bill, HB1959, which did not split counties, Representative Speaks described the population deviations of the plan as “quite a bit below the one percent.”⁸⁸ Representative Ladyman, when presenting his bill, also discussed the one percent threshold.⁸⁹ Senator Hester

⁸⁴ 1:22:56 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸⁵ 1:35:12 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸⁶ 1:23:48 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸⁷ 1:26:22 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸⁸ 1:27:23 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁸⁹ 1:34:30 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

described deviations as high as -.91 as “very, very good.”⁹⁰ Representatives Ray (R), Flowers (D), and Tucker also mentioned the one percent threshold when describing their bills. Representative Whitaker said:

Throughout this process, I was fortunate enough to be able to attend every one of the meetings and hear the presentation for every map. Two things kept coming to the fore during every presentation, two major things, a couple others we’ll get to in a moment. It was the very sincere desire of folks in both the House and the Senate to have maps that kept deviations between the four districts at or below 1 percent, plus or minus. The other thing that we saw, strongly voiced over and over again was the desire for whole counties.⁹¹

Other legislators also agreed that minimizing the population deviation was not the main goal. For instance, Senator Johnson said:

We can deviate a little bit—and we should. I really appreciate Mr. Yang point out the case law on the case in West Virginia, where how important it was deemed by the Supreme Court to keep communities together and not just simply be a numbers game . . . So every day, the numbers change. So, yes, we want to get close. We want to be with our variance, but we shouldn't be so wedded to it that we can't be a little bit off and not do the right thing in the long run because nine years from now, I guess, we'll be looking at this again if we can get the Census Bureau to do their job.⁹²

Speaking about the original deviations in SB743, Senator Rapert said:

And I can tell you that the map that you have in front of you, I think if you look on it, Districts one, two, three, and four, every single one of those, the deviation is less than 0.4 percent. I think the highest was 0.39 in a positive direction and the highest in a negative direction with the 0.37. So you had a 0.37 deviation under, and you had a 0.39 deviation over and all of them are within that window. And so of a lot of the maps that I’ve been seeing, even maps that early in the process people thought, hey, this is what I can live with. Those deviations were even greater.⁹³

Even though later in his statement Senator Rapert said that the committees were working to get deviations smaller in SB743, Senator Hickey subsequently contradicted him: “I heard somebody say the deviations. No, ma'am. That is not what's going on out here behind this.”⁹⁴ Speaking about that same map, Senator Garner said:

⁹⁰ 1:07:47 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁹¹ 1:16:43 9/29/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁹² 3:37:44 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁹³ 12:01:35 10/5/21 Senate Chamber.

⁹⁴ 12:04:23 10/5/21 Senate Chamber.

Honestly, we talk about deviations. These deviations are less than we did ten years ago. I remember the initial study, well below the 1% threshold.⁹⁵

Representative Speaks, for her part, said at several points throughout the process that she supported keeping population deviations under one percent; for example, when introducing HB1959 she said:

America requires a census every ten years for only one purpose, and that is to balance the population of the congressional districts. This map has the four congressional districts under one percent per population.⁹⁶

Although Representative Speaks posted on social media on September 24, 2021, that “[o]ur task now is to redraw the congressional boundaries to ensure they are as equally populated as possible,”⁹⁷ she subsequently presented a bill (HB1976) with deviations above even the one percent threshold on September 30, 2021. Representative Speaks reiterated when discussing HB1976 on September 30th that that bill was acceptable because the deviations were under two percent.⁹⁸ Representative Dotson (R) and Senator Davis seem to be the only people who pushed for maps with minimal population deviation at the expense of other redistricting criteria on the record. For instance, Representative Dotson presented a map with the goal of “trying to get as close to possible as you can to as little deviation as possible.”⁹⁹ For the other legislators who expressed an opinion on the record, keeping population deviation under one percent while considering other factors like keeping political boundaries whole was more salient than making deviations as low as possible.

Keeping Counties and Cities Whole

Second, the preservation of political subdivisions, including counties and municipalities, emerged as a high priority for multiple legislators from both parties. Legislators understood that concerns about population deviations did not limit the ability to keep counties whole. During the redistricting overview, Chairman Tosh said:

And as people are submitting these proposals, it’s something I want each committee member to maybe think about is that, you know, I--you know, if we can draw these congressional districts without splitting counties. And I know that may increase a difference in the numbers, more so than it would if we split counties. I’m just going to see if any of the committee members had any thoughts in regards to what would--how they’d feel about that. I mean, personally, myself, I’d like us to be able to, if you’re a county, instead of having that county split between two congressional districts is--just to

⁹⁵ 11:05:09 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

⁹⁶ 1:08:13 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

⁹⁷ Post on September 24, 2021. CMA-SPEAKS-00014-15.

⁹⁸ 10:59:44 9/30/21 Meeting of the House State Agencies and Governmental Affairs Committee.

⁹⁹ 1:38:45 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

be able to avoid that, if at all possible. And maybe it's--maybe we can't. I don't know. But I sure think it's something that we need to look at.¹⁰⁰

Also during a redistricting overview session, an exchange between Representative Ladyman and Matthew Miller made it clear that keeping counties whole could justify higher population deviations:

REPRESENTATIVE LADYMAN: . . . So if our primary target is to keep full counties, say, that's our primary target, then we might be able to have a larger variation number. I mean, I know that would have to go to--it might have to be answered in court. But am I understanding that correctly? If our primary goal is counties, then we could go a little bit on the variation?

MR. MILLER: Obviously, we're dealing in hypotheticals, but I mean, in that case, obviously, if you're going to keep counties intact, there's a minimum variance you're going to be able to get, you know, by moving counties around. It's an absolute number. You're going to have to limit it to the lowest you can get in the combination. So if there was a challenge, that would be presumably a fact that was presented to the court, that you felt like that was an important criteria, and you'd illustrate the--the General Assembly would illustrate the reasons that it felt that it needed to keep counties intact. Therefore, that was the minimum--you know, that was the result of the map, reaching that goal.¹⁰¹

Mr. Miller made that same point again before the joint meeting of the House and Senate State Agencies and Governmental Affairs Committees on September 20th:

That was the result of splitting precincts, splitting counties. Obviously, you can drive it down lower if you're doing that. If you're not splitting counties, there's only a certain variation you're going to be able to work with. And the courts have recognized that before, that if that's a criteria that's important to you, then it's only going to be within a certain range. So, again, it's very fact driven, very criteria driven as to what the entity doing the reapportionment is trying to accomplish.¹⁰²

As evidenced by these examples, Mr. Miller and Ms. Davenport repeatedly stressed that the legislative goal of keeping counties and cities whole was compatible with compliance with the 14th amendment.

Several Republican and Democratic members noted that keeping counties and/or cities whole was their primary goal. According to Representative Speaks, "My whole goal was not to

¹⁰⁰ 10:31:39 8/9/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹⁰¹ 1:23:13 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁰² 1:12:20 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

separate and divide these counties. It is such a problem when you do this.”¹⁰³ Representative Ladyman echoed her point:

But let me tell you, from the very beginning, Representative Speaks, her primary goal-- and I know this more than anybody because I’ve tried to convince her to change her primary goal. Her primary goal was to not split a single county in the State of Arkansas.¹⁰⁴

Representative Whitaker (D) also said that he prioritized keeping counties whole, over minimizing population deviation:

Deviation, I personally, having, you know, read the case law, I feel like we may be fixating on that a bit too much. Although I understand you want to keep it as low as possible, you can’t do that at the expense of other valid policy concerns.¹⁰⁵

Senator Pitsch argued that dividing counties was “a very detrimental thing.”¹⁰⁶ Representative Fite argued against splitting Crawford County:

. . . splitting Crawford County, we went through that for the last ten years being split, even the indignity of having the City of Alma split in two.¹⁰⁷

Senator Johnson (R) discussed the importance of keeping counties whole:

I think it’s important to keep counties together. I think it’s probably one of the most important things we can do because our citizens get confused. For example, Van Buren County has three senators, Senator Davis, Senator Irvin, and me. The city of Maumelle has 3 state senators. It has Senator English and Senator Chesterfield and me. And their people are confused.¹⁰⁸

Senator Tucker also said that splitting counties was not necessary for achieving population or partisan goals:

We also know for certain that it’s not necessary to split any county in order to hit the--the deviation numbers that we need to hit. And we had plenty of maps filed by both Republican and Democratic legislators that kept all 75 counties whole, that hit the

¹⁰³ 1:27:00 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁰⁴ 2:15:14 10/6/21 House Floor.

¹⁰⁵ 1:47:28. 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁰⁶ 1:42:45 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁰⁷ 2:20:44 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁰⁸ 3:35:49 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

deviation numbers that we needed to hit in order to propel--to surpass constitutional muster. And to be quite frank with you, it's also totally unnecessary from a political standpoint.¹⁰⁹

Representative Love also argued against splitting counties:

Thank you, Mr. Chair. I'll be voting no on this map, and it's because I truly believe that we can do better and not split counties up. I just feel strongly especially that Pulaski County is my home county. I just feel that its not necessary for us to split any counties up . . .¹¹⁰

Senator Johnson said:

But I think it's important that we keep counties together. Counties matter. Pulaski County matters as a county, not just as a bunch of people, or some Democrats over here and some Republicans over here. And this is a Black area and this is a White area. And I don't think that's as relevant as this Pulaski County. And I appreciate what Senator Pitsch has tried to do to keep Sebastian County whole.¹¹¹

Senator Davis said that she was against SB743 in committee because "it splits cities and that's one thing that throughout this process I've been committed to and I think that we can do better because we've seen a lot of maps that do that."¹¹² These examples are just a few of the many legislators from both parties who supported keeping counties or other political subdivisions whole on the record.

Members of the public also spoke in favor of keeping political subdivisions whole. For example, Mr. Robert Walker from Pulaski County spoke up in favor of keeping precincts whole.¹¹³ Richelle Brittain spoke against several bills presented at the joint committee sessions that split up Pulaski County:

The problem I have is, I am shocked at seeing all these maps that want to divide Pulaski County as many as three ways. Whatever happened to communities of interest? Just like the two who spoke before me. They--they are--they see their agricultural interests divided by this map. What about Pulaski County? It's an urban county, dividing it.¹¹⁴

Ken Yang, of the Saline County Republican Party, also spoke against dividing counties:

¹⁰⁹ 10:48:24 10/6/21 Senate Chamber.

¹¹⁰ 2:11:44 9/30 House State Agencies and Governmental Affairs Committee.

¹¹¹ 10:55:00 10/6/21 Senate Chamber.

¹¹² 11:01:56 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹¹³ 1:15:45 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹¹⁴ 1:43:35 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

I don't know why that has not been, brought up, but the Supreme Court said it was not essential that the state draw districts with precise mathematical equality so long as small variations serve legitimate objectives, such as keeping counties intact, which this map does not.¹¹⁵

Other members of the public spoke up during those joint committee meetings for keeping their counties whole as well.

Some members of the legislature challenged the idea that dividing communities weakened representation, instead arguing that dividing political jurisdictions and other communities of interest increased representation. For instance, Representative Payton tried to argue that row crop farmers would have better representation if they were divided:

It seems that they would have less representation than if they influenced two congressional districts. If you have some of row crop farming represented in two different districts, then there's two different congressmen out of 245 that they could influence and speak to.¹¹⁶

Sarah Dunklin, First Congressional District Chair of the Republican Party of Arkansas, disputed Representative Payton's claim in her public comments:

Well, I believe, Representative Payton, that's been tried in the past. So last time Chicot and Desha were moved into the First Congressional District, and it worked a lot better. And so in Lincoln, right, so with those counties in the First Congressional District, they were able to have representation through a congressman who sat on the Ag Committee. It worked a lot better.¹¹⁷

Senator Hester (R) also made the argument that splitting counties increased representation:

I think that's a – it's a very fair perspective, right. If a county had three different congressmen caring about issues that were important to them, the port, bridge, any type of federal highway funding available, having three congressmen is a significant advantage. And clearly, with the Airforce Base out here, they're doing a great job representing it, but having three pulling on that rope would be a significant advantage for Pulaski County.¹¹⁸

Senator Chesterfield (D) responded:

¹¹⁵ 2:07:38 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹¹⁶ 1:21:01 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹¹⁷ 1:21:20 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹¹⁸ 1:15:55 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

Because living in Pulaski County, we have a number of senators because of the size of the district, but people don't know clearly who to call sometimes. Is it in Senator English's district, is it in Senator Hill's district, is it in my district, is it in Senator Hammer's district? That's where my concern is with this, because people need to reach out to their congressperson, they need to know who that is. And that's my major concern about splitting up any of the counties, because people need to access government, and nothing should be done that would preclude that from happening in a sensible and logical way. Having three representatives in Pulaski County will make it difficult for individuals who are not in the know, like many of us down here. But how to reach out to whomever it is that is supposed to represent them.¹¹⁹

Senator Pitsch also argued that divided communities receive worse representation:

Basically, the question is who gets represented best? And to your point, having two congressmen, unless you've spent ten years being divided, you don't understand that half your county gets no representation, much like Senator Ballinger is referencing, that he has folks in Madison feel like there's limited representation.¹²⁰

There were several more occasions in the record in which legislators and members of the public argued vehemently from experience that county splits lessened the quality of their representation. Both Senator English and Representative Speaks, the sponsors of SB743 and HB1982, expressly agreed on the record that there were detrimental effects of splitting counties.¹²¹

Respecting Communities of Interest

Finally, the legislators discussed keeping certain communities of interest together. Several communities of interest were repeatedly discussed on the record. For instance, agricultural interests, such as keeping row crop farming communities together as a distinct community of interest in the first district came up frequently in the General Assembly's consideration of congressional map proposals. This discussion manifested primarily as entreaties to keep Chicot and Desha (and perhaps Lincoln County as well) together in the 1st district. Ms. Dunklin said:

. . . Desha and Chicot should remain in the First, but I will say, I will add to that, and say that Arkansas is row--our row crop farmers in Arkansas, we feed the world. And I think when it comes to drawing these maps, sometimes we forget that. And so part of Lincoln, most--a lot of Lincoln, Drew, and Ashley are row crop farmers, and when we throw those in, our Congressman, who is also in agreement with keeping all the counties that we have

¹¹⁹ 1:19:59 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²⁰ 1:47:23 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²¹ See 1:27:00 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees and 3:18:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

in the First in the First now, because the goal is to add counties to the First and the Fourth. But our economies of the row crop farmers are all similar.¹²²

Laurie Black also spoke about keeping Lincoln, Chicot, and Desha counties together.¹²³ Rebecca Dewitt¹²⁴ and Judge Capps advocated for keeping Lincoln County in the 1st district.¹²⁵ Judge Tindall wanted Desha and Chicot Counties together.¹²⁶ Dannie Scroggins also discussed the need for strong row crop representation in the 1st district.¹²⁷

Pulaski County and the Little Rock Metropolitan Area were discussed often as communities of interest. For instance, Lorrie Evans of Indivisible Little Rock described her community of interest as “the Little Rock metropolitan region, which includes Little Rock, North Little Rock, Jacksonville, Maumelle, Sherwood, Wrightsville, some of the areas that have been, of course, carved out of the Second Congressional District.”¹²⁸ Senator Tucker echoed these points with respect to Pulaski County:

And we do a lot of big projects here, and it takes cooperation between the county, the municipalities, the state government, and the federal government to do a lot of these projects, and it becomes more cumbersome and more complicated if you’re dealing with multiple members of Congress through that process.¹²⁹

Representative Scott also pointed out that splitting Pulaski County across three different congressional districts was “not good for economic development, and it is not good for representation.”¹³⁰

Several other communities of interest were considered. Delta counties are another community of interest that came up on the record. Representative Flowers mentions the Delta Region when describing her map:

And especially for those of us who have expressed in the past during legislative sessions a concern for the Delta, we all love to talk about our concern for the Delta. And in this map, the Delta region is not split between 1 and 4. The Delta region is, by and large,

¹²² 1:18:16 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²³ 1:23:51 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²⁴ 1:44:40 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²⁵ 1:25:07 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²⁶ 1:31:40 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²⁷ 3:01:29 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹²⁸ 3:00:49 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹²⁹ 3:17:16 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹³⁰ 11:08:22 10/6/21 House Floor.

drawn together in one district along with part of Pulaski County, which would give much stronger representation to the Delta region.¹³¹

Representative Pilkington (R) mentioned River Valley counties:

But actually what I want to talk about is where I'm from, the River Valley. This is actually the only map that I've seen presented that concentrates River Valley counties together and gives us a stronger voice. We've constantly been in a situation where Pope's in the 3rd, Johnson's in the 4th, and other counties are spread out. And so for me, representing my people and what they want, they would like to see a map like this, where the River Valley is concentrated.¹³²

A few times in the record, legislators discussed the sentiment that Madison County should remain in the 3rd District.¹³³ For instance, Representative Ladyman said:

I appreciate the Madison County question, because my wife has a lot of relatives in Madison County. And I've got one-page letters wanting to put it in there [in the 3rd district].¹³⁴

Similarly, Representative Ballinger said:

Madison County wants to be back in the 3rd, Carroll County wants to be in the 3rd. Everything else is flexible, and I'm willing to work. But as a member of state agencies, I can't vote for anything that doesn't have Madison County and Carroll County in the 3rd.¹³⁵

Racial and ethnic minorities also were discussed as communities of interest. As Senator Elliott (D) said:

We have talked about properly from the very beginning people of interest, from the very beginning, groups of interest. And it just seems that every time we come to this issue, meet everything else, but if we talk about interests when it comes to ethnicity and so forth, it's an issue.¹³⁶

Several other minority legislators expressed concerns about minority representation, as I discuss in more detail in the next section.

¹³¹ 2:45:12 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹³² 1:44:32 10/6/21 House Floor.

¹³³ 1:50:59 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹³⁴ 1:58:40 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹³⁵ 1:39:44 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹³⁶ 3:04:59 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

In some instances, legislators and members of the public argued that certain areas did *not* fit together as communities of interest. In particular, some people argued that Cleburne County was not a good fit for the 2nd Congressional District, though it ultimately was included in that district in the enacted map. Senator Irvin (R), who represents Cleburne County, said that her “constituents are interested in keeping Cleburne County into the First District.”¹³⁷ Jacque Martin, a resident of Cleburne County, said, “we are concerned that being pulled into the 2nd Congressional District, which really doesn’t align with our community, quite honestly.”¹³⁸ Both Senator Irvin and Ms. Martin noted that Cleburne County was not urban like Pulaski County.

Summary

The primary congressional redistricting interests expressed repeatedly in the General Assembly involved (1) keeping any population deviations under one percent; (2) keeping counties and cities whole; and (3) respecting certain communities of interest, especially keeping Desha, Chicot, and Lincoln counties together as row crop communities in the 1st district and keeping Madison County in the 3rd district. Other redistricting principles such as compactness were not raised frequently or consistently. In **Appendix C**, I compile data on the redistricting plans considered during the session. The proposals met these redistricting priorities to varying degrees. Based on my examination of the introduced maps, it was possible to meet the expressed priorities of the legislature without splitting up counties or cities. Specifically, legislators introduced eleven maps that kept all counties and municipalities whole; most of those maps had population deviations below one percent – the deviation that many members of the General Assembly expressed a desire to stay within. Representative Meeks’ HB1966, for instance, kept all counties and cities whole and put Desha, Chicot, and Lincoln Counties together in the 1st congressional district (as was a priority detailed above), all while keeping the maximum deviation for any district under .17 percentage points. However, the redistricting map that was ultimately passed by the Arkansas Legislature did not satisfy the criterion that was stressed the most by legislators: HB1982 and SB743 split both counties (i.e., Pulaski three ways and Sebastian two ways) and municipalities (e.g., Little Rock and North Little Rock).

After HB1982 and SB743 passed, supporters of the map praised it as the map with minimal population deviation of all the other maps that were produced. For instance, Representative Speaks was quoted in the *Arkansas Democrat-Gazette*:

“We’re only to meet every 10 years for one thing and that was to get our populations as close as we possibly could and that’s all, and that’s exactly what this map does.”¹³⁹

¹³⁷ 11:17:34 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹³⁸ 11:19:39 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹³⁹ Herzog, Rachel and Michael R. Wickline. “Governor Gets Congressional Map; Critics Say Pulaski County Split Excludes Black Voters. *Arkansas Democrat-Gazette*. 8 October 2021. Front Section.

This statement directly contradicted Representative Speaks's earlier statements regarding HB1959, the first bill she introduced, about the need to consider multiple factors, and about her understanding that balancing districts meant getting population deviations within one percent:

This map meets all the principles we were asked to follow. It does not split a single county. This map maintains districts as previously drawn, as close as possible. America requires a census every ten years for only one purpose, and that is to balance the population of the congressional districts. This map has the four congressional districts under one percent per population.¹⁴⁰

Moreover, prioritizing minimal deviation to the detriment of balancing other considerations went against the advice that the Bureau of Legislative Research provided to the House and Senate at the start of the congressional redrawing process that “you can’t just look at the deviation alone . . . That’s not going to win the day. You know, the court is going to look beyond just that percentage that pops up on the map when we print it out.”¹⁴¹ Prioritizing minimal deviation also went against the consensus among legislators speaking on the record that higher population deviations would be justified if necessary to serve other goals such as keeping counties and cities whole.

Prior Knowledge that HB1982/SB743 Targeted and Diluted Minority Voting Strength

The impact of the different plans on racial minority voters was discussed at several points during the consideration of the proposed congressional maps. During these discussions, legislators were warned that HB1982/SB743 targeted minority voters to the extent that it would move a disproportionate number of Black and other minority voters out of the 2nd congressional district and into the 1st and 4th congressional districts. Legislators also were warned that this sorting of Black and other voters out of the 2nd congressional district would dilute the voting strength of minority communities. However, the Arkansas Legislature passed the map in the face of these harms, refusing to consider the deleterious racial effects of the redistricting plan.

Repeated Discussion of Compliance with the Voting Rights Act

First, legislators were aware that they were allowed to consider the effects of redistricting on minority representation in order to comply with the Voting Rights Act. During the redistricting overview seminars in August 2021, Mr. Miller and Ms. Davenport presented slides that made it clear that compliance with the Equal Protection Clause and the Voting Rights Act were part of the traditional redistricting principles that legislatures should take into account. Ms. Davenport said:

¹⁴⁰ 1:07:57 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁴¹ 1:19:40 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

Next, we talk about the two kinds of overarching principles that are also traditional criteria, and that is compliance with the Equal Protection Clause of the Fourteenth Amendment. Courts have held that the Equal Protection Clause means that you're not drawing based solely on race solely or primarily, is the way that the court uses that phrase. The U.S. Supreme Court has held that districts should not be defined exclusively by race, although it is permissible to take race into account while drawing district boundaries.¹⁴²

In both presentations before the House and Joint State Agencies and Governmental Affairs Committees, Ms. Davenport went on to emphasize that one way that it is permissible to consider race is "for drawing or adjusting a district based on racial considerations in order to avoid a violation of the Voting Rights Act."¹⁴³ Ms. Davenport also further explained that the Voting Rights Act "prohibits any practice or procedure that has a discriminatory effect on racial or language minorities."¹⁴⁴ In the second, joint session, Ms. Davenport explicitly told the legislators that Voting Rights Act compliance meant that:

In addition to those Fourteenth Amendment equal population requirements, you have to look – the Voting Rights Act prohibits any practice or procedure that has a discriminatory effect on racial or language minorities.¹⁴⁵

The language on her slide (depicted in **Figure 2** below) echoed these sentiments.¹⁴⁶

¹⁴² 1:26:22 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

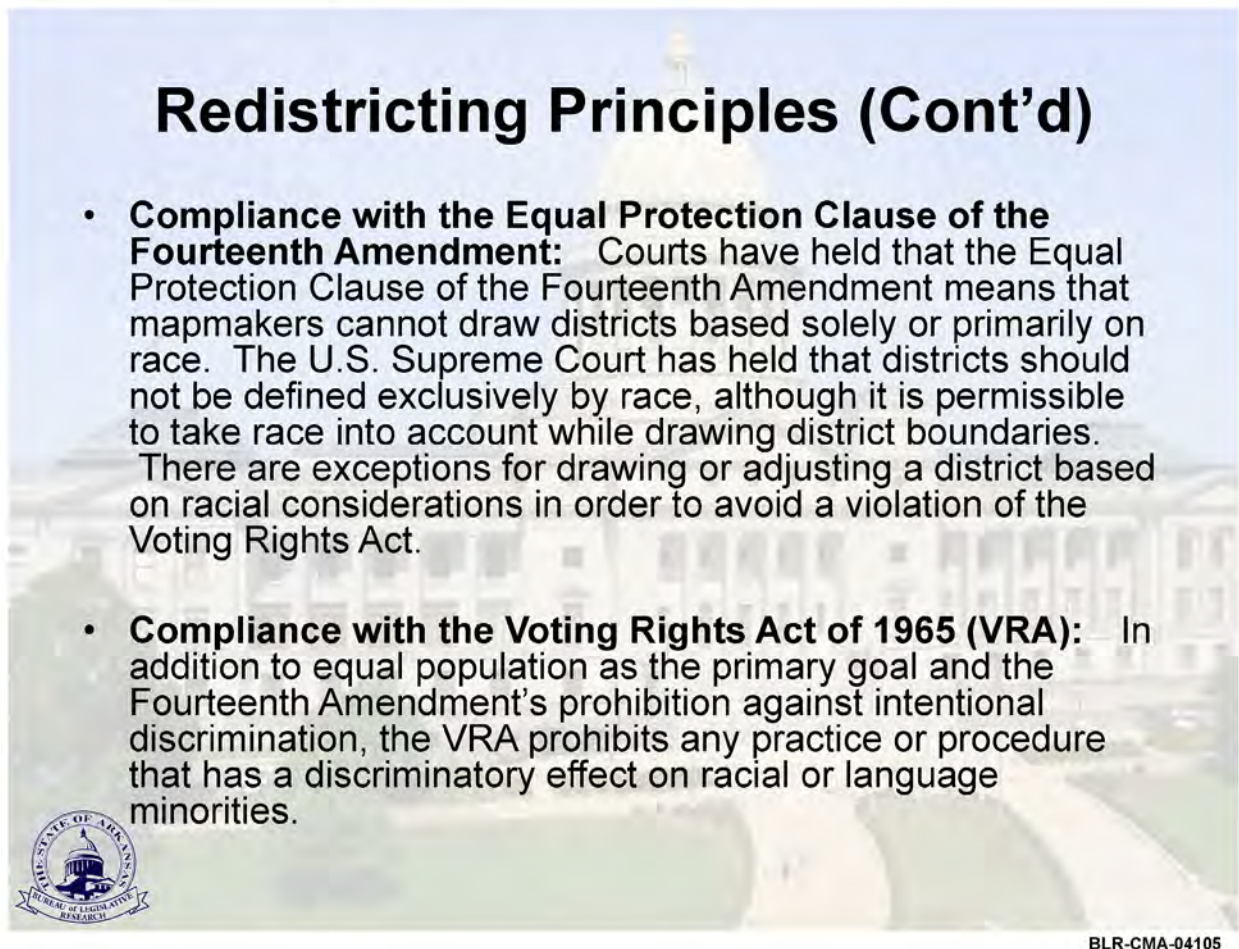
¹⁴³ 1:26:52 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁴⁴ 1:27:15 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁴⁵ 1:27:06 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.


¹⁴⁶ BLR-CMA-04093 at -04105.

Figure 2: Slide from Redistricting Overview



Redistricting Principles (Cont'd)

- Compliance with the Equal Protection Clause of the Fourteenth Amendment:** Courts have held that the Equal Protection Clause of the Fourteenth Amendment means that mapmakers cannot draw districts based solely or primarily on race. The U.S. Supreme Court has held that districts should not be defined exclusively by race, although it is permissible to take race into account while drawing district boundaries. There are exceptions for drawing or adjusting a district based on racial considerations in order to avoid a violation of the Voting Rights Act.
- Compliance with the Voting Rights Act of 1965 (VRA):** In addition to equal population as the primary goal and the Fourteenth Amendment's prohibition against intentional discrimination, the VRA prohibits any practice or procedure that has a discriminatory effect on racial or language minorities.



BLR-CMA-04105

Further stressing the importance of compliance with the Voting Rights Act, another slide in Ms. Davenport's presentation notes under "Legal Issues," that "[o]ther types of cases involving gerrymandering may be justiciable in Federal Court if they violate the Equal Protection Clause of the Fourteenth Amendment or the Voting Rights Act of 1965."¹⁴⁷ During legislative debate, lawmakers were concerned about getting sued over their map, and asked questions and brought up the prospect of lawsuits throughout the process. For instance, when introducing the first bill (HB1959) before the Joint House and Senate State Agencies and Governmental Affairs Committees, Representative Speaks started with, "Today I present to you a congressional map that I know is a very good map, and one that will stand to court challenge if necessary."¹⁴⁸ She referenced lawsuits again in closing on the bill: "In closing, this map can be

¹⁴⁷ BLR-CMA-04103.

¹⁴⁸ 1:05:58 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

defended if it's challenged in court. And the last thing that we want is to have the court system to draw the districts"¹⁴⁹ During the redistricting overview session, Representative Meeks asked:

I had a question concerning a follow-up to a legal challenge, so this is a what-if scenario. But what if we draw a real nice map, the court looks at it, and says, no, you need to tweak it here and here, make a few little changes to it, for--in order for it to go into effect. So if the court says, no, at that point, what happens?¹⁵⁰

Representative Ladyman also asked about lawsuits during the August 9, 2021, redistricting overview session.¹⁵¹ However, despite the stated desire to avoid lawsuits, legislators refused to consider how their map diluted minority voting strength.

Legislators and members of the public echoed Ms. Davenport's legal advice early in the redistricting process, reminding members that they should consider the effects of the proposed map on minority voters and their access to representation. For example, during the September 27, 2021 joint meeting of the House and Senate State Agencies and Governmental Affairs Committees, Representative Flowers argued that the legislature should consider the issue of minority representation because compliance with the Voting Rights Act was one of the redistricting principles.¹⁵² Mr. J. F. Valley, a lawyer and former mayor, also said:

And one of the things I've noticed from watching the meeting on video, on Monday or Tuesday, whenever the other meeting was, and today, is there has not been much talk about Black folks or minorities in this state. And I'm one of them. And I want all of you all to think about us, think about Black representation, think about minorities, think about not splitting Black voters up in such a way that their impact is minimized.¹⁵³

These statements urging the consideration of how the maps targeted racial minority voters and diluted their representation throughout the process were consistent with the legal advice provided by the Bureau of Legislative Research.

Early Refusal to Consider Detrimental Effects on Racial Minorities

Despite the advice to consider the racial harms of redistricting plans by the Bureau of Legislative Research, and despite the stated desire to avoid lawsuits, a few legislators argued early in the redistricting process that discussing race in redistricting was illegal, directly contradicting the advice they had been given multiple times by the Bureau of Legislative Research. Some Senators equated considering whether their maps were harmful to minority

¹⁴⁹ 1:08:34 9/20/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committee.

¹⁵⁰ 1:36:12 8/19/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁵¹ 10:37:01 8/9/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹⁵² 2:48:45 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁵³ 1:52:46 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

voters with racial discrimination. For instance, Senator Ballinger argued that protecting minority representation was just too difficult:

One, so there are basically two concerns, and one reason why people aren't talking about race is because if we're talking about race, there's a lot better chance that we're going to draw something that is unconstitutional. It's easier to not deal with the majority minority and deal with the population than it is to try to come down and address it. And there's-- and the reason is you can fail on two parts, right? You can fail by trying to dilute, to eliminate a minority district, or you could fail by diluting the minority vote in a district.¹⁵⁴

Senator Garner said:

But blatantly drawing a district for racial reasons, I think, gets us both in constitutionally [*sic*] issues with the federal government and is a bad way to look at drawing maps. I appreciate multiple members not bringing that up in the debate so far.¹⁵⁵

These comments were made in response to redistricting plans when map drawers said that they were considering minority representation under the Voting Rights Act.

Warnings about the Disparate Racial Impact of HB1982/SB743

Once HB1982 and SB743 were introduced, several legislators made the racial effects of the map upon minority groups in Pulaski County clear. Multiple legislators stated that the map would disproportionately affect minority voters. For instance, Representative Ennett said that she spoke to Representative Speaks about the impact of her map on minority voters:

I spoke with the sponsor about this--about her previous bill of--previous version of this bill that would have split Pulaski County into two congressional districts, and I spoke with her yesterday about this version of the bill. I explained to her that this bill would split up a majority Black district into three congressional districts. It would split up Black precincts, and it will split my legislative district into three congressional districts.¹⁵⁶

Representative Hodges (a Black representative) said:

We all know what's going on here. It's no secret. Southeast Pulaski County is being split into three different congressional districts. Before we came down here to draw these maps, we all knew who lived in the southeast corner of Pulaski County. We all knew who lives in south Little Rock, Rose City, Wrightsville and College Station. It's people who look like me.¹⁵⁷

¹⁵⁴ 3:11:48 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁵⁵ 2:48:05 9/27/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁵⁶ 11:10:44 10/6/21 House Floor.

¹⁵⁷ 1:55:11 10/6/21 House Floor.

Senator Chesterfield also noted that she represented the affected area of Pulaski County and confirmed that it was a majority minority area.¹⁵⁸ Representative Love referred to the map as “disenfranchising a community.”¹⁵⁹ Senator Tucker gave the specific demographics of the people affected by the redistricting plan:

. . . the portions of Pulaski County that are being moved, proposed to being moved from the 2nd to the 1st district, that portion of Pulaski County is 34 percent White, 58 percent African American, 4 percent Hispanic. So essentially 65 percent non-White in total. And then in the 4th, the precincts in Pulaski County that are being proposed to move from the 2nd to the 4th is 30 percent White, 46 percent African American, 22 percent Hispanic. So it’s 30 White, 70 non-White. Does it concern you at all to be moving areas that are so predominantly minority in population?¹⁶⁰

Senator Tucker reiterated these numbers the next day for the full Senate.¹⁶¹ Senator Davis further clarified, “I’ve got numbers, and out of Pulaski County, we move, it looks like this map moves 32,780 people into the 4th, and 8,612 people into the 1st, for a total of 41,392 out of Pulaski.”¹⁶² Lorrie Evans, representing the voting rights organization Indivisible Little Rock and Central Arkansas, provided similar data:

Those precincts contain 37,599 central Arkansans who live in the metropolitan region. That’s almost 40,000 Arkansans who will be directly impacted; Little Rock, North Little Rock voters, by being carved out of the second district, having their capital region votes diluted. Pulaski County, as a whole, is 56 percent White. The 13 precincts that were carved out of District 2 of Pulaski County in this particular bill, is 39 percent White, and 71 percent minority. So, and again, I have here data that’s pulled from the--this is the--includes the 1920, I mean the 2020--is that it? Census data and it includes information statistics on the minority carve out, so, which would, of course--the impact of the bill, whatever the intent was, the impact will be racial gerrymandering.¹⁶³

Thus, legislators were presented with qualitative and quantitative data forewarning the racial impact of what became the enacted plan. No one disputed the fact that the redistricting plan disproportionately affected racial minorities or that the areas of Pulaski County targeted from removal from the 2nd congressional district contained a disproportionate number of Black voters.

Opponents of HB1982 and SB743 over and over again reminded supporters of the bill of the Bureau of Legislative Research’s legal advice to consider the effects of the plan on racial minorities. Representative Love said on the House floor, “you cannot ignore what’s going on

¹⁵⁸ 3:48:03 10/5/21 Senate Chamber.

¹⁵⁹ 11:12:07 10/6/21 House Floor.

¹⁶⁰ 3:14:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee. Senator Rapert responded by saying that they “we’re not using racial demographics to draw maps” and chastised Senator Tucker for always bringing up race. *Id.* at 3:14:50.

¹⁶¹ 10:44:55 10/6/21 Senate Chamber.

¹⁶² 3:19:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹⁶³ 3:03:09 10/6/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

here. And so if we would just take a step back and look at the communities that this map is impacting, you would see the disparate impact and you would know that race cannot be ignored when we look at this.”¹⁶⁴ He goes on to urge that “race can be taken into account.”¹⁶⁵ On the Senate floor, Senator Elliott said “People who are listening and people in this body need to be very, very clear that just as we deliberately, as we should, consider the other criteria, we absolutely can, and should, consider race as a part of what we’re doing.”¹⁶⁶ Representative Scott likewise noted importance of considering the harms to minority voters.¹⁶⁷ Senator Tucker also pointed out that legislators should consider the impact of the congressional map on minority representation, not just the professed legislative intent:

But there is a point that intent is different than impact. And this--this is what the impact is no matter what. And I want to make sure everyone knows the impact of what this map does before we vote on it.¹⁶⁸

Black legislators and/or Democrats were not the only people to raise concerns about the racial harms of what would become the enacted map. Importantly, Republicans also raised concerns about the racial effects of the map. Senator Ballinger, discussing several relatively easy fixes that could be made to the map, noted that the map “still has some racial issues that can be fixed.”¹⁶⁹ Governor Hutchinson warned on the evening before the passage of HB1982 and SB743, “I would urge (lawmakers) that you do not want to dilute minority representation or influence in congressional races.”¹⁷⁰ And, after the General Assembly passed the redistricting maps anyway, Governor Hutchinson said at a press conference:

In terms of the bills that are before me, that reallocates the population to the four congressional districts: I am concerned about the impact of the redistricting plan on minority populations. While the percentage of minority populations for three of the four congressional districts do not differ that much from the current percentages, the removal of minority areas in Pulaski County into two different congressional districts does raise concerns. I could go through those statistics, but I will not at this time. I’ve been contacted by a number of people asking me to veto the legislation. I’ve decided not to veto the congressional redistricting bills out of deference to the legislative prerogative and the political process but instead to let them go into law without my signature. This will enable those who wish to challenge the redistricting plan in court to do so.¹⁷¹

¹⁶⁴ 11:12:39 10/6/21 House Floor.

¹⁶⁵ 11:13:16 10/6/21 House Floor.

¹⁶⁶ 10:33:50 10/6/21 Senate Chamber.

¹⁶⁷ 11:08:02 10/6/21 House Floor.

¹⁶⁸ 10:46:10 10/6/21 Senate Chamber.

¹⁶⁹ 11:54:26 10/5/21 Senate Chamber.

¹⁷⁰ Associated Press. 2021. “Arkansas Redistrict Plan Splitting Pulaski County Advances.” *Little Rock Public Radio*. Available online <https://www.ualrpublicradio.org/local-regional-news/2021-10-07/arkansas-redistrict-plan-splitting-pulaski-county-advances>. Accessed 1 Jul 2024.

¹⁷¹ 3:20. Frizzell, Casey. 2021. “Arkansas Congressional Redistricting Bills to Go Into Law without Governor’s Signature.” Available online

The then-governor's concerns stemmed from his experience working on a voting rights case in the 1990s, where he "learned from that experience the real concerns of the minority population about their equal opportunity to have an effective voice and congressional elections. Fair and equal representation is necessary for the integrity and the essence of our democratic process."¹⁷² Governor Hutchinson refused to sign HB1982 and SB743, letting them go into effect without his approval.

Claims by Map Drawers That They Were Unaware of Racial Effects of the Map

In response to discussion of the racial effects of the bills, supporters of HB1982 and SB743 argued that they were not aware of the racial makeup of the affected districts when drawing the maps. However, the record shows that such information was available to legislators when the maps were drawn. Senator Rapert acknowledged that map drawers had access to racial data when drawing maps:

I have not pulled any numbers on racial statistics. Now I know that it comes up on maps that are redrawn. But I have seen no numbers on racial statistics as it related to the changes.¹⁷³

In deposition testimony for this case, Lori Bowen of the Bureau of Legislative Research, who drew maps for several legislators, confirmed that racial statistics came up on redrawn maps, as Senator Rapert said. Ms. Bowen said that she had data on the racial composition of districts visible on the screen when she drew maps¹⁷⁴ and did not have access to any political data about the districts on her computer.¹⁷⁵ These data would update as she made changes to the map. Ms. Bowen said:

Q. But were you--did you have available on the screen, as you were developing hb1982 and Senate bill 743, racial demographic data at the bottom of the screen that would have changed the overall comp-- the racial composition of the district as you were moving these precincts from CD2 to other districts?

A. Yes, it was available.

Q. It was available on AutoBoundEdge, but was it on your screen, the racial demographic data, as you were moving precincts around under hb1982 and sb743?

<https://www.5newsonline.com/article/news/politics/gov-asa-hutchinson-sign-congressional-redistricting-bills/527-64daa0c9-83a8-4528-9cef-1980f5427de2>. Accessed 1 Jul 2024.

¹⁷² 5:26. Frizzell 2021.

¹⁷³ 10:38:19 10/6/21 Senate Chamber.

¹⁷⁴ Bowen Deposition 70:6-73:9.

¹⁷⁵ Bowen Deposition 94:5-21.

A. I assume it was because I usually always have it there. It could be minimized, but I can't--I don't know that I ever did.¹⁷⁶

Ms. Bowen also said that she met with legislators to develop the enacted map in person using the software that had race data visible on the screen while working with the districts.

Q. When you were developing HB1982 in front of --actually, what computer did you use to develop HB1982?

A. I think I might have been in the legal area at that point.

Q. When you were doing your work on HB1982, were there any legislators in the room alongside you?

A. Could have been, yes. Yes, I believe so.

Q. More than one?

A. Could have been.¹⁷⁷

In other words, when Ms. Bowen was working on the enacted map, legislators were in the room alongside her giving verbal instructions about the map. The entire time, data about the racial composition of the congressional districts were visible on Ms. Bowen's screen; meanwhile, no partisan data were available to Bowen or on the screen while she was working on these maps with legislators. Shelby Johnson, the Geographic Information Officer for the State of Arkansas, confirmed that political information was not available.¹⁷⁸

Legislators, particularly the sponsor of SB743, also had personal knowledge of the demographics of affected areas, yet professed otherwise. For instance, in the following exchange with Senator Elliott, Senator English denied knowing the racial makeup of the affected areas of Pulaski County:

SENATOR ELLIOTT: From the areas that are being moved--from the areas that are being moved. Can--because we are pretty familiar with this--with this county as--as residents, you and I are. Are those areas, if you don't know the demographics, by race, you probably know it geographically enough to surmise--are those areas that are being pulled from Pulaski County predominantly--predominantly minority groups?

SENATOR ENGLISH: So I don't think that we looked at any of that at all, when we were drawing the-- the--the lines. We just knew we --

SENATOR ELLIOTT: Okay. I'm asking Senator English. I know, for example, if I go to Southwest Little Rock, or if I go to Rose City, pretty much, without knowing anything else, because I've lived here a long time and I know the area, I would probably know predominantly who the folks are there by race. Without--if you can't give me a specific

¹⁷⁶ Bowen Deposition 286:13-287:5.

¹⁷⁷ Bowen Deposition 269:3-11.

¹⁷⁸ Johnson Deposition 23:14-21.

number, just based on your knowledge, the areas that are being drawn into other counties, are they predominantly minority groups, collectively who live in that--those areas? In those precincts?

SENATOR ENGLISH: Can you repeat the last part of your question?

MALE VOICE: This is like a spelling bee.

SENATOR ELLIOTT: Based on your knowledge, for the precincts that are being pulled out of Pulaski County, because we've been here for a long time, can you surmise that the folks who live in those areas, say Rose City, if I ask you right now, predominantly, what groups of people, by race or ethnicity, live in Rose City? You could probably tell me that, couldn't you?

SENATOR ENGLISH: So if you--if you were just thinking about Rose City, my son-in-law grew up there, my--Jimmy Jones grew up there, lots of our famous folks here in the Little Rock area have grown up there. I would never think about it, to be honest with you, as a predominantly African-American community. That just doesn't enter my mind.¹⁷⁹

However, this claim that Senator English was unaware of the demographics of the affected areas should be considered in light of countervailing evidence: Senator English has represented parts of North Little Rock and Northern Pulaski County, as Senator Elliott pointed out, since 2013.¹⁸⁰ North Little Rock, which contains Rose City, is a majority-minority city.

Dismissal of Concerns about Minority Vote Dilution

Despite the many warnings about the disparate racial impact of the map from legislators, members of the public, and even former Governor Hutchinson, supporters of HB1982 and SB743 refused to consider or mitigate the effect of dividing Pulaski County three ways on minority voters. In response to the concerns raised by opponents of the bill, supporters dismissed those concerns as insincere. Senator Rapert, discussing the effects of the map on minority voters and their representation, said he was "tired of all the allegations thrown at members."¹⁸¹ Senator Rapert also pointed out the fact that the new redistricting plan produced the same minority distribution in the 2nd congressional district as the 2011 redistricting map, effectively admitting that reproducing the 2011 racial balance served to roll back the relative gains in minority population relative to White population that occurred between the 2010 and 2020 censuses. He said in debate:

But today, I did ask the bureau to tell me what was the racial makeup of the 2011 map. The 2011 map that was passed by a majority Democrat body. First Congressional District--and I could go through every one of this, White, Black, et cetera. But since it's

¹⁷⁹ 3:40:42 10/5/21 Senate Chamber.

¹⁸⁰ Arkansas State Senate. "Senator Jane English." Available online <https://senate.arkansas.gov/senators/jane-english/>. Accessed 3 Jul 2024.

¹⁸¹ 10:42:37 10/6/21 Senate Chamber.

being alleged that there's been some effort, the First District was 18 percent with the First District map. The Second District was 21.4 percent. The Third District was 2.6 percent, and the Fourth District was 19.4 percent. In the current map, the First District is, and make sure I'm getting this right, 17.2 percent. Even with adding what you are alleging is more minority population to the district. The Second District, 20.1; Three, 2.8; Four, 19.4.¹⁸²

For context, the share of Black people in the 2nd congressional district had grown more than two percentage points since the 2010 census, while the share of White voters had declined.¹⁸³ Senator Rapert, later in a deposition, admitted that he raised these points because he thought that the expressed concerns about minority representation were a “red herring:”

I do know that I saw at one point towards the end of this process, I could see that Democrat activists, Democrat members were specifically and intentionally trying to create a narrative that probably lands us here today. It was obvious they were trying to interject something that would give them cause to bring a lawsuit to oppose the map process. I found this so objectionable that I went on the Senate floor and literally gave an illustration based on data that I had requested from BLR that showed that our maps were basically the same as what they had produced in 2011 as it relates to any racial demographic data. This proved a point and shut down, I believe, most of the rest of the debate that this simply was a red herring.¹⁸⁴

Senator Rapert also dismissed concerns about splitting Pulaski County as “liberals whining, crying, and fussing” on social media.¹⁸⁵ Representative Ray was particularly dismissive about the concerns over the impact on minority voters and their representation:

So I think we can just tone it down on some of the performative theatrics here and the moral outrage that's being dialed up about splitting a county. The idea that this is a quote “gerrymander” is laughable.¹⁸⁶

Representative Ray also dismissed concerns about the claimed racial harms as a “cheap political trick:”

I'm really – I'm really disappointed that at every turn in this body, it seems like the issue of race is continually injected into the discussion. . . A map comes out of the committee with lines on a map, it gets called racist. We're going to come down here next week, and we're going to try to provide tax relief for hardworking Arkansans, and somebody's

¹⁸² 10:38:33 10/6/21 Senate Chamber.

¹⁸³ Based on Table P2 of the 2020 Decennial Census, 24% of the population of the 2nd congressional district was non-Hispanic Black alone or in combination before redistricting. U.S. Census Bureau. (2021). 2020 Census State Redistricting Data (Public Law 94-171) Summary File.

¹⁸⁴ Rapert Deposition 13:11-23.

¹⁸⁵ October 5, 2021 tweet by Jason Rapert, CMA-RAPERT-00473.

¹⁸⁶ 1:52:26 10/6/21 House Floor.

going to call that racist. It's a cheap political trick designed to score cheap political points. And that's how I feel about it.¹⁸⁷

Representative Wooten agreed with Representative Ray:

And like Representative Ray, I'm sorry to see race introduced in this body as a factor in this consideration. There's not one thing in the rules or laws that apply to the drawing of this map that mentions race. It talks about representation, proper representation. And I don't think you can get any closer than .05 percent differentiation between these districts.¹⁸⁸

Several legislators seemed offended by these comments. Representative Hodges said in response to Representative Ray, "... Racism is reality. I'm not trying to win an academy award by being up here, so there's no theatrics here."¹⁸⁹ Representative McCullough (D) said:

I also could not sit in my seat today and listen to anyone accuse my friends and my colleagues, your colleagues of cheap political tricks. And to dismiss their perspective and their lived experience is ridiculous. And often when we hear that something's not about race, it is about race.¹⁹⁰

Legislative supporters of HB1982 and SB743 were openly hostile to the idea of considering the effects of the map on racial minorities. Senator Rapert even tried to preempt discussions of the racial effects of the map. For instance, when Senator Elliott was questioning Senator English about her knowledge of the racial makeup of the affected areas of Pulaski County on the Senate floor, Senator Rapert interrupted her, calling her questioning a "fishing" expedition.¹⁹¹ Also, when Senator Tucker asked Senator English about the racial demographics of her map in a Senate State Agencies and Governmental Affairs Committee meeting, before Senator English could answer, Senator Rapert interrupted Senator Tucker and chastised him for repeatedly bringing up race.¹⁹² These examples demonstrate the hostility of supporters of the map to discussion about the racial implications of the map on the record.

It is worth reiterating that at several points, some legislators, including Senator Rapert, tried to claim that three representatives were better than one and that splitting up Pulaski County would *improve* representation for the county and its residents. As an example, Senator Rapert argued:

So in terms of--of this, now I will tell you what did I--what did I learned from that? In my county, Perry County. That's where my home is. Actually, closer to Conway than anywhere else, but I'm right there on the edge. And here's what happened in Perry County. It used to have one rep and one senator for the whole county most of the time.

¹⁸⁷ 1:53:10 10/6/21 House Floor.

¹⁸⁸ 1:59:06 10/6/21 House Floor.

¹⁸⁹ 1:54:20 10/6/21 House Floor.

¹⁹⁰ 2:18:17 10/6/21 House Floor.

¹⁹¹ 3:43:50 10/5/21 Senate Chamber.

¹⁹² 3:14:49 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

But you know what we figured out a way to do? We figured out a way to turn lemons into lemonade. And you know what? Now every time there is an event or request, guess what happens? Four state representatives are sent messages, and they show up, two state senators show up. Do you not think that six is greater than two?¹⁹³

However, at multiple points in the legislative process, community members and legislators argued vigorously against this idea that residents of a single county should have multiple, different congressional representatives. Speaking about Pulaski County, Senator Tucker contested this argument at length in the Senate State Agencies and Governmental Affairs Committee to Senator English:

And we do a lot of big projects here, and it takes cooperation between the county, the municipalities, the state government, and the federal government to do a lot of these projects, and it becomes more cumbersome and more complicated if you're dealing with multiple members of Congress through that process. . . And by splitting Pulaski County three ways, I believe we're hurting Pulaski County generally, and then, by cutting off these two specific communities and putting them in separate congressional districts, we're hurting them more than the rest of the county.¹⁹⁴

In response, Senator English, the author of SB743, replied, "I don't disagree with a lot you said."¹⁹⁵ Representative Scott made a similar point:

Communities in Pulaski County are going to be in a tough position of having to talk to three different congresspersons for any major project, need, or natural disaster. This is not good for economic development, and it is not good for representation.¹⁹⁶

These comments, in line with those made by legislators and members of the public outlined earlier in this report, are examples of the ways that people in split communities pushed back on the idea that splitting up communities across counties, cities, or other boundaries of interest was good for their representation.

To summarize, supporters of HB1982 and SB743 knew about the racially disparate impact of the plan on minority voters in Pulaski County. They were warned by a bipartisan group of legislators, members of the public, the Bureau of Legislative Research, and the former governor of their own party that they could consider the racial impacts of the map before passing it. They were provided with testimony and data on the disproportionate racial effects of the proposed plan before its passage. Other plans were available that achieved the same redistricting goals that were articulated in the legislative record without engendering the harm of splitting the Black voters of Pulaski County. Rather than adopting one of these plans, supporters of HB1982

¹⁹³ 10:41:03 10/6/21 Senate Chamber.

¹⁹⁴ 3:17:16 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹⁹⁵ 3:18:06 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

¹⁹⁶ 11:08:22 10/6/21 House Floor.

and SB743 dismissed concerns about the harms to minority voters and their access to representation as “performative theatrics” and “cheap political points.”

Considering “Politics” and other Defenses against Racial Motivations

My analysis shows that partisan and other alternative motivations do not sufficiently account for the enacted plan and its impact on minority voters. Alternative explanations for adopting the map, particularly those related to partisanship, are not discussed much in the legislative debates. Moreover, legislators could have enacted a plan that would have reliably elected a Republican from the 2nd congressional district without cracking the Black vote. As discussed above, the evidence also contradicts arguments made in the record that legislators were unaware of the racial makeup of the precincts that they chose to move as they were drawing the maps.

First, supporters of HB1982/SB743 did make a limited number of references to partisan motivations in the legislative hearings and debates. However, these references were few and far between and were made only in response to criticism about the racial effects of the map. Some supporters of HB1982/SB743 seemed to rely on claims of partisanship as a safe harbor from claims that the legislature used race impermissibly in drawing the districts: supporters of HB1982/SB743 understood that “partisan gerrymandering” may be permissible under Court precedent but racial gerrymandering was not. As Representative Gonzales said in an early redistricting meeting, “It’s my understanding that if we can draw up these lines based on party affiliation, and that is more likely to hold up in court that drawing them along lines of race.”¹⁹⁷ Ms. Davenport from the BLR even told lawmakers during the first redistricting overview session in August 2021:

. . . the Supreme Court has concluded that gerrymandering based on partisan groups is non-judicial in the federal courts. So they stated very clearly--and really the best is what the court said, ‘We conclude that partisan gerrymandering claims present political questions beyond the reach of the federal courts. Federal judges have no license to reallocate political power between the two major political parties with no plausible grant of authority in the Constitution, and no legal standards to limit and direct their decision, so judicial review of partisan gerrymandering does not meet those basic requirements.’¹⁹⁸

Following this logic, in response to Senator Tucker’s concern that the changes in SB743 affected minority areas of Pulaski County,¹⁹⁹ Chairman Rapert immediately denied that race was a factor in drawing maps and said that the maps were based on political considerations:

¹⁹⁷ 1:57:43 9/23/21 Meeting of the Joint House and Senate State Agencies and Governmental Affairs Committees.

¹⁹⁸ 10:11:25 8/9/21 Meeting of the House State Agencies and Governmental Affairs Committee.

¹⁹⁹ 11:15:15 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

State for the record that I've not had anybody discuss on any maps that have targeted any minority districts whatsoever. Yes, Supreme Court says this is a political process, and you've got a majority of Republicans in this state, that just so happens to be that you don't have that in Pulaski County. And so the voices that have been at play here have been voices representing the majority of the State, Senator Tucker. I get your point and if I saw that was something that was being done, I would make the statement and objection myself. The fact is they're trying to find population where they can.²⁰⁰

However, it is worth noting that Chairman Rapert admits that he was not part of every meeting that produced these maps.²⁰¹ Senator Mark Johnson also speculated:

I don't believe this is about--I think it's absolutely about politics, just like ten years ago when former Representative Hall created what became known as the Fayetteville Finger. It wasn't about anything, but he or someone like him from Southeast Arkansas could maybe get to Congress if they could go up in there to Washington County and pick out the Democrats, you know, around the University of Arkansas at Fayetteville. I don't see any other real thing. This is about politics, and the courts have ruled carefully that redistricting is a political thing.²⁰²

These statements demonstrate the pattern of using partisan motivations as a shield to deflect concerns about racial motivations.

In addition to the fact that there is very little concrete evidence on the record that legislators were motivated by partisan gains, several supporters of the map outright deny the importance of partisanship to the process. Senator Hester, whose SB721 also divided Pulaski County three ways, was quoted by the Arkansas Democrat-Gazette as saying:

"No matter how the maps look, there's no way to draw a map that we're not going to have four Republican congressmen," he said. "To say that you're gerrymandering is a joke. ... I would say again, reaffirm that splitting Pulaski County wasn't the intent of this map; it's just the icing on the cake for me."²⁰³

Senator Clark said that he did not use partisan data for drawing his proposal.²⁰⁴ Senator Rapert also disagrees that the maps were motivated by partisanship: in his deposition, Senator Rapert contradicts his statement in response to Senator Tucker about the importance of partisan motivations, saying that partisanship was not really a factor in producing HB1982/SB743. He said:

²⁰⁰ 11:16:25 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

²⁰¹ 11:00:40 10/5/21 Meeting of the Senate State Agencies and Governmental Affairs Committee.

²⁰² 10:53:25 10/6/21 Senate Chamber.

²⁰³ Herzog, Rachel. "Redistrict Ideas Cut into the Heart of State—3 Plans Trisect Pulaski County." *Arkansas Democrat-Gazette*. 23 Sep 2021, p.1.

²⁰⁴ Herzog 2021.

So, I think what the question is asking is were there conversations among members about partisanship. Again, from my perspective, it was all about the maps and trying to make sure that they were equal based upon population. If partisanship was ever discussed, I would say it would just be a side note that somebody made about that. But honestly, the clear guidance was to get these districts made as equal as you possibly could.²⁰⁵

He also stated:

This is about drawing maps based upon math. It's about population. Approximately 750,000--the best that we could get there--and that was what we were trying to do. The rest of the demographics or the partisanship is secondary to the fact that we had to get people into those districts to make them as equal as possible for the people of Arkansas.²⁰⁶

As I noted earlier in this report, minimizing population deviation to get districts as close as possible was not discussed much in the legislative record—in fact, legislators were more concerned with keeping counties whole and keeping population deviations under one percent.

The claims of partisan motivations fall short of explaining why the legislature adopted this particular map, however. Statements made by Republicans and Democrats show that partisan goals were neither necessary nor sufficient to explain what happened to the minority community in the 2nd congressional district. Representative Pilkington said:

And, we actually could have made these districts redder, but didn't. When you look at the average Orvis ratings in congressional districts, it's about 62-63 percent Republican across the state. This map actually is bluer than the average of most districts when you look at the 2nd congressional district. So I just want to throw that out there. We could have actually gone way harsher if we wanted to.²⁰⁷

Senator Mark Johnson, accusing the Biden administration of holding back Census numbers for political reasons, acknowledged that Arkansas was so overwhelmingly Republican, "You're not going to change the party in any of the four seats in the State of Arkansas by most prognostications."²⁰⁸

Similarly, Senator Tucker said:

We also know for certain that it's not necessary to split any county in order to hit the -- the deviation numbers that we need to hit. And we had plenty of maps filed by both Republican and Democratic legislators that kept all 75 counties whole, that hit the deviation numbers that we needed to hit in order to propel--to surpass constitutional muster. And to be quite frank with you, it's also totally unnecessary from a political standpoint. The 2nd congressional district is already a majority Republican Congressional

²⁰⁵ Rapert Deposition 24:4-11.

²⁰⁶ Rapert Deposition 22:4-9.

²⁰⁷ 1:45:03 10/6/21 House Floor.

²⁰⁸ 10:56:19 10/6/21 Senate Chamber.

District and believe me, I know. And you could change it and keep counties whole and make it even more Republican than it is now without splitting Pulaski County.²⁰⁹

Representative Hodges pointed out:

You can easily make the 2nd district fairly drawn by just looping off Van Buren County. You'll still have your Republican delegation in Washington. That map wouldn't change that. Any partisan advantage gained by this map is worth little compared to the negative effects this will have on the Black communities in Pulaski County.²¹⁰

Representative Collins also said:

The map is likely illegal. It's personally offensive to me and many others, and it is very sad. Even if you subscribe to the most cynical view of redistricting, that the purpose is for the party in power to run up the score, we really don't have to do this to Pulaski County. There have been plenty of maps, including Representative Speaks's initial map that split no counties, are legal, and leave four solidly Republican districts. There are also a few maps that split Pulaski once, not twice, that don't split cities, that don't track obvious racial lines, and those would be a lot more defensible than this.²¹¹

No one disputed the point that several maps, including those drawn by Republican legislators like HB1966, would elect an entirely Republican delegation to Congress while keeping population deviations under one percent, keeping counties whole, and respecting the relevant communities of interest.

As another way to deflect criticism about the racial effects of the enacted plan, legislative sponsors and supporters of HB1982/SB743 said that they were unaware of the racial makeup of the affected areas of Pulaski County when it was drawn and argued that they did not use race when drawing the maps.²¹² However, as addressed above, legislators clearly had access to racial information about the new districts.

As shown in this section, supporters of HB1982/SB743 raised several defenses against claims that the enacted plan was racially motivated. First, they argued that partisanship, rather than race, motivated their adoption of HB1982/SB743. Second, they argued that they were not aware of the racial composition of the affected areas of Pulaski County when the maps were drawn. The evidence contradicts both of those positions. First, several Republican and Democratic legislators said on the record that splitting Pulaski County was not necessary for achieving four Republican districts in Arkansas. Second, the evidence shows that legislators had reason to know, from personal experience and from the visibility of the data while the map was being drawn, that predominantly Black and minority areas of Pulaski County were being moved into other districts.

²⁰⁹ 10:48:19 10/6/21 Senate Chamber.

²¹⁰ 1:57:09 10/6/21 House Floor.

²¹¹ 1:41:18 10/6/21 House Floor.

²¹² 3:40:42 10/5/21 Senate Chamber.

Conclusion

In conclusion, my analysis of the legislative record supports the importance of racial motivations to the legislature's adoption of HB1982/SB743. My examination of the sequence of events leading up to the passage of the redistricting plan, procedural departures, and contemporaneous records and statements of the legislature show that legislators were aware of the racial implications of the redistricting plan and refused to consider alternatives to address that disparate racial impact, instead passing those maps in a rushed, controversial process that was designed to minimize dissent and stifle debate. Concern over the departures from key principles (such as the splitting of counties and cities) and from agreed-upon procedures that would allow adequate time for debate and public comment generated bipartisan opposition to the enacted plan: several Republican legislators voted against the maps and the Republican governor of Arkansas refused to sign the plan into law.

Executed on: September 16, 2024

A handwritten signature in black ink, reading "Traci Burch". The signature is written in a cursive, flowing style. The first name "Traci" is written with a large, looped 'T' and a small 'i'. The last name "Burch" is written with a large, looped 'B' and a small 'h'.

Traci Burch

APPENDIX A

Traci Burch

Employment

- Professor, Northwestern University Department of Political Science (2024-Present)
- Associate Professor, Northwestern University Department of Political Science (2014-2024)
- Research Professor, American Bar Foundation (2007- Present)
- Assistant Professor, Northwestern University Department of Political Science (2007-2014)

Education

- *Harvard University*
Ph.D. in Government and Social Policy
Dissertation: *Punishment and Participation: How Criminal Convictions Threaten American Democracy*
Committee: Jennifer Hochschild (Chair), Sidney Verba, and Gary King
- *Princeton University*
A.B. in Politics, *magna cum laude*

Publications

- Levi, Ron, Traci Burch, and Robert L. Nelson. 2023. "Streets, Suites, and States: John Hagan's Contributions to the Study of Law, Power, and Inequality." *Law & Social Inquiry* 48(4): 1109-1116.
- Burch, Traci. 2023. "Which Lives Matter: Factors Shaping Public Attention to and Protest of Officer-Involved Killings." *Cambridge Elements in Race, Ethnicity, and Politics*.
- Burch, Traci. 2022. "Adding Insult to Injury: the Justification Frame in Official Narratives of Officer-Involved Killings." *Journal of Race, Ethnicity, and Politics*.
- Burch, Traci. 2022. "Officer-Involved Killings and the Repression of Protest." *Urban Affairs Review*.

- Burch, Traci. 2021. “Not All Black Lives Matter: Officer-Involved Deaths and the Role of Victim Characteristics in Shaping Political Interest and Voter Turnout.” *Perspectives on Politics*.
- Kay Lehman Schlozman, Philip Edward Jones, Hye Young You, Traci Burch, Sidney Verba, Henry E. Brady. 2018. “Organizations and the Democratic Representation of Interests: What Happens When Those Organizations Have No Members?” *Perspectives on Politics*.
- Burch, Traci. 2016. “Political Equality and the Criminal Justice System.” In Resources, Engagement, and Recruitment. Casey Klofstad, ed. Philadelphia: Temple University Press.
- Burch, Traci. 2016. “Review of The First Civil Right by Naomi Murakawa.” *The Forum*.
- Kay Lehman Schlozman, Philip Edward Jones, Hye Young You, Traci Burch, Sidney Verba, Henry E. Brady. 2015. “Louder Chorus – Same Accent: The Representation of Interests in Pressure Politics, 1981-2011.” In Darren Halpin, David Lowery, Virginia Gray, eds. The Organization Ecology of Interest Communities. New York: Palgrave Macmillan.
- Burch, Traci. 2015. “Skin Color and the Criminal Justice System: Beyond Black-White Disparities in Criminal Sentencing.” *Journal of Empirical Legal Studies* 12(3): 395-420.
- Burch, Traci. 2014. “The Old Jim Crow: Racial Residential Segregation and Neighborhood Imprisonment.” *Law & Policy* 36(3) 223-255.
- Burch, Traci. 2014. “The Effects of Imprisonment and Community Supervision on Political Participation.” Detaining Democracy Special Issue. *The Annals of the American Academy of Political and Social Science* 651 (1) 184-201.
- Burch, Traci. 2013. Trading Democracy for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation. Chicago: University of Chicago Press.
- Hochschild, Jennifer, Vesla Weaver, and Traci Burch. 2012. Transforming the American Racial Order. Princeton: Princeton University Press.
- Schlozman, Kay Lehman, Sidney Verba, Henry Brady, Traci Burch, and Phillip Jones. 2012. “Who Sings in the Heavenly Chorus? The Shape of the Organized Interest System.” In Schlozman, Kay Lehman, Sidney Verba, and Henry Brady, The Unheavenly Chorus, Princeton: Princeton University Press.
- Schlozman, Kay Lehman, Sidney Verba, Henry Brady, Phillip Jones, and Traci Burch. 2012. “Political Voice through Organized Interest Activity.” In Schlozman, Kay Lehman,

Sidney Verba, and Henry Brady, The Unheavenly Chorus, Princeton: Princeton University Press.

- Burch, Traci. 2012. “Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout and Party Registration of Florida’s Ex-Felons.” *Political Behavior* 34 (1); 1-26.
- Burch, Traci. 2011. "Turnout and Party Registration among Criminal Offenders in the 2008 General Election." *Law and Society Review* 45(3): 699-730.
- Burch, Traci. 2011. “Fixing the Broken System of Financial Sanctions.” *Criminology and Public Policy* 10(3).
- Hochschild, Jennifer; Vesla Weaver, and Traci Burch. 2011. “Destabilizing the American Racial Order.” *Daedalus* 140; 151-165.
- Burch, Traci. 2009. “Can the New Commander-In-Chief Sustain His All Volunteer Standing Army?” *The Dubois Review on Race* 6(1).
- Burch, Traci. 2009. “Review of *Imprisoning Communities*, by Todd Clear.” *Law and Society Review* 43(3) 716-18.
- Burch, Traci. 2009. “American Politics and the Not-So-Benign Neglect of Criminal Justice,” in The Future of American Politics, ed. Gary King, Kay Schlozman, and Norman Nie. (New York: Routledge).
- Schlozman, Kay Lehman and Traci Burch. 2009. “Political Voice in an Age of Inequality,” in America at Risk: Threats to Liberal Self-Government in an Age of Uncertainty, ed. Robert Faulkner and Susan Shell (Ann Arbor: University of Michigan Press).
- Hochschild, Jennifer and Traci Burch. 2007. “Contingent Public Policies and the Stability of Racial Hierarchy: Lessons from Immigration and Census Policy,” in Political Contingency: Studying the Unexpected, the Accidental, and the Unforseen, ed. Ian Shapiro and Sonu Bedi (New York: NYU Press).

Grants

- Co-Principal Investigator. “Fellowship and Mentoring Program on Law and Inequality.” September 1, 2020, to August 31, 2023. \$349, 313. National Science Foundation.

Honors and Fellowships

- American Political Science Association 2014 Ralph J. Bunche Award (for Trading Democracy for Justice).

- American Political Science Association Urban Section 2014 Best Book Award (for Trading Democracy for Justice).
- American Political Science Association Law and Courts Section 2014 C. Herman Pritchett Award (for Trading Democracy for Justice).
- Research grant, Stanford University Center for Poverty and Inequality (2012).
- American Political Science Association E. E. Schattschneider Award for the best doctoral dissertation in the field of American Government (2009)
- American Political Science Association William Anderson Award for the best doctoral dissertation in the field of state and local politics, federalism, or intergovernmental relations (2008)
- American Political Science Association Urban Section Best Dissertation in Urban Politics Award (2008)
- Harvard University Robert Noxon Toppan Prize for the best dissertation in political science (2007)
- Institute for Quantitative Social Sciences Research Fellowship (2006-07)
- *European Network on Inequality* Fellowship (2005)
- Research Fellowship, The Sentencing Project (2005)
- Doctoral Fellow, Malcolm Weiner Center for Inequality and Social Policy (2004-07)

Professional Service

- Editor, *Law and Social Inquiry* (2024-Present)
- Co-Editor, *Law and Social Inquiry* (2024)
- APSA Law and Courts Section Best Paper Award Committee (2020-2021)
- APSA Elections, Public Opinion, and Voting Behavior Executive Committee (2020-2023)
- General Social Survey Board of Overseers (2020-2024)
- APSA Kammerer Prize Committee (2017)

- Associate Editor, *Political Behavior* (2015-2019)
- APSA Law and Courts Section, Lifetime Achievement Award Prize Committee (2014-2015)
- Law and Society Association, Kalven Prize Committee (2013-2014)
- American Political Science Association, Urban Politics Section Dissertation Prize Committee (2012-13)
- American Political Science Association, Urban Politics Section Executive Committee (2012-13)
- Law and Society Association Diversity Committee, (2012-2013)
- American Political Science Association, Urban Politics Section Program Co-Chair (2011)
- Associate Editor, *Law and Social Inquiry*
- American Political Science Association, Urban Politics Section Book Prize Committee (2009)
- Reviewer for *The American Political Science Review*, *Public Opinion Quarterly*, *American Politics Research*, *Time-Sharing Experiments in the Social Sciences*, etc.

Presentations and Invited Talks

- “Which Lives Matter?” Race, Ethnicity, and Politics Workshop. Harvard University, Cambridge MA. March 2024.
- “Reenfranchisement and the Limits of Policy Feedback.” Princeton University Center for the Study of Democratic Politics. February 2024.
- Harvard University, Cambridge, MA. Panel on Reform and Representation. Race, Electoral Systems, and Reform Conference. September 2023.
- Northwestern University, Evanston, IL. “Chicago Area Behavior Conference: The Politics of Officer Involved Killings.” May 2023.
- Loyola University, Chicago, IL. “Hartigan Lecture: Limits on the Use of Force by Police: Perspectives from Law, Courts, and the Public.” February 2023.

- American Political Science Association Annual Conference, Montreal, Canada. “Not All Black Lives Matter: Officer-Involved Deaths and the Role of Victim Characteristics in Shaping Political Interest and Voter Turnout.” September 2022.
- University of Pennsylvania. Virtual. “Voice and Representation in American Politics.” April 2021.
- University of Michigan. Virtual. “Which Lives Matter? Factors Affecting Mobilization in Response to Officer-Involved Killings.” February 2021.
- University of Pittsburgh. Virtual. “Policing and Participation.” November 2020.
- Hamilton College Constitution Day Seminar. Virtual. “Racial Protests and the Constitution.” September 2020.
- New York Fellows of the American Bar Foundation. New York, NY. “Police Shootings and Political Participation.” March 2020.
- Pennsylvania State University, State College, PA. “Effect of Officer Involved Killings on Protest. November 2019.
- Princeton University. Princeton NJ. “Effects of Police Shootings on Protest among Young Blacks.” November 2019.
- Missouri Fellows of the American Bar Foundation. Branson, MO. Police Shootings and Political Participation in Chicago. September 2019.
- Northwestern University. “Police Shootings and Political Participation.” November 2018.
- Princeton University. Princeton, NJ. “Police Shootings and Political Participation.” September 2018.
- University of California at Los Angeles. Los Angeles, CA. “Police Shootings and Political Participation.” August 2018.
- American Bar Association Annual Meeting. Chicago, IL. “Police Shootings and Political Participation.” August 2018.
- American Bar Endowment Annual Meeting. Lexington, KY. “Effects of Police Shooting in Chicago on Political Participation.” June 2018.
- Vanderbilt University. “Effects of Police Shootings in Chicago on Political Participation.” April 2018.

- Washington University in St. Louis. “Effects of Pedestrian and Auto Stops on Voter Turnout in St. Louis.” February 2018.
- Fellows of the American Bar Foundation, Los Angeles. “Assaulting Democracy.” January 2018.
- Northwestern University Reviving American Democracy Conference. Panel presentation. “Barriers to Voting.” January 2018.
- University of Illinois at Chicago. “Effects of Police Shootings in Chicago on Political Participation.” October, 2017.
- Chico State University. “Constitution Day Address: Policing and Political Participation.” September, 2017.
- Fellows of the American Bar Foundation, Atlanta, Georgia. “Policing in Georgia.” May 2017.
- United States Commission on Civil Rights. Testimony. “Collateral Consequences of Mass Incarceration.” May 2017.
- Northwestern University Pritzker School of Law. “Effects of Police Stops of Cars and Pedestrians on Voter Turnout in St. Louis.” April 2017.
- University of California at Los Angeles. Race and Ethnic Politics Workshop. “Effects of Police Stops of Cars and Pedestrians on Voter Turnout in St. Louis.” March 2017.
- University of North Carolina at Chapel Hill. American Politics Workshop. “Effects of Police Stops of Cars and Pedestrians on Voter Turnout in St. Louis.” February 2017.
- National Bar Association, St. Louis MO. “Political Effects of Mass Incarceration.” July 2016.
- Harvard University, Edmond J. Safra Center for Ethics. Inequalities/Equalities in Cities Workshop. April 2016.
- American Political Science Association Annual Meeting. September 2015. “Responsibility for Racial Justice.” Discussant.
- St. Olaf College. April 2015. “The Collateral Consequences of Mass Incarceration.”
- Northwestern University. Institute for Policy Research. February 2015. “The Civic Culture Structure.”

- Texas A&M University. Race, Ethnicity, and Politics Workshop. September 2014. “Trading Democracy for Justice.”
- Columbia University Teachers College. The Suburban Promise of Brown Conference. May 2014. “Can We All Get Along, Revisited: Racial Attitudes, the Tolerance for Diversity, and the Prospects for Integration in the 21st Century.”
- University of Kentucky. Reversing Trajectories: Incarceration, Violence, and Political Consequences Conference. April 2014. “Trading Democracy for Justice.”
- University of Chicago. American Politics Workshop. March 2014. “How Geographic Differences in Neighborhood Civic Capacity Affect Voter Turnout.”
- Kennedy School of Government, Harvard University. February 2014. “Trading Democracy for Justice.”
- University of Michigan. American Politics Workshop. December 2013. “Trading Democracy for Justice.”
- Yale University. American Politics and Public Policy Workshop. September 2013. “Trading Democracy for Justice.”
- American Political Science Association Annual Meeting. August 2013. “The Heavenly Chorus Is Even Louder: The Growth and Changing Composition of the Washington Pressure System.” With Kay Lehman Schlozman, Sidney Verba, Henry Brady, and Phillip Jones.
- National Bar Association, Miami Florida, July 2013. “The Collateral Consequences of Mass Imprisonment.”
- Loyola University. American Politics Workshop. December 2012. “Mass Imprisonment and Neighborhood Voter Turnout.”
- Marquette University School of Law. November 2012. “The Collateral Consequences of Mass Imprisonment.”
- Yale University. Detaining Democracy Conference. November 2012. “The Effects of Imprisonment and Community Supervision on Political Participation.”
- Brown University. American Politics Workshop. October 2012. “Mass Imprisonment and Neighborhood Voter Turnout.”

- American Bar Association National Meeting, August 2012. “Mass Imprisonment: Consequences for Society and Politics.”
- University of Madison-Wisconsin. American Politics Workshop. March 2012. “The Spatial Concentration of Imprisonment and Racial Political Inequality.”
- American Political Science Association Annual Meeting. 2011. “Theme Panel: How Can Political Science Help Us Understand the Politics of Decarceration?”
- University of Pennsylvania. Democracy, Citizenship, and Constitutionalism Conference. April, 2011. “Vicarious Imprisonment and Neighborhood Political Inequality.”
- University of Chicago School of Law. Public Laws Colloquium. Chicago, IL. November, 2010. ““The Effects of Neighborhood Incarceration Rates on Individual Political Efficacy and Perceptions of Discrimination.”
- Pomona College. November, 2010. “Incarceration Nation.”
- University of Washington. Surveying Social Marginality Workshop. October 2010. “Using Government Data to Study Current and Former Felons.”
- American Bar Foundation, Chicago, IL, September 2010. “The Effects of Neighborhood Incarceration Rates on Individual Political Attitudes.”
- Northwestern University. Chicago Area Behavior Conference. May 2010. “Trading Democracy for Justice: The Spillover Effects of Incarceration on Voter Turnout in Charlotte and Atlanta.”
- Annual Meeting of the Law and Society Association, Chicago, IL, May 2010. “Neighborhood Criminal Justice Involvement and Voter Turnout in the 2008 General Election.”
- Annual Meeting of the Southern Political Science Association, Atlanta, GA, January 2010. “The Art and Science of Voter Mobilization: Grassroots Perspectives on Registration and GOTV from Charlotte, Atlanta, and Chicago.”
- University of Illinois at Chicago. Institute for Government and Public Affairs. [November](#) 2009. "Turnout and Party Registration among Convicted Offenders during the 2008 Presidential Election."
- Annual Meeting of the American Political Science Association, Toronto, Ontario, Canada, September 2009. "'I Wanted to Vote for History:' Turnout and Party Registration among Convicted Offenders during the 2008 Presidential Election."

- Harris School of Public Policy, University of Chicago. American Politics Workshop. December 2008. "Trading Democracy for Justice? The Spillover Effects of Imprisonment on Neighborhood Voter Participation."
- Northwestern University School of Law. Law and Political Economy Colloquium. November 2008. "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout Rates and Candidate Preferences of Florida's Ex-Felons."
- University of California, Berkeley. Center for the Study of Law and Society. October 2008. "Trading Democracy for Justice? The Spillover Effects of Imprisonment on Neighborhood Voter Participation."
- Law and Society Association Annual Meeting, Montreal, Canada, May 2008. "Did Disfranchisement Laws Help Elect President Bush? New Evidence on the Turnout Rates and Candidate Preferences of Florida's Ex-Felons."
- Law and Society Association Annual Meeting, Montreal, Canada, May 2008. "Trading Democracy for Justice? The Spillover Effects of Imprisonment on Neighborhood Voter Participation."
- Midwest Political Science Association Conference, Chicago, IL, April 2007. Paper: "Concentrated Incarceration: How Neighborhood Incarceration Decreases Voter Registration."

Additional Activities

- Expert witness in *Kelvin Jones vs. Ron DeSantis, etc. et al.* (U.S. District Court for the Northern District of Florida Consolidated Case No. 4:19-cv-00).
- Expert witness in *Community Success Initiative, et al., Plaintiffs v. Timothy K. Moore* (Superior Court, Wake County, NC Case No. 19-cv-15941).
- Expert witness in *People First of Alabama v. Merrill* (U.S. District Court in Birmingham, Alabama, Case No. 2: 20-cv-00619-AKK)
- Expert witness in *Florida State Conference of the NAACP v. Lee* (U.S. District Court in the Northern District of Florida, Case No. 4:21-cv-00187-MW-MAF)
- Expert Witness in *One Wisconsin Institute Inc. V. Jacobs* (U.S. District Court in the Western District of Wisconsin, Case No. 15-CV-324-JDP)

- Expert witness in *Alpha Phi Alpha Fraternity Inc., et al. v. Raffensperger* (U.S. District Court for the Northern District of Georgia, Case No. 1:21-cv-05337-SCJ)
- Expert witness in *Robinson, et al. v. Ardoin* (U.S. District Court for the Middle District of Louisiana, Civil Action No. 22-cv-00211).
- Expert witness in *Nairne, et al. v. Ardoin* (U.S. District Court for the Middle District of Louisiana, Civil Action No. 3:22-cv-00178 SDD-SDJ).
- Expert witness in *White, et al. v. State Board of Election Commissioners, et al.* (U. S. District Court for the Northern District of Mississippi, Civil Action No. 4:22-cv-00062-SA-JMV).
- Expert witness in *Honorable Terry Petteway et al. v. Galveston County et al.* (U.S. District Court for the Southern District of Texas, Galveston, Civil Action No. 3:22-cv-57-JVB).
- Expert Witness in *Tennessee Conference of the NAACP et al. v. Lee, et al.* (U.S. District Court for the Middle District of Tennessee, Nashville, Civil Action No. 3:20-cv-01039).
- Expert Witness in *Mi Familia Vota et al. v. Fontes et al.* (U.S. District Court for the District of Arizona, Civil Action No. CV-22-00509-PHX-SRB).
- Expert Witness in *Voice of the Experienced et al. v. Ardoin* (U.S. District Court for the Middle District of Louisiana, Civil Action No. 3:23-cv-00331-JWD-SDJ)
- Expert Witness in *Stone v. Allen* (U.S. District Court for the Northern District of Alabama, Southern Division, Civil Action No. 2:21-cv-01531-AMM).
- Expert Witness in *Milligan v. Allen* (U.S. District Court for the Northern District of Alabama, Southern Division, Civil Action No. 2:21-cv-01530-AMM).

APPENDIX B

Materials Considered

Legal Filings

- The Christian Ministerial Alliance et al. v. John Thurston et al., Case No. 4:23-CV-471-DPM-DRS-JM, Amended Complaint (E.D. Arkansas 2023).

Depositions

- Deposition transcript and exhibits of Lori Bowen. July 2, 2024.
- Deposition transcript and exhibits of Michelle Davenport. July 3, 2024.
- Deposition transcript and exhibits of Shelby Johnson. August 15, 2024.
- Deposition transcript and exhibits of John Thurston, by and through Rule 30(b)(6), Joshua Ryan Bridges. August 21, 2024.
- Deposition transcript and exhibits of Jason Rapert. August 28, 2024.

Legislative Hearings

- Meeting of the House State Agencies and Governmental Affairs Committee. August 9, 2021.
- Joint Meeting of the House and Senate State Agencies and Governmental Affairs. August 19, 2021.
- Joint Meeting of the House and Senate State Agencies and Governmental Affairs. September 20, 2021.
- Joint Meeting of the House and Senate State Agencies and Governmental Affairs. September 23, 2021.
- Joint Meeting of the House and Senate State Agencies and Governmental Affairs. September 27, 2021.
- Meeting of the House State Agencies and Governmental Affairs Committee. September 29, 2021.
- Meeting of the Senate State Agencies and Governmental Affairs Committee. September 29, 2021.
- Meeting of the House State Agencies and Governmental Affairs Committee. September 30, 2021.
- Arkansas Senate Chamber Proceeding. September 30, 2021.
- Meeting of the Senate State Agencies and Governmental Affairs Committee, October 4, 2021.
- Meeting of the Senate State Agencies and Governmental Affairs Committee. October 5, 2021.
- Meeting of the House State Agencies and Governmental Affairs Committee. October 5, 2021.
- Arkansas Senate Chamber Proceeding. October 5, 2021.

- Meeting of the Senate State Agencies and Governmental Affairs Committee. October 5, 2021.
- Arkansas House Proceeding. October 6, 2021.
- Arkansas Senate Chamber Proceeding. October 6, 2021.
- Meeting of the House State Agencies and Governmental Affairs Committee. October 6, 2021.
- Meeting of the Senate State Agencies and Governmental Affairs Committee. October 6, 2021.
- Meeting at the Call of the House Chair. October 6, 2021.
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APPENDIX C

POPULATION DEVIATION										
BILL NUMBER	Lead Sponsor	Sponsor Party	CD1	CD2	CD3	CD4	County Splits	Pulaski Split?	Desha/Chicot In CD1	Madison Whole in CD3
HB1959	Speaks	R	0.37	0.09	-0.86	0.4	0	No	Yes	No
HB1960	Ladyman	R	-0.75	0.96	0.34	-0.54	3	No	Yes	No
HB1961	Whitaker	D	-1.72	0.09	1.33	0.29	0	No	No	Yes
HB1962	Murdock	D	-0.24	-0.04	0.32	-0.04	0	No	No	Yes
HB1963	Dotson	R	0.1	-0.1	0	0	2	No	Yes	Yes
HB1964	Ray	R	-0.72	0.51	0.03	0.19	3	Yes	Yes	Yes
HB1965	Flowers	D	0.3	-0.5	0.45	-0.24	2	Yes	No	No
HB1966	Meeks	R	0.15	0.09	-0.08	-0.17	0	No	Yes	Yes
HB1968	Whitaker	D	0.81	-0.56	-0.15	-0.1	0	No	Yes	Yes
HB1969	Gonzales	R	0.07	-0.11	0	0.04	2	Yes	Yes	Yes
HB1970	Dotson	R	0.07	-0.1	0	0.04	3	Yes	Yes	Yes
HB1971	Speaks	R	0.37	0.78	-0.86	-0.29	1	Yes	Yes	No
HB1976	Speaks	R	0.37	-0.65	1.33	-1.06	1	Yes	Yes	Yes
HB1978	Love	D	0.53	-0.28	-0.08	-0.17	0	No	Yes	Yes
HB1979	Dotson	R	-1.51	-0.01	0	1.52	3	Yes	Yes	Yes
HB1980	Flowers	D	-0.8	-0.36	0.45	0.72	0	No	No	No
HB1981	Dotson	R	0.21	-0.01	0	-0.2	3	Yes	Yes	Yes
HB1982	Speaks	R	-0.05	-0.02	0.04	0.03	2	Yes	Yes	Yes
HB1983	Payton	R	0.37	-0.04	0.02	-0.35	2	Yes	Yes	Yes
SB720	Johnson	R	N/A	N/A	N/A	N/A	0	No	No	Yes
SB721	Hester	R	-0.15	0.4	-0.91	0.67	1	Yes	No	Yes
SB722	Clark	R	0.12	-0.01	-0.15	0.03	1	Yes	Yes	Yes
SB723	Clark	R	-0.46	0.21	-0.15	0.39	1	Yes	Yes	Yes
SB724	Leding	D	-0.02	0.09	0.06	-0.13	11	Yes	No	No
SB725	Davis	R	0.07	-0.1	0	0.04	3	Yes	Yes	Yes

SB726	Davis	R	0.1	-0.1	0	0	3	No	Yes	Yes
SB727	Tucker	D	0.34	0.69	-0.86	-0.18	0	No	No	No
SB728	Elliott	D	0.24	-0.55	0.32	-0.01	0	No	No	Yes
SB729	Johnson	R	2.34	0.41	-0.75	-1.99	0	No	Yes	Yes
SB741	Gilmore	R	0.54	-0.55	0.98	-0.97	2	Yes	Yes	Yes
SB742	English	R	0.37	-0.02	1.33	-1.68	1	Yes	Yes	Yes
SB743	English	R	-0.05	-0.02	0.04	0.03	2	Yes	Yes	Yes
SB744	Irvin	R	0.12	-0.04	0.04	-0.12	3	Yes	Yes	Yes

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HB1960	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1960+-+Rep.+Ladyman.pdf
HB1961	OMM-00017-0000014185.pdf
HB1962	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1962+-+Rep.+Murdock.pdf
HB1963	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1963+-+Rep.+Dotson.pdf
HB1964	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1964+-+Rep.+Ray.pdf
HB1965	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1965+-+Rep.+Flowers.pdf
HB1966	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1966+-+Rep.+Meeks.pdf
HB1968	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1968+-+Rep.+Whitaker.pdf
HB1969	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1969+-+Rep.+Gonzales.pdf
HB1970	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1970+-+Rep.+Dotson.pdf
HB1971	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4788%2FHB+1971+-+Rep.+Speaks.pdf

HB1976	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4822%2FHB+1976-+Rep.+Speaks.pdf
HB1978	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4822%2FHB+1978-+Rep.+Love.pdf
HB1979	OMM-00017-0000014263.pdf
HB1980	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4827%2FHB+1980-+Rep.+Flowers.pdf
HB1981	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4827%2FHB+1981-+Rep.+Dotson.pdf
HB1982	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4836%2FHB+1982-+As+Amended+Rep.+Speaks.pdf
HB1983	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4827%2FHB+1983-+Rep.+Payton.pdf
SB720	unavailable
SB721	OMM-00017-0000014300.pdf
SB722	OMM-00017-0000014305.pdf
SB723	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4789%2FSB+723-+Sen.+Clark.pdf
SB724	OMM-00017-0000014317.pdf
SB725	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4781%2FSB+725-+Sen.+Davis.pdf
SB726	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4832%2FSB+726-+Sen.+Davis.pdf
SB727	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4781%2FSB+727-+Sen.+Tucker.pdf
SB728	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4781%2FSB+728-+Sen.+Elliott.pdf
SB729	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4789%2FSB+729-+Sen.+Johnson.pdf
SB741	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4832%2FSB+741-+Sen.+Gilmore+.pdf
SB742	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F500%2F4832%2FSB+742-+Sen.+English.pdf
SB743	https://www.arkleg.state.ar.us/Home/FTPDocument?path=%2FAssembly%2FMeeting+Attachments%2F900%2F4836%2FHB+1982-+As+Amended+Rep.+Speaks.pdf
SB744	OMM-00017-0000014388.pdf

