

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA**

BLACK VOTERS MATTER CAPACITY  
BUILDING INSTITUTE, INC., et al.,

*Plaintiffs,*

v.

Case No. 2022 CA 666

CORD BYRD, in his official capacity as Florida  
Secretary of State, et al.,

*Defendants.*

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**APPENDIX TO DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 23, 2023, this document was filed through the Florida Courts E-Filing portal and was served via electronic mail on the following counsel of record:

**Frederick S. Wermuth**  
**Thomas A. Zehnder**  
King, Blackwell, Zehnder &  
Wermuth, P.A.  
P.O. Box 1631  
Orlando, Florida 32802  
fweremuth@kbzwlaw.com  
tzehnder@kbzwlaw.com

*Attorneys for Plaintiffs*

**Christina A. Ford**  
**Joseph N. Posimato**  
**Graham W. White**  
**Harleen K. Gambhir**  
Elias Law Group LLP  
10 G Street N.E., Suite 600  
Washington, D.C. 20002  
cford@elias.law  
jposimato@elias.law  
gwhite@elias.law  
hgambhir@elias.law

*Attorneys for Plaintiffs*

**Abha Khanna**  
**Jonathan P. Hawley**  
Elias Law Group LLP  
1700 Seventh Avenue, Suite 2100  
Seattle, Washington 98101  
akhanna@elias.law  
jhawley@elias.law

*Attorneys for Plaintiffs*

**Bradley R. McVay**  
**Ashley Davis**  
Florida Department of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399  
brad.mcvay@dos.myflorida.com  
ashley.davis@dos.myflorida.com  
stephanie.buse@dos.myflorida.com

*Attorneys for Defendant, Secretary of State*

/s/ Daniel Nordby



**RON DESANTIS**  
GOVERNOR

March 29, 2022

Secretary Laurel Lee  
Secretary of State  
R.A. Gray Building  
500 South Bronough Street  
Tallahassee, Florida 32399

2022 MAR 29 AM 11:58  
OFFICE OF THE SECRETARY OF STATE  
TALLAHASSEE, FL

Dear Secretary Lee:

By the authority vested in me as Governor of the State of Florida, under the provisions of Article III, Section 8 of the Constitution of Florida, I do hereby veto and transmit my objection to **CS/SB 102**, enacted during the 124th Session of the Legislature of Florida, during Regular Session 2022 and entitled:

**An act relating to establishing the congressional districts of the state**

As presented in both the primary and secondary maps enacted by the Legislature, Congressional District 5 violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution for the reasons set forth in the attached memorandum. Although I understand the Legislature's desire to comply with the Florida Constitution, the Legislature is not absolved of its duty to comply with the U.S. Constitution. Where the U.S. and Florida Constitutions conflict, the U.S. Constitution must prevail.

Accordingly, I withhold my approval of **CS/SB 102** and do hereby veto the same.

Sincerely,

A large, bold, handwritten signature in black ink, appearing to read "R. DeSantis".

Ron DeSantis  
Governor



RON DESANTIS  
GOVERNOR

STATE OF FLORIDA

# Office of the Governor

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com  
850-717-9418

## MEMORANDUM

RECEIVED  
GOVERNOR'S OFFICE  
MARCH 29 11:11 AM '22

**To:** Ron DeSantis, Governor of Florida

**From:** Ryan Newman, General Counsel, Executive Office of the Governor **RDN**

**Date:** March 29, 2022

**Re:** Constitutionality of CS/SB 102, An Act Relating to Establishing the Congressional Districts of the State

Congressional District 5 in both the primary and secondary maps enacted by the Legislature violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution because it assigns voters primarily on the basis of race but is not narrowly tailored to achieve a compelling state interest.

“Just as the State may not, absent extraordinary justification, segregate citizens on the basis of race in its public parks, buses, golf courses, beaches, and schools,” the U.S. Supreme Court has made clear that the State also “may not separate its citizens into different voting districts on the basis of race.” *Miller v. Johnson*, 515 U.S. 900, 911 (1995) (internal citations omitted). “When the State assigns voters on the basis of race,” the Court explained, “it engages in the offensive and demeaning assumption that voters of a particular race, because of their race, ‘think alike, share the same political interests, and will prefer the same candidates at the polls.’” *Id.* at 911-12 (quoting *Shaw v. Reno*, 509 U.S. 630, 647 (1993)).

For these reasons, the Court has interpreted the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution to prohibit state legislatures from using race as the “predominant factor motivating [their] decision to place a significant number of voters within or without a particular district,” *id.* at 916, unless they can prove that their “race-based sorting of voters serves a ‘compelling interest’ and is ‘narrowly tailored’ to that end,” *Cooper v. Harris*, 137 S. Ct. 1455, 1464 (2017) (citation omitted). That race was the predominant factor motivating a legislature’s line-drawing decision can be shown “either through circumstantial evidence of a district’s shape and demographics or more direct evidence going to legislative purpose.” *Miller*, 515 U.S. at 916.

Although non-adherence to traditional districting principles, which results in a non-compact, unusually shaped district, is relevant evidence that race was the predominant motivation of a legislature, such evidence is not required to establish a constitutional violation. “Race may predominate even when a reapportionment plan respects traditional principles, . . . if ‘[r]ace was the criterion that, in the State’s view, could not be compromised,’ and race-neutral considerations ‘came into play only after the race-based decision had been made.’” *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 798 (2017) (quoting *Shaw v. Hunt*, 517 U.S. 899, 907 (1996) (alteration in original)). “The racial predominance inquiry concerns the actual considerations that provided the essential basis for the lines drawn, not *post hoc* justifications the legislature in theory could have used but in reality did not.” *Id.* at 799. A legislature “could construct a plethora of potential maps that look consistent with traditional, race-neutral principles,” but “if race for its own sake is the overriding reason for choosing one map over others, race still may predominate.” *Id.* It is the “racial purpose of state action, not its stark manifestation,” that offends the Equal Protection Clause. *Miller*, 515 U.S. at 913.

In light of these well-established constitutional principles, the congressional redistricting bill enacted by the Legislature violates the U.S. Constitution. The bill contains a primary map and secondary map that include a racially gerrymandered district—Congressional District 5—that is not narrowly tailored to achieve a compelling state interest. *See generally* Fla. H.R. Comm. on Redist., recording of proceedings, at 0:00-2:55:19 (Feb. 25, 2022), <https://thefloridachannel.org/videos/2-25-22-house-redistricting-committee/> (committee presentation and discussion of the maps later passed by the Legislature).

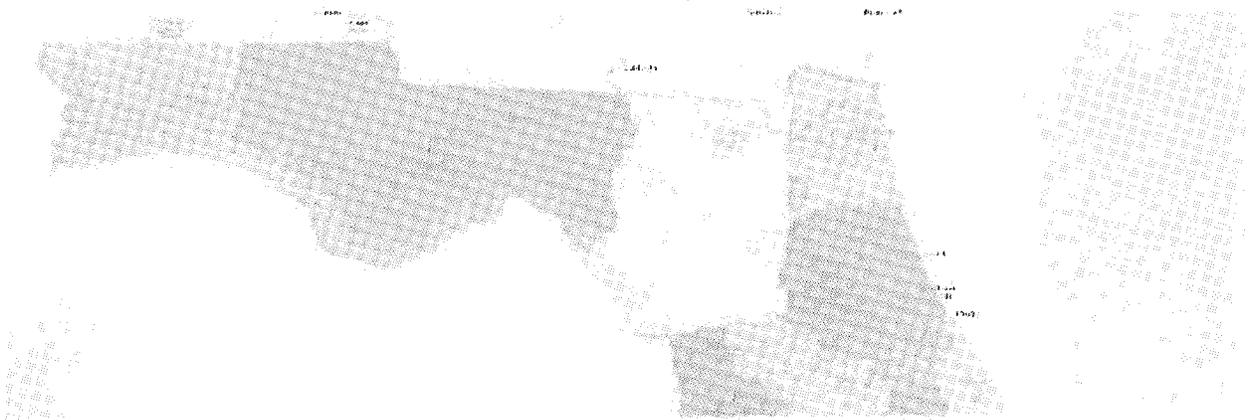
In the secondary map, which was the original map reported out of the House Congressional Redistricting Subcommittee, District 5 is a sprawling district that stretches approximately 200 miles from East to West and cuts across eight counties to connect a minority population in Jacksonville with a separate and distinct minority population in Leon and Gadsden Counties. The district is not compact, does not conform to usual political or geographic boundaries, and is bizarrely shaped to include minority populations in western Leon County and Gadsden County while excluding non-minority populations in eastern Leon County. Because this version of District 5 plainly subordinates traditional districting criteria to avoid diminishment of minority voting age population, there is no question that race was “the predominant factor motivating the legislature’s decision” to draw this district. *Miller*, 515 U.S. at 916.

### District 5 in the Secondary Map (Purple)



In response to federal constitutional concerns about the unusual shape of District 5 as it was originally drawn, and which is now reflected in the secondary map, the House Redistricting Committee drew a new version of District 5, which is reflected in the primary map. This configuration of the district is more compact but has caused the adjacent district – District 4 – to take on a bizarre doughnut shape that almost completely surrounds District 5. The reason for this unusual configuration is the Legislature’s desire to maximize the black voting age population in District 5. The Chair of the House Redistricting Committee confirmed this motivation when he explained that the new District 5 was drawn to “protect[] a black minority seat in north Florida.” Fla. H.R. Comm. on Redist., recording of proceedings, at 19:15-19:26 (Feb. 25, 2022).

### District 5 in the Primary Map (Purple)



Despite the Legislature’s attempt to address the federal constitutional concerns by drawing a more compact district, the constitutional defect nevertheless persists. Where “race was the criterion that, in the State’s view, could not be compromised, and race-neutral considerations came into play only after the race-based decision had been made,” it follows that race was the predominant factor, even though the district

otherwise respects traditional districting principles. *Bethune-Hill*, 137 S. Ct. at 798 (cleaned up).

Such was the case here. Even for the more compact district, the Legislature believed (albeit incorrectly) that the Florida Constitution required it to ensure “a black minority seat in north Florida.” Fla. H.R. Comm. on Redist., recording of proceedings, at 19:15-19:26 (Feb. 25, 2022). Specifically, according to the House Redistricting Chair, the primary map’s version of District 5 is the House’s “attempt at continuing to protect the minority group’s ability to elect a candidate of their choice.” *Id.* at 19:45-19:54. The Legislature thus used “an express racial target” for District 5 of a black voting age population sufficiently large to elect a candidate of its choice. *Bethune-Hill*, 137 S. Ct. at 800.

Because racial considerations predominated even in drawing the new District 5, the Legislature must satisfy strict scrutiny, the U.S. Supreme Court’s “most rigorous and exacting standard of constitutional review.” *Miller*, 515 U.S. at 920. And to satisfy strict scrutiny, the Legislature “must demonstrate that its districting legislation is narrowly tailored to achieve a compelling interest.” *Id.* That, the Legislature cannot do.

There is no good reason to believe that District 5 needed to be drawn as a minority-performing district to comply with Section 2 of the Voting Rights Act (VRA), because the relevant minority group is not sufficiently large to constitute a majority in a geographically compact area. In the primary map, the black voting age population of District 5 is 35.32%, and even in the secondary map, with the racially gerrymandered, non-compact version of District 5, the black voting age population increases only to 43.48%. Compare Fla. Redist. 2022, H000C8019, <https://bit.ly/3uczOXb> (available at [floridaredistricting.gov/pages/submitted-plans](http://floridaredistricting.gov/pages/submitted-plans)) (last visited Mar. 28, 2022), with Fla. Redist. 2022, H000C8015, <https://bit.ly/36hFRBB> (available at [floridaredistricting.gov/pages/submitted-plans](http://floridaredistricting.gov/pages/submitted-plans)) (last visited Mar. 28, 2022). “When a minority group is not sufficiently large to make up a majority in a reasonably shaped district, § 2 simply does not apply.” *Cooper*, 137 S. Ct. at 1472 (citing *Bartlett v. Strickland*, 556 U.S. 1, 18-20 (2009) (plurality opinion)); see also *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986) (explaining that one of the threshold conditions for proving vote dilution under Section 2 is that the minority group is “sufficiently large and geographically compact to constitute a majority”).

Nor is there good reason to believe that District 5 is required to be drawn to comply with Section 5 of the VRA. Section 5 is no longer operative now that the U.S. Supreme Court invalidated the VRA’s formula for determining which jurisdictions are subject to Section 5. See *Shelby Cnty. v. Holder*, 570 U.S. 529, 553-57 (2013); see also *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 279 (2015) (suggesting that continued compliance with Section 5 may not remain a compelling interest in light of *Shelby County*). In any event, even before the coverage formula was invalidated, the State of

Florida was not a covered jurisdiction subject to Section 5. *See In re Senate Joint Resolution of Legislative Apportionment 1176 (Apportionment I)*, 83 So. 3d 597, 624 (Fla. 2012). Only five counties in Florida were covered – Collier, Hardee, Hendry, Hillsborough, and Monroe – and none of them are in northern Florida where District 5 is located. *See id.*

The only justification left for drawing a race-based district is compliance with Article III, Section 20(a) of the Florida Constitution. But District 5 does not comply with this provision. Article III, Section 20(a) provides that “districts shall not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice.” The Florida Supreme Court has noted that these “dual constitutional imperatives follow almost verbatim the requirements embodied in the Federal Voting Rights Act.” *Id.* at 619 (cleaned up). The first imperative, which prohibits districts that deny or abridge the equal opportunity of minority groups to participate in the political process, is modeled after Section 2 of the VRA, and the second imperative, which prohibits districts that diminish the ability of minority groups to elect representatives of their choice, is modeled after Section 5. *Id.* at 619-20.

Like the VRA, these provisions of the Florida Constitution “aim[] at safeguarding the voting strength of minority groups against both impermissible dilution and retrogression.” *Id.* at 620. Although judicial interpretation of the VRA is relevant to understanding the Florida Constitution’s non-dilution and non-diminishment provisions, the Florida Supreme Court nonetheless recognizes its “independent constitutional obligation” to interpret these provisions. *Id.* at 621.

Relevant here is the Florida Constitution’s non-diminishment requirement. Unlike Section 5 of the VRA, this requirement “applies to the entire state.” *Id.* at 620. Under this standard, the Legislature “cannot eliminate majority-minority districts or weaken other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625. The existing districts “serve[] as the ‘benchmark’ against which the ‘effect’ of voting changes is measured.” *Id.* at 624 (cleaned up). Where a voting change leaves a minority group “less able to elect a preferred candidate of choice” than the benchmark, that change violates the non-diminishment standard. *Id.* at 625 (internal quotation marks omitted); *see also id.* at 702 (Canady, C.J., concurring in part and dissenting in part) (noting that the dictionary definition of “diminish” means “to make less or cause to appear less” (citation omitted)).

The Florida Supreme Court has acknowledged that “a slight change in percentage of the minority group’s population in a given district does not necessarily have a cognizable effect on a minority group’s ability to elect its preferred candidate of choice.” *Id.* at 625. The minority population percentage in each district need not be

“fixed” in perpetuity. *Id.* at 627. But where the reduction in minority population in a given district is more than “slight,” such that the ability of the minority population to elect a candidate of choice has been reduced (even if not eliminated), the Legislature has violated the Florida Constitution’s non-diminishment requirement as interpreted by the Florida Supreme Court.

Given these principles, there is no good reason to believe that District 5, as presented in the primary map, complies with the Florida Constitution’s non-diminishment requirement. The benchmark district contains a black voting age population of 46.20%, whereas the black voting age population of District 5 in the primary map is only 35.32%.<sup>1</sup> Compare Fla. Redist. 2022, FLCD2016, <https://bit.ly/3Iv6FeW> (available at [floridaredistricting.gov/pages/submitted-plans](http://floridaredistricting.gov/pages/submitted-plans)) (last visited Mar. 28, 2022), with Fla. Redist. 2022, H000C8019, <https://bit.ly/3uczOXb> (available at [floridaredistricting.gov/pages/submitted-plans](http://floridaredistricting.gov/pages/submitted-plans)) (last visited Mar. 28, 2022). This nearly eleven percentage point drop is more than slight, and while the House Redistricting Chair represented that the black population of the district could still elect a candidate of choice, *see* Fla. H.R. Comm. on Redist., recording of proceedings, at 59:44-1:00:17 (Feb. 25, 2022), there appears to be little dispute that the ability of the black population to elect such a candidate had nevertheless been reduced, *see id.* at 1:00:18-1:00:58 (noting that the benchmark district performed for the minority candidate of choice in 14 of 14 previous elections and that the new district would not perform for the minority candidate of choice in one-third of the same elections).

Moreover, the House Redistricting Chair claimed that the only criterion that mattered was whether the new district still performed at all. *See id.* at 1:06:09-1:06:30 (“It is not a diminishment unless the district does not perform.”); *see also id.* at 1:05:05-1:05:13 (“Is it less likely to perform? Honestly, I don’t know.”). But that view is plainly inconsistent with the Florida Supreme Court precedent described above, which prohibits any voting change that leaves a minority group “less able to elect a preferred candidate of choice.” *Apportionment I*, 83 So. 3d at 625 (internal quotation marks omitted). In sum, because the reduction of black voting age population is more than slight and because such reduction appears to have diminished the ability of black voters to elect a candidate of their choice, District 5 does not comply with the non-diminishment requirement of Article III, Section 20(a) of the Florida Constitution. Therefore, compliance with the Florida Constitution cannot supply the compelling reason to justify the Legislature’s use of race in drawing District 5 in the primary map.

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<sup>1</sup> The benchmark district itself is a sprawling, non-compact racial gerrymander that connects minority communities from two distinct regions of the State; however, for purposes of this point, I assume that the district can be used as a valid benchmark against which to judge the new maps.

In the secondary map, by contrast, District 5 complies with the Florida Constitution's non-diminishment requirement, but in doing so, it violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. The U.S. Supreme Court has warned that a "reapportionment plan that includes in one district individuals who belong to the same race, but who are otherwise widely separated by geographical and political boundaries, and who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid." *Shaw*, 509 U.S. at 647. As described earlier, District 5 in the secondary map does precisely this.

That the district is believed to be necessary to comply with the Florida Constitution's non-diminishment requirement does not alone suffice to justify the use of race in drawing bizarre, non-compact district boundaries for the sole purpose of cobbling together disparate minority populations from across northern Florida to form a minority-performing district. Mere compliance with a state constitutional requirement to engage in race-based districting is not, without more, a compelling interest sufficient to satisfy strict scrutiny. The Fourteenth and Fifteenth Amendments to the U.S. Constitution and the VRA, which enforces the Fifteenth Amendment, exist to *prevent* states from engaging in racially discriminatory electoral practices. Indeed, one such weapon that states long used, and that the VRA was designed to combat, "was the racial gerrymander – the deliberate and arbitrary distortion of district boundaries for racial purposes." *Id.* at 640 (cleaned up).

Here, the Florida Constitution's non-diminishment standard would be satisfied only by a sprawling, non-compact district that spans 200 miles and repeatedly violates traditional political boundaries to join minority communities from disparate geographic areas. Such a district is not narrowly tailored to achieve the compelling interest of protecting the voting rights of a minority community in a reasonably cohesive geographic area. As applied to District 5 in the secondary map, therefore, the Florida Constitution's non-diminishment standard cannot survive strict scrutiny and clearly violates the U.S. Constitution.

For the foregoing reasons, Congressional District 5 in both maps is unlawful.



RON DESANTIS  
GOVERNOR

STATE OF FLORIDA

# Office of the Governor

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

[www.flgov.com](http://www.flgov.com)  
850-717-9418

April 13, 2022

Honorable Ray Rodrigues  
Chairman, Committee on Reapportionment  
Florida Senate  
400 South Monroe Street  
Tallahassee, Florida 32399

Dear Chairman Rodrigues:

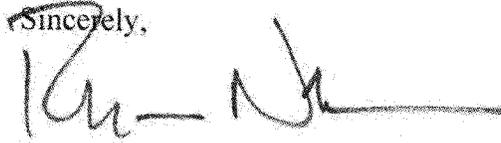
Today, the Executive Office of the Governor submitted a new proposed reapportionment plan for Florida's congressional districts. This compromise plan is the product of collaboration and consultation with the House and Senate leadership and draws from the maps that were recently passed by the Legislature (SB 102), as well as maps previously proposed by the Executive Office of the Governor (Plans P000C0079 and P000C0094) and the map referred out of the House Congressional Redistricting Subcommittee (Plan H000C8011).

For the reasons set forth in the memorandum accompanying the Governor's veto message, the proposal eliminates the racially gerrymandered versions of Congressional District 5, which were included in both the primary (Plan H000C8019) and secondary (Plan H000C8015) maps passed by the Legislature, and instead creates two new districts in the Jacksonville region consistent with the maps proposed by the Executive Office of the Governor (Plans P000C0079 and P000C0094). The proposal retains the exact configuration of congressional districts in the Florida panhandle (Districts 1-2) and the southeast region of the state (Districts 20-25 and 27-28) as reflected in the Legislature's enacted maps (SB 102). But the proposal adjusts the congressional districts in and around the Tampa region to align more closely with the maps proposed by the Executive Office of the Governor (Plans P000C0079 and P000C0094). And in the Orlando region, the proposal aligns more closely with the map referred out of the House Congressional Redistricting Subcommittee (Plan H000C8011).

Because of these adjustments, the new proposed apportionment plan eliminates the federal constitutional infirmities identified by the Governor and improves on several metrics relative to the maps passed by the Legislature. With respect to compactness, the mean compactness score of the new plan is equivalent to that of the enacted maps, but the new plan improves the compactness score of the least compact district, reduces the number of county splits from 18 to 17, and lessens the reliance on non-geographic and non-political boundaries from 12.50% to 11.50%. With respect to traditional districting metrics, the proposed plan is a significant improvement on the benchmark map. Please see the attached charts for a comparison of the various plans.

law. We look forward to working with you to enact this compromise apportionment plan into

Sincerely,



Ryan Newman  
General Counsel

cc: Honorable Wilton Simpson  
President, Florida Senate  
400 South Monroe Street  
Tallahassee, Florida 32399

Honorable Chris Sprowls  
Speaker, Florida House of Representatives  
400 South Monroe Street  
Tallahassee, Florida 32399

Honorable Thomas J. Leek  
Chairman, Redistricting Committee  
Florida House of Representatives  
400 South Monroe Street  
Tallahassee, Florida 32399

District	COMPACTNESS											
	As Court Adopted in 2016			SB 102 Primary Plan 8019			SB 102 Secondary Plan 8015			EOG Proposed Plan on 4/13/22		
	REOCK	AREA CONVEX HULL Benchmark	POLSBY POPPER	REOCK	AREA CONVEX HULL SB 102 Primary Plan 8019	POLSBY POPPER	REOCK	AREA CONVEX HULL SB 102 Secondary Plan 8015	POLSBY POPPER	REOCK	AREA CONVEX HULL EOG Proposed Plan on 4/13/22	POLSBY POPPER
D1	0.40	0.82	0.40	0.54	0.87	0.48	0.54	0.87	0.48	0.54	0.87	0.48
D2	0.31	0.68	0.21	0.46	0.82	0.48	0.31	0.72	0.25	0.46	0.82	0.48
D3	0.71	0.89	0.53	0.63	0.91	0.53	0.71	0.89	0.54	0.57	0.90	0.50
D4	0.37	0.72	0.17	0.40	0.68	0.17	0.33	0.64	0.18	0.38	0.76	0.32
D5	0.12	0.71	0.10	0.52	0.90	0.45	0.11	0.66	0.11	0.56	0.89	0.32
D6	0.44	0.77	0.34	0.71	0.92	0.50	0.48	0.77	0.34	0.74	0.92	0.48
D7	0.57	0.81	0.37	0.50	0.82	0.40	0.50	0.82	0.40	0.47	0.83	0.40
D8	0.34	0.76	0.41	0.29	0.81	0.38	0.29	0.81	0.38	0.32	0.78	0.45
D9	0.53	0.87	0.46	0.48	0.86	0.34	0.48	0.86	0.34	0.49	0.86	0.47
D10	0.49	0.89	0.49	0.50	0.77	0.39	0.50	0.77	0.39	0.41	0.75	0.37
D11	0.42	0.74	0.29	0.36	0.79	0.32	0.32	0.81	0.31	0.52	0.82	0.36
D12	0.38	0.82	0.46	0.40	0.61	0.27	0.40	0.61	0.27	0.45	0.75	0.38
D13	0.66	0.93	0.68	0.68	0.91	0.63	0.68	0.91	0.63	0.51	0.93	0.58
D14	0.48	0.82	0.45	0.45	0.87	0.53	0.45	0.87	0.53	0.48	0.83	0.47
D15	0.33	0.76	0.26	0.47	0.84	0.49	0.47	0.84	0.49	0.58	0.88	0.58
D16	0.58	0.90	0.53	0.52	0.92	0.42	0.52	0.92	0.42	0.45	0.73	0.45
D17	0.51	0.77	0.44	0.60	0.92	0.57	0.60	0.92	0.57	0.28	0.77	0.39
D18	0.50	0.82	0.45	0.48	0.82	0.45	0.48	0.82	0.45	0.42	0.82	0.42
D19	0.34	0.79	0.40	0.33	0.78	0.38	0.33	0.78	0.38	0.33	0.78	0.39
D20	0.48	0.75	0.20	0.50	0.77	0.28	0.50	0.77	0.28	0.50	0.77	0.28
D21	0.37	0.64	0.29	0.50	0.82	0.49	0.50	0.82	0.49	0.50	0.82	0.49
D22	0.46	0.73	0.22	0.44	0.74	0.42	0.44	0.74	0.42	0.44	0.74	0.42
D23	0.35	0.65	0.25	0.50	0.79	0.29	0.50	0.79	0.29	0.50	0.79	0.29
D24	0.47	0.77	0.30	0.48	0.90	0.48	0.48	0.90	0.48	0.48	0.90	0.48
D25	0.41	0.68	0.36	0.42	0.81	0.38	0.42	0.81	0.38	0.42	0.81	0.38
D26	0.22	0.55	0.24	0.40	0.67	0.35	0.40	0.67	0.35	0.29	0.77	0.33
D27	0.50	0.88	0.48	0.71	0.95	0.73	0.71	0.95	0.73	0.71	0.95	0.73
D28	0.50	0.88	0.48	0.22	0.55	0.24	0.22	0.55	0.24	0.22	0.55	0.24
	Mean:	0.44	0.36	0.48	0.82	0.42	0.45	0.80	0.40	0.37	0.83	0.43
	Max:	0.71	0.68	0.71	0.95	0.73	0.71	0.95	0.73	0.74	0.95	0.73
	Min:	0.12	0.10	0.22	0.55	0.17	0.11	0.55	0.11	0.22	0.55	0.24

District	As Court Adopted in 2016											SB 102 Primary Plan 8019											SB 102 Secondary Plan 8015											EOG Proposed Plan on 4/13/22										
	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/Pol (%)	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/Pol (%)	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/Pol (%)	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/Pol (%)	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/Pol (%)														
D1	3.00	94.00	0.00	50.00	0.00	5.00	8.00	78.00	10.00	53.00	0.00	3.00	8.00	78.00	10.00	53.00	0.00	3.00	8.00	78.00	10.00	53.00	0.00	3.00	8.00	78.00	10.00	53.00	0.00	3.00														
D2	7.00	75.00	11.00	48.00	1.00	10.00	5.00	84.00	7.00	49.00	0.00	3.00	6.00	78.00	15.00	46.00	0.00	2.00	5.00	84.00	7.00	49.00	0.00	2.00	5.00	84.00	7.00	49.00	0.00															
D3	19.00	75.00	14.00	25.00	0.00	7.00	5.00	87.00	3.00	31.00	0.00	13.00	18.00	78.00	5.00	25.00	0.00	15.00	6.00	85.00	7.00	32.00	0.00	15.00	6.00	85.00	7.00	32.00	0.00															
D4	9.00	58.00	18.00	51.00	1.00	15.00	25.00	89.00	5.00	46.00	0.00	10.00	23.00	76.00	17.00	55.00	2.00	2.00	8.00	86.00	2.00	55.00	0.00	2.00	8.00	86.00	2.00	55.00	0.00															
D5	7.00	59.00	17.00	10.00	2.00	16.00	65.00	65.00	10.00	23.00	1.00	21.00	12.00	73.00	13.00	13.00	0.00	2.00	15.00	48.00	7.00	79.00	0.00	2.00	15.00	48.00	7.00	79.00	0.00															
D6	8.00	82.00	4.00	62.00	0.00	4.00	14.00	49.00	14.00	37.00	0.00	18.00	17.00	45.00	14.00	38.00	3.00	22.00	16.00	42.00	17.00	32.00	2.00	22.00	16.00	42.00	17.00	32.00	2.00															
D7	16.00	65.00	10.00	51.00	0.00	19.00	26.00	47.00	19.00	31.00	0.00	15.00	26.00	47.00	19.00	31.00	0.00	15.00	26.00	47.00	19.00	31.00	0.00	15.00	26.00	47.00	19.00	31.00	0.00															
D8	0.00	89.00	2.00	41.00	0.00	10.00	3.00	92.00	1.00	54.00	0.00	2.00	3.00	97.00	1.00	54.00	0.00	2.00	3.00	97.00	1.00	54.00	0.00	2.00	3.00	97.00	1.00	54.00	0.00															
D9	17.00	49.00	14.00	5.00	6.00	17.00	2.00	86.00	10.00	36.00	0.00	4.00	2.00	86.00	10.00	36.00	0.00	4.00	2.00	86.00	10.00	36.00	0.00	4.00	2.00	86.00	10.00	36.00	0.00															
D10	19.00	70.00	15.00	21.00	0.00	11.00	20.00	55.00	23.00	20.00	0.00	18.00	20.00	55.00	23.00	20.00	0.00	18.00	20.00	55.00	23.00	20.00	0.00	18.00	20.00	55.00	23.00	20.00	0.00															
D11	14.00	66.00	14.00	40.00	0.00	12.00	12.00	48.00	15.00	17.00	1.00	29.00	17.00	50.00	15.00	13.00	1.00	31.00	14.00	49.00	15.00	26.00	2.00	31.00	14.00	49.00	15.00	26.00	2.00															
D12	11.00	77.00	11.00	36.00	0.00	9.00	10.00	72.00	6.00	52.00	0.00	13.00	10.00	72.00	6.00	52.00	0.00	13.00	10.00	72.00	6.00	52.00	0.00	13.00	10.00	72.00	6.00	52.00	0.00															
D13	33.00	74.00	2.00	89.00	0.00	4.00	44.00	70.00	0.00	88.00	0.00	1.00	44.00	70.00	0.00	88.00	0.00	1.00	44.00	70.00	0.00	88.00	0.00	1.00	44.00	70.00	0.00	88.00	0.00															
D14	43.00	38.00	10.00	32.00	1.00	28.00	23.00	15.00	28.00	31.00	1.00	36.00	23.00	15.00	28.00	31.00	1.00	36.00	23.00	15.00	28.00	31.00	1.00	36.00	23.00	15.00	28.00	31.00	1.00															
D15	75.00	28.00	13.00	17.00	0.00	24.00	7.00	51.00	39.00	6.00	7.00	7.00	39.00	6.00	7.00	39.00	6.00	7.00	39.00	6.00	7.00	39.00	6.00	7.00	39.00	6.00	7.00	39.00	6.00															
D16	12.00	61.00	10.00	56.00	0.00	6.00	2.00	84.00	2.00	26.00	0.00	12.00	2.00	84.00	2.00	26.00	0.00	12.00	2.00	84.00	2.00	26.00	0.00	12.00	2.00	84.00	2.00	26.00	0.00															
D17	4.00	69.00	9.00	28.00	3.00	9.00	22.00	57.00	5.00	51.00	0.00	14.00	22.00	57.00	5.00	51.00	0.00	14.00	22.00	57.00	5.00	51.00	0.00	14.00	22.00	57.00	5.00	51.00	0.00															
D18	10.00	65.00	3.00	45.00	0.00	20.00	13.00	62.00	14.00	61.00	0.00	8.00	13.00	62.00	14.00	61.00	0.00	8.00	13.00	62.00	14.00	61.00	0.00	8.00	13.00	62.00	14.00	61.00	0.00															
D19	4.00	66.00	9.00	50.00	0.00	15.00	13.00	62.00	14.00	61.00	0.00	8.00	13.00	62.00	14.00	61.00	0.00	8.00	13.00	62.00	14.00	61.00	0.00	8.00	13.00	62.00	14.00	61.00	0.00															
D20	30.00	35.00	10.00	11.00	1.00	33.00	28.00	37.00	15.00	13.00	3.00	22.00	28.00	37.00	15.00	13.00	3.00	22.00	28.00	37.00	15.00	13.00	3.00	22.00	28.00	37.00	15.00	13.00	3.00															
D21	29.00	24.00	12.00	30.00	1.00	37.00	9.00	68.00	7.00	48.00	0.00	16.00	9.00	68.00	7.00	48.00	0.00	16.00	9.00	68.00	7.00	48.00	0.00	16.00	9.00	68.00	7.00	48.00	0.00															
D22	25.00	28.00	12.00	32.00	2.00	32.00	36.00	24.00	18.00	36.00	0.00	24.00	36.00	24.00	18.00	36.00	0.00	24.00	36.00	24.00	18.00	36.00	0.00	24.00	36.00	24.00	18.00	36.00	0.00															
D23	58.00	15.00	13.00	29.00	3.00	17.00	19.00	28.00	15.00	38.00	9.00	20.00	29.00	28.00	16.00	38.00	9.00	20.00	29.00	28.00	16.00	38.00	9.00	20.00	29.00	28.00	16.00	38.00	9.00															
D24	64.00	13.00	15.00	29.00	7.00	19.00	36.00	29.00	12.00	20.00	0.00	15.00	36.00	29.00	12.00	20.00	0.00	15.00	36.00	29.00	12.00	20.00	0.00	15.00	36.00	29.00	12.00	20.00	0.00															
D25	8.00	70.00	12.00	72.00	0.00	7.00	64.00	29.00	12.00	19.00	0.00	4.00	9.00	69.00	20.00	19.00	0.00	4.00	9.00	69.00	20.00	19.00	0.00	4.00	9.00	69.00	20.00	19.00	0.00															
D26	1.00	88.00	6.00	87.00	0.00	1.00	9.00	69.00	20.00	19.00	0.00	4.00	9.00	69.00	20.00	19.00	0.00	4.00	9.00	69.00	20.00	19.00	0.00	4.00	9.00	69.00	20.00	19.00	0.00															
D27	21.00	26.00	25.00	61.00	0.00	8.00	10.00	18.00	34.00	59.00	0.00	7.00	10.00	18.00	34.00	59.00	0.00	7.00	10.00	18.00	34.00	59.00	0.00	7.00	10.00	18.00	34.00	59.00	0.00															
D28	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged														
Mean:	18.59	57.74	10.78	39.93	1.04	13.67	19.32	59.00	13.54	39.75	0.89	12.50	17.96	58.71	14.79	39.07	1.04	11.79	14.21	56.29	17.89	39.43	0.75	11.79	14.21	56.29	17.89	39.43	0.75															

Geography	014-A Relative to Plan 8019	COUNTY		CITY		COUNTY		CITY		COUNTY		CITY	
		Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7	Column 8	Column 9	Column 10	Column 11	Column 12	Column 13	Column 14
Alforddale (Polk)					1.0								
Boca Raton (Palm Beach)					0.0								
Broward	Unchanged	1.0		1.0		1.0		1.0		1.0		1.0	
Cape Coral (Lee)							1.0		1.0		1.0		1.0
Citrus							1.0		1.0				
Clearwater (Pinellas)					1.0								
Clermont (Lake)					1.0								
Coconut Creek (Broward)													
Collier					1.0			1.0		1.0		1.0	
Columbia					1.0				1.0				
Dania Beach (Broward)					0.0								
Deerfield Beach (Broward)	Unchanged							1.0		1.0		1.0	1.0
Duval		1.0		1.0		1.0		1.0		1.0		1.0	
Eatonville (Orange)					1.0								
Evans (Lake)					0.0								
Fort Lauderdale (Broward)	Unchanged				1.0			1.0		1.0		1.0	1.0
Greveland (Lake)					1.0								
Hilandale Beach (Broward)													
Hillsborough		1.0		1.0		1.0		1.0		1.0		1.0	
Hollywood (Broward)					1.0								
Homosassa					1.0								
Jacksonville (Duval)			1.0		1.0			1.0		1.0		1.0	1.0
Jefferson					1.0								
Lafayette	Unchanged	1.0				1.0				1.0		1.0	
Lake					1.0			1.0		1.0		1.0	
Lake City (Columbia)					1.0								
Lakeland (Polk)													1.0
Lee					1.0			1.0		1.0		1.0	
Leesville					1.0			1.0		1.0		1.0	
Longboat Key (Manatee/Sarasota)													1.0
Manatee (Orange)					1.0								
Margate (Broward)	Unchanged							1.0		1.0		1.0	1.0
Martinez					1.0			1.0		1.0		1.0	
Mascotte (Lake)					0.0								
Miami (Miami-Coral)	Unchanged							1.0		1.0		1.0	1.0
Miami-Dade	Unchanged	1.0		1.0		1.0		1.0		1.0		1.0	1.0
Minneola					1.0								
Mizama (Broward)	Unchanged							1.0		1.0		1.0	1.0
Musut Dora (Lake)					0.0								
Oakland Park (Broward)	Unchanged				1.0			1.0		1.0		1.0	1.0
Orcaia (Marion)					1.0								
Oldemar					0.0								
Orange		1.0		1.0		1.0		1.0		1.0		1.0	1.0
Orange City (Volusia)								1.0		1.0		1.0	1.0
Orlando (Orange)					1.0			1.0		1.0		1.0	1.0
Palm Beach	Unchanged	1.0		1.0		1.0		1.0		1.0		1.0	1.0
Palm Beach (Palm Beach)					0.0								
Palm Beach Gardens (Palm Beach)					0.0								
Parkland (Broward)													
Pasco							1.0		1.0			1.0	
Pendlebrook Pines (Broward)													
Pinellas		1.0		1.0		1.0		1.0		1.0		1.0	1.0
Plant City (Hillsborough)								1.0		1.0		1.0	1.0
Plantation (Broward)	Unchanged				0.0			1.0		1.0		1.0	1.0
Polk					1.0							1.0	
Polk City (Polk)					1.0								
Ponce de Leon (Broward)	Unchanged				1.0			1.0		1.0		1.0	1.0
Port Orange (Volusia)								1.0		1.0		1.0	1.0
Pivara Beach (Palm Beach)	Unchanged				0.0			1.0		1.0		1.0	1.0
Royal Palm Beach (Palm Beach)					1.0								
Safety Harbor (Pinellas)					0.0								
Sebastian					1.0			1.0		1.0		1.0	1.0
St. Johns	Unchanged				1.0			1.0		1.0		1.0	1.0
St. Petersburg (Pinellas)													1.0
Switz (Broward)					1.0								
Tallahassee (Leon)					1.0					1.0		1.0	1.0
Tampa (Hillsborough)					0.0			1.0		1.0		1.0	1.0
Temple Terrace (Hillsborough)					1.0								
Tweedes (Lake)					1.0								
Volusia							1.0		1.0			1.0	1.0
Walton	Unchanged	1.0					1.0		1.0			1.0	1.0
Wellington (Palm Beach)					1.0								
West Palm Beach (Palm Beach)	Unchanged				1.0			1.0		1.0		1.0	1.0
Weston (Broward)					0.0								
Wilton Manors (Broward)					0.0								
Winter Haven (Polk)					0.0								
Winter Park (Orange)					1.0								

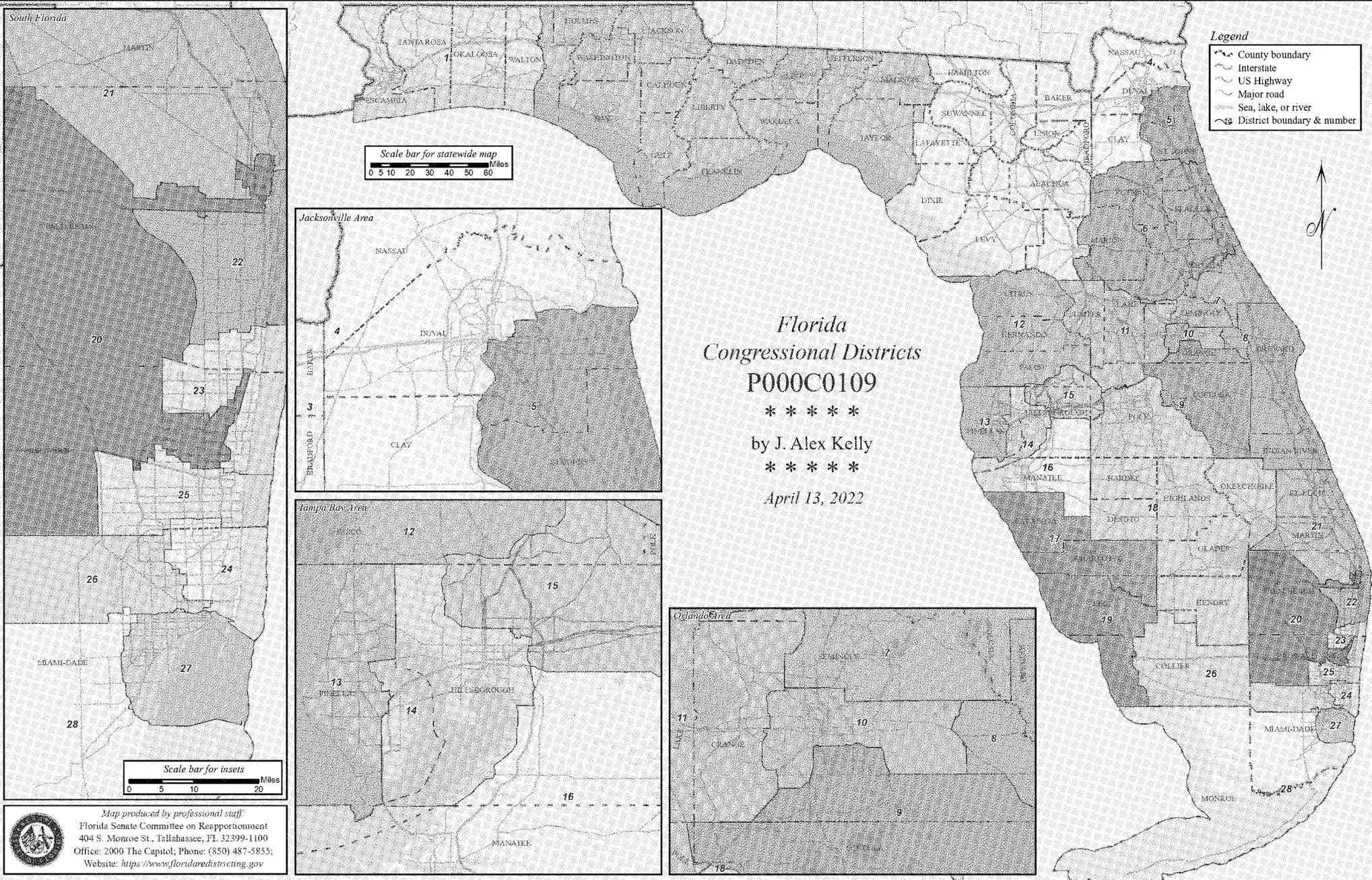
Gray indicates zero population split or only a split of unpopulated geography  
 Orange indicates error in Census Bureau's geographical files; city is not actually split

COMPANINESS - ONLY DISTRICTS THAT CHANGED						
District	REOCK	AREA CONVEX HULL	POLSBY POPPER	REOCK	AREA CONVEX HULL	POLSBY POPPER
	SB 102 Primary Plan 8019			EOG Proposed Plan on 4/13/22		
D3	0.63	0.91	0.53	0.57	0.90	0.50
D4	0.40	0.68	0.17	0.38	0.76	0.32
D5	0.52	0.90	0.45	0.56	0.89	0.52
D6	0.71	0.92	0.50	0.74	0.92	0.48
D7	0.50	0.82	0.40	0.47	0.83	0.40
D8	0.29	0.81	0.38	0.32	0.78	0.45
D9	0.48	0.86	0.34	0.49	0.86	0.47
D10	0.50	0.77	0.39	0.41	0.75	0.37
D11	0.36	0.79	0.32	0.52	0.82	0.36
D12	0.40	0.61	0.27	0.45	0.75	0.38
D13	0.68	0.91	0.63	0.51	0.93	0.58
D14	0.45	0.87	0.53	0.48	0.83	0.47
D15	0.47	0.84	0.49	0.58	0.88	0.58
D16	0.52	0.92	0.42	0.45	0.73	0.45
D17	0.60	0.92	0.57	0.28	0.77	0.39
D18	0.48	0.82	0.45	0.42	0.82	0.42
D19	0.33	0.78	0.38	0.33	0.78	0.39
D26	0.40	0.67	0.35	0.29	0.77	0.33
Mean:	0.48	0.82	0.42	0.46	0.82	0.44
Max:	0.71	0.92	0.63	0.74	0.93	0.58
Min:	0.28	0.61	0.17	0.28	0.73	0.32

BOUNDARIES - CITY DISTRICTS THAT CHANGED													
District	SB 102 Primary Plan 8019						EOG Proposed Plan on 4/13/22						
	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/ Pol (%)	City (%)	County (%)	Road (%)	Water (%)	Rail (%)	Non Geo/ Pol (%)	
D3	5.00	82.00	3.00	31.00	0.00	13.00	6.00	85.00	7.00	32.00	0.00	5.00	
D4	25.00	80.00	5.00	46.00	0.00	10.00	8.00	86.00	2.00	55.00	0.00	2.00	
D5	65.00	65.00	10.00	29.00	1.00	21.00	16.00	48.00	7.00	79.00	0.00	13.00	
D6	14.00	49.00	14.00	37.00	0.00	18.00	16.00	42.00	17.00	32.00	2.00	15.00	
D7	26.00	47.00	19.00	31.00	0.00	15.00	22.00	68.00	9.00	40.00	2.00	8.00	
D8	3.00	92.00	1.00	54.00	0.00	2.00	0.00	89.00	7.00	44.00	0.00	4.00	
D9	2.00	86.00	10.00	36.00	0.00	4.00	2.00	61.00	25.00	27.00	0.00	12.00	
D10	20.00	55.00	23.00	20.00	0.00	18.00	13.00	26.00	35.00	2.00	1.00	37.00	
D11	12.00	48.00	15.00	17.00	1.00	29.00	14.00	49.00	27.00	26.00	2.00	13.00	
D12	10.00	72.00	6.00	52.00	0.00	13.00	7.00	84.00	13.00	63.00	0.00	8.00	
D13	44.00	70.00	0.00	88.00	0.00	1.00	15.00	75.00	12.00	67.00	0.00	3.00	
D14	23.00	19.00	28.00	32.00	1.00	36.00	12.00	19.00	46.00	21.00	1.00	13.00	
D15	7.00	51.00	39.00	6.00	7.00	7.00	3.00	1.00	61.00	4.00	0.00	37.00	
D16	2.00	84.00	2.00	26.00	3.00	12.00	1.00	73.00	21.00	32.00	1.00	2.00	
D17	22.00	57.00	5.00	51.00	0.00	14.00	9.00	84.00	5.00	39.00	0.00	6.00	
D18	13.00	74.00	6.00	29.00	0.00	4.00	6.00	77.00	8.00	21.00	0.00	9.00	
D19	13.00	62.00	14.00	61.00	0.00	8.00	11.00	65.00	12.00	59.00	0.00	10.00	
D26	9.00	69.00	20.00	19.00	0.00	4.00	11.00	54.00	28.00	13.00	0.00	9.00	
Mean:	17.50	64.56	12.22	36.94	0.72	12.72	9.56	60.33	19.00	36.44	0.50	11.17	

SPLITS - ONLY COUNTIES AND CITIES THAT CHANGED				
Geography	SB 102 Primary Plan 8019		EOG Proposed Plan on 4/13/22	
	Column *	Column *	Column *	Column *
Cape Coral (Lee)		1.0		
Citrus	1.0			
Lakeland (Polk)				
Longboat Key (Manatee/Sarasota)				1.0
Orange City (Volusia)		0.0		1.0
Plant City (Hillsborough)		1.0		
Polk			1.0	
Port Orange (Volusia)		1.0		
Sarasota	1.0			
St. Petersburg (Pinellas)				1.0
	2.0	3.0	1.0	3.0

Gray indicates zero population on split; only a split of unpopulated geography



- Legend**
- County boundary
  - Interstate
  - US Highway
  - Major road
  - Sea, lake, or river
  - District boundary & number

Scale bar for statewide map  
 0 5 10 20 30 40 50 60 Miles

*Jacksonville Area*

NASSAU  
 DUNAL  
 CLAY  
 BRADFORD  
 ALBANY  
 4  
 3  
 5

*Tampa Bay Area*

SMITH  
 HILLSBOROUGH  
 PINELLAS  
 MANATEE  
 12  
 15  
 13  
 14  
 16

*Orlando Area*

ORANGE  
 SEMINOLE  
 POLK  
 11  
 10  
 8  
 9

*Florida  
 Congressional Districts  
 P000C0109  
 \* \* \* \* \*  
 by J. Alex Kelly  
 \* \* \* \* \*  
 April 13, 2022*

Map produced by professional staff  
 Florida Senate Committee on Reapportionment  
 404 S. Monroe St., Tallahassee, FL 32399-1100  
 Office: 2009 The Capitol; Phone: (850) 487-5855;  
 Website: <https://www.floridareistricting.gov>



Plan P000C0109

Dist.	Deviation		Voting Age Population:		Area (sq.mi.)	Perim. (mi.)	Convex Hull	Polsby-Popper Ratio	Reock	Counties		Cities		Political and Geographic Boundaries:					
	Total	%	Black	Hisp.						Whole	Parts	Whole	Parts	City	County	Road	Water	Rail	Non-Pol/Geo
	1	0.00%	15.54%	24.99%	2,550.1	244.0	0.81	0.43	0.47	50	48	396	36	14%	56%	18%	39%	1%	12%
1	0	0.00%	13.54%	6.69%	4,416	341	0.87	0.48	0.54	3	1	16	0	8%	78%	10%	53%	0%	3%
2	0	0.00%	23.09%	6.42%	12,839	578	0.82	0.48	0.46	14	2	50	0	5%	84%	7%	49%	0%	3%
3	0	0.00%	15.88%	10.64%	8,271	456	0.90	0.50	0.57	10	2	42	0	6%	85%	7%	32%	0%	5%
4	0	0.00%	31.66%	7.82%	1,981	280	0.76	0.32	0.38	2	1	8	1	8%	86%	2%	55%	0%	2%
5	0	0.00%	12.80%	10.86%	829	141	0.89	0.52	0.56	0	2	5	1	16%	48%	7%	79%	0%	13%
6	0	0.00%	11.22%	9.78%	3,928	320	0.92	0.48	0.74	2	4	21	0	16%	42%	17%	32%	2%	15%
7	0	0.00%	10.53%	18.97%	1,053	181	0.83	0.40	0.47	1	2	17	0	22%	68%	9%	40%	2%	8%
8	0	0.00%	9.68%	10.05%	2,299	253	0.78	0.45	0.32	2	1	21	0	0%	89%	7%	44%	0%	4%
9	0	0.00%	13.02%	50.04%	1,846	223	0.86	0.47	0.49	1	2	4	1	2%	61%	25%	27%	0%	12%
10	0	0.00%	25.98%	28.63%	273	96	0.75	0.37	0.41	0	1	3	1	13%	26%	35%	2%	1%	37%
11	0	0.00%	12.76%	17.09%	1,836	254	0.82	0.36	0.52	1	3	23	1	14%	49%	27%	26%	2%	13%
12	0	0.00%	5.29%	11.72%	2,538	289	0.75	0.38	0.45	2	2	9	0	7%	84%	13%	63%	0%	8%
13	0	0.00%	7.09%	9.56%	730	125	0.93	0.58	0.51	0	1	23	1	15%	75%	12%	67%	0%	3%
14	0	0.00%	19.13%	25.97%	524	118	0.83	0.47	0.48	0	2	0	2	12%	19%	46%	21%	1%	13%
15	0	0.00%	15.40%	22.74%	675	121	0.88	0.58	0.58	0	3	3	2	3%	1%	61%	4%	0%	32%
16	0	0.00%	11.98%	18.67%	1,500	205	0.73	0.45	0.45	1	1	5	1	1%	73%	21%	32%	1%	2%
17	0	0.00%	5.56%	11.54%	2,149	262	0.77	0.39	0.28	2	1	4	1	9%	84%	5%	39%	0%	6%
18	0	0.00%	13.21%	23.68%	7,085	460	0.82	0.42	0.42	6	2	26	1	6%	77%	8%	21%	0%	9%
19	0	0.00%	6.07%	16.22%	1,897	249	0.78	0.39	0.33	0	2	8	0	11%	65%	12%	59%	0%	10%
20	0	0.00%	50.11%	22.98%	2,397	330	0.77	0.28	0.50	0	2	13	8	28%	37%	15%	13%	3%	22%
21	0	0.00%	12.48%	15.14%	1,888	219	0.82	0.49	0.50	2	1	16	2	9%	68%	7%	48%	0%	16%
22	-1	0.00%	15.88%	24.65%	345	102	0.74	0.42	0.44	0	1	19	1	36%	24%	18%	36%	0%	24%
23	0	0.00%	13.17%	20.51%	254	105	0.79	0.29	0.50	0	2	11	5	29%	28%	16%	38%	9%	20%
24	0	0.00%	42.17%	38.46%	183	69	0.90	0.48	0.48	0	2	18	2	36%	36%	32%	46%	0%	10%
25	0	0.00%	17.52%	42.26%	237	88	0.81	0.38	0.42	0	1	8	3	64%	29%	12%	20%	0%	15%
26	0	0.00%	6.92%	73.23%	2,440	306	0.77	0.33	0.29	0	2	8	1	11%	54%	28%	13%	0%	9%
27	0	0.00%	7.07%	74.18%	281	70	0.95	0.73	0.71	0	1	7	1	10%	18%	34%	59%	0%	7%
28	0	0.00%	10.32%	73.35%	6,710	591	0.55	0.24	0.22	1	1	8	0	1%	88%	8%	86%	0%	1%

Overall numbers of county and city splits:

	In Plan P000C0109	
Number of Counties	67	412
Counties with only one district	50	396
Districts with only one county	5	16
Counties split into more than one district	17	396
Counties with all population in a single district	50	36
Aggregate number of county splits	48	36
Aggregate number of splits with population	46	36
Number of Cities	412	
Cities with only one district	396	
Cities split into more than one district	16	
Cities with all population in only one district	396	
Aggregate number of city splits	36	
Aggregate number of splits with population	36	

Plan P000C0109

Counties included in more than one district					
County	Dist.	Total Pop.	Pop%	Total Area	Area%
Broward	20	535,322	27.5%	889.4	68.0%
Broward	23	561,713	28.9%	171.5	13.1%
Broward	24	78,119	4.0%	10.9	0.8%
Broward	25	769,221	39.6%	236.7	18.1%
Collier	18	4,861	1.3%	73.8	2.8%
Collier	19	156,767	41.7%	607.9	23.3%
Collier	26	214,124	57.0%	1,923.5	73.8%
Duval	4	460,624	46.3%	611.1	66.5%
Duval	5	534,943	53.7%	307.4	33.5%
Hillsborough	14	579,335	39.7%	391.4	29.4%
Hillsborough	15	510,916	35.0%	404.4	30.4%
Hillsborough	16	369,511	25.3%	536.2	40.3%
Lafayette	2	1,731	21.0%	43.3	7.9%
Lafayette	3	6,495	79.0%	504.6	92.1%
Lake	6	117,124	30.5%	499.6	43.2%
Lake	11	266,832	69.5%	657.2	56.8%
Lee	17	148,368	19.5%	225.9	14.9%
Lee	19	612,454	80.5%	1,288.9	85.1%
Marion	3	206,835	55.0%	655.9	39.5%
Marion	6	169,073	45.0%	1,006.7	60.6%
Marion	12	0	0.0%	0.1	0.0%
Miami-Dade	24	691,102	25.6%	172.0	7.2%
Miami-Dade	26	555,097	20.6%	516.6	21.6%
Miami-Dade	27	769,221	28.5%	280.7	11.8%
Miami-Dade	28	686,347	25.4%	1,420.1	59.4%
Orange	7	0	0.0%	0.0	0.0%
Orange	8	2,821	0.2%	125.2	12.5%
Orange	9	326,695	22.9%	276.6	27.6%
Orange	10	769,221	53.8%	272.5	27.2%
Orange	11	331,171	23.2%	329.1	32.8%
Palm Beach	20	233,899	15.7%	1,507.8	63.3%
Palm Beach	21	281,564	18.9%	447.3	18.8%
Palm Beach	22	769,220	51.6%	345.3	14.5%
Palm Beach	23	207,508	13.9%	82.8	3.5%
Pasco	12	420,863	74.9%	862.1	85.0%
Pasco	15	141,028	25.1%	152.7	15.1%
Pinellas	13	769,221	80.2%	730.2	84.7%
Pinellas	14	189,886	19.8%	132.4	15.4%
Polk	9	53,870	7.4%	63.5	3.2%
Polk	11	41,466	5.7%	270.1	13.4%
Polk	15	117,277	16.2%	117.8	5.9%
Polk	18	512,433	70.7%	1,559.0	77.5%
St. Johns	5	234,278	85.7%	521.6	63.5%
St. Johns	6	39,147	14.3%	299.9	36.5%
Volusia	6	255,178	46.1%	724.4	50.6%
Volusia	7	298,365	53.9%	708.1	49.4%
Walton	1	47,648	63.3%	821.5	58.3%
Walton	2	27,657	36.7%	587.9	41.7%

Counties included in more than one district					
County	Dist.	Total Pop.	Pop%	Total Area	Area%

Counties included in more than one district					
County	Dist.	Total Pop.	Pop%	Total Area	Area%

Counties included in more than one district					
County	Dist.	Total Pop.	Pop%	Total Area	Area%

Plan P000C0109

Cities included in more than one district					
City	Dist.	Total Pop.	Pop%	Total Area	Area%
Deerfield Beach	20	27,968	32.2%	3.8	23.5%
Deerfield Beach	23	58,891	67.8%	12.4	76.5%
Fort Lauderdale	20	55,428	30.3%	12.4	34.1%
Fort Lauderdale	23	105,601	57.8%	18.6	51.2%
Fort Lauderdale	25	21,731	11.9%	5.3	14.7%
Jacksonville	4	459,228	48.4%	609.1	69.7%
Jacksonville	5	490,383	51.6%	265.4	30.4%
Lakeland	15	49,933	44.3%	33.7	44.9%
Lakeland	18	62,708	55.7%	41.4	55.1%
Longboat Key	16	2,746	36.6%	8.3	51.7%
Longboat Key	17	4,759	63.4%	7.7	48.3%
Margate	20	11,080	18.9%	1.6	17.8%
Margate	23	47,632	81.1%	7.4	82.2%
Miami	24	86,644	19.6%	14.1	25.1%
Miami	26	66,430	15.0%	5.7	10.1%
Miami	27	289,167	65.4%	36.3	64.8%
Miramar	24	56,729	42.1%	6.9	22.3%
Miramar	25	77,992	57.9%	24.2	77.7%
Oakland Park	20	15,037	34.0%	3.5	43.0%
Oakland Park	23	29,192	66.0%	4.7	57.0%
Orlando	9	81,845	26.6%	62.8	52.8%
Orlando	10	225,262	73.2%	56.0	47.1%
Orlando	11	466	0.2%	0.1	0.1%
Plantation	20	44,325	48.3%	9.3	42.0%
Plantation	25	47,425	51.7%	12.8	58.0%
Pompano Beach	20	49,811	44.5%	10.9	44.1%
Pompano Beach	23	62,235	55.5%	13.8	55.9%
Riviera Beach	20	29,204	77.7%	6.8	70.7%
Riviera Beach	21	8,400	22.3%	2.8	29.3%
St. Petersburg	13	82,168	31.8%	33.6	25.6%
St. Petersburg	14	176,140	68.2%	97.8	74.4%
Tampa	14	287,435	74.7%	137.9	78.4%
Tampa	15	97,524	25.3%	38.0	21.6%
West Palm Beach	20	59,919	51.0%	15.1	26.0%
West Palm Beach	21	21,937	18.7%	34.9	60.2%
West Palm Beach	22	35,559	30.3%	8.0	13.8%

Cities included in more than one district					
City	Dist.	Total Pop.	Pop%	Total Area	Area%

Cities included in more than one district					
City	Dist.	Total Pop.	Pop%	Total Area	Area%

Cities included in more than one district					
City	Dist.	Total Pop.	Pop%	Total Area	Area%

Plan P000C0109

Dist.	2020 Census		2020 General Election Registered Voters																
	VAP who are:		RV who are:			RV who are:		Black Voters who are:			Hisp. Voters who are:			DEM who are:		REP who are:		NPAOth who are:	
	Black	Hisp	DEM	REP	OTH	Black	Hisp	DEM	REP	NPAOth	DEM	REP	NPAOth	Black	Hisp.	Black	Hisp.	Black	Hisp.
9	13.02%	50.04%	41.93%	23.25%	34.81%	9.42%	44.21%	72.15%	3.99%	23.83%	46.62%	13.42%	39.97%	16.21%	49.15%	1.62%	25.50%	6.45%	50.75%
20	50.11%	22.98%	61.33%	13.79%	24.88%	46.32%	15.27%	81.47%	2.53%	15.98%	46.07%	17.38%	36.51%	62.20%	11.47%	8.57%	19.25%	30.08%	22.41%
24	42.17%	38.46%	60.04%	12.59%	27.37%	44.01%	27.28%	82.62%	2.44%	14.94%	42.23%	20.67%	37.09%	60.56%	19.19%	8.52%	44.78%	24.03%	36.98%
26	6.92%	73.22%	29.79%	37.92%	32.29%	5.19%	60.82%	76.51%	4.41%	18.86%	28.91%	36.07%	35.00%	13.33%	59.08%	0.60%	57.90%	3.03%	65.98%
27	7.07%	74.18%	34.57%	33.39%	32.04%	6.14%	62.75%	78.63%	3.69%	17.62%	28.03%	38.96%	33.00%	13.97%	50.91%	0.68%	73.27%	3.38%	64.68%
28	10.32%	73.35%	33.92%	32.58%	33.51%	8.68%	83.92%	77.57%	3.44%	18.87%	28.78%	35.48%	35.75%	19.84%	54.23%	0.92%	69.60%	4.89%	68.19%

Plan P000C0109

Dist.	2020 Census		Average Primary Election Turnout				Average General Election Turnout									General Election Performance in Statewide Elections 2012-2020												
	VAP who are:		DEM who are:		REP who are:		Voters who are:			DEM who are:		REP who are:		NPAOth who are:		Black Voters who are:			Hisp. Voters who are:			Avg. Perf.		Wins		Margins		
	Black	Hisp.	Black	Hisp.	Black	Hisp.	DEM	REP	NPAOth	Black	Hisp.	Black	Hisp.	Black	Hisp.	DEM	REP	NPAOth	DEM	REP	NPAOth	DEM	REP	DEM	REP	MAX	MIN	AVG
9	13.02%	50.04%	18.43%	33.46%	0.91%	12.47%	43.53%	29.36%	27.10%	17.53%	42.62%	1.25%	18.03%	6.02%	41.13%	79.20%	3.78%	16.96%	53.12%	15.00%	31.85%	57.0%	41.3%	12	2	D +34.2%	D +0.1%	D +15.7%
20	50.11%	22.98%	64.90%	4.45%	6.38%	10.02%	66.49%	14.54%	18.97%	62.40%	8.78%	6.96%	14.88%	28.23%	19.00%	86.64%	2.11%	11.19%	49.92%	18.74%	31.05%	78.5%	20.7%	14	0	D +65.2%	D +51%	D +57.8%
24	42.17%	38.46%	68.02%	10.67%	6.87%	49.03%	66.57%	12.25%	21.17%	63.27%	15.70%	7.45%	43.92%	24.06%	34.66%	87.54%	1.89%	10.54%	44.74%	23.56%	31.66%	80.3%	18.9%	14	0	D +68%	D +48.9%	D +61.5%
26	6.92%	73.22%	18.16%	44.54%	0.34%	54.72%	30.40%	43.16%	26.44%	15.56%	53.37%	0.47%	54.98%	2.82%	61.53%	82.86%	3.57%	13.25%	28.79%	42.28%	28.90%	43.1%	55.7%	2	12	R +25.6%	R +1.8%	R +12.6%
27	7.07%	74.16%	17.88%	36.73%	0.39%	75.67%	35.72%	38.10%	26.18%	15.24%	45.37%	0.53%	72.01%	3.20%	63.12%	83.84%	3.12%	12.96%	26.84%	45.71%	27.44%	50.9%	48.1%	9	5	D +17.4%	R +0.6%	D +2.7%
28	10.32%	73.35%	22.56%	36.22%	0.54%	65.41%	35.69%	36.75%	27.56%	21.17%	47.57%	0.76%	66.17%	4.66%	64.29%	82.78%	3.06%	14.07%	28.65%	41.33%	30.00%	50.9%	47.9%	9	5	D +15.7%	R +2.2%	D +3%

Functional Analysis - Returns

			9	20	24	26	27	28
Plan P000C0109		BVAP	13.02%	50.11%	42.17%	6.92%	7.07%	10.32%
	Primary Elections	HVAP	50.04%	22.98%	38.46%	74.77%	74.14%	74.35%
2018	Governor (REP)	R_Baldauf	0.83%	1.45%	1.93%	1.77%	1.52%	1.82%
		R_DeSantis	52.20%	62.28%	66.81%	68.79%	67.70%	67.72%
		R_Devine	1.87%	2.05%	3.26%	2.74%	3.13%	3.31%
		R_Langford	1.44%	1.80%	1.93%	1.37%	1.56%	1.70%
		R_Mercadante	1.19%	1.53%	2.21%	1.76%	2.18%	2.03%
		R_Nathan	0.95%	1.52%	2.71%	1.07%	1.41%	1.41%
		R_Putnam	38.82%	25.44%	16.79%	19.55%	18.87%	18.11%
	R_White	2.47%	2.84%	3.90%	2.55%	3.49%	3.51%	
	Governor (DEM)	D_Gillum	28.49%	53.43%	50.66%	27.71%	28.97%	31.80%
		D_Graham	30.30%	13.31%	11.07%	21.85%	22.66%	21.12%
		D_Greene	14.18%	10.21%	9.33%	9.82%	7.98%	10.56%
		D_King	4.30%	0.91%	0.76%	2.55%	1.56%	2.11%
		D_Levine	19.74%	21.28%	27.38%	34.73%	37.17%	32.26%
		D_Lundmark	1.17%	0.29%	0.38%	1.32%	0.79%	0.90%
		D_Wetherbee	1.70%	0.37%	0.32%	1.12%	0.70%	0.96%
	Attorney General (REP)	R_Moody	54.39%	55.46%	53.14%	51.15%	54.81%	54.83%
		R_White	45.57%	44.16%	46.91%	48.88%	45.20%	45.11%
	Attorney General (DEM)	D_Shaw	60.65%	81.41%	82.21%	65.79%	74.10%	69.58%
		D_Torrens	39.34%	18.58%	17.77%	34.06%	25.90%	30.43%
	Agriculture Commissioner (REP)	R_Caldwell	35.51%	43.02%	39.87%	42.26%	40.18%	42.06%
		R_Grimsley	31.86%	26.45%	31.49%	27.34%	32.68%	31.53%
		R_McCalister	16.13%	20.87%	16.88%	13.25%	16.76%	16.54%
		R_Troutman	16.38%	8.59%	11.33%	16.96%	10.38%	9.57%
	Agriculture Commissioner (DEM)	D_Fried	54.90%	63.96%	59.13%	51.59%	59.89%	53.25%
		D_Porter	18.84%	16.09%	17.30%	19.35%	15.15%	20.42%
		D_Walker	26.24%	19.91%	23.59%	28.75%	24.89%	26.19%
	US Senate (REP)	R_De La Fuente	10.05%	15.12%	15.72%	9.35%	12.64%	12.23%
		R_Scott	89.87%	84.46%	84.02%	90.52%	87.34%	87.65%
2016	US Senate (REP)	R_Beruff	17.67%	14.86%	8.38%	9.70%	5.63%	6.40%
		R_Rivera	2.99%	4.55%	3.20%	2.21%	1.92%	2.93%
		R_Rubio	71.79%	70.37%	80.78%	84.05%	88.89%	85.70%
		R_Young	7.42%	9.04%	7.31%	3.83%	3.50%	4.84%
	US Senate (DEM)	D_De La Fuente	14.71%	3.13%	5.63%	19.79%	12.21%	13.69%
		D_Grayson	45.09%	10.08%	10.80%	11.60%	11.26%	11.07%
		D_Keith	9.55%	14.72%	13.76%	13.93%	17.89%	15.57%
		D_Luster	1.27%	2.22%	2.70%	1.82%	1.55%	1.65%
		D_Murphy	29.23%	69.53%	66.98%	51.93%	56.90%	57.52%
2014	Governor (REP)	R_Adeshina	1.67%	2.51%	2.89%	1.38%	1.82%	1.75%
		R_Cuevas-Neunder	11.64%	14.70%	16.26%	9.74%	13.29%	15.11%
		R_Scott	86.55%	81.70%	80.61%	88.59%	84.85%	82.94%
	Governor (DEM)	D_Crist	75.49%	82.85%	84.36%	78.07%	73.98%	78.45%
		D_Rich	24.46%	16.99%	15.62%	21.35%	25.94%	21.39%
Attorney General (DEM)	D_Sheldon	60.42%	38.39%	46.60%	62.01%	65.55%	61.36%	
D_Thurston	39.47%	61.50%	53.40%	37.34%	34.43%	38.41%		
2012	US Senate (REP)	R_Mack	49.47%	65.27%	71.88%	73.24%	77.15%	73.63%
		R_McCalister	11.65%	12.41%	6.67%	8.45%	5.22%	7.31%
		R_Stuart	6.47%	6.66%	13.36%	11.47%	13.00%	13.19%
		R_Weldon	32.18%	13.82%	7.69%	6.45%	4.50%	5.63%
	US Senate (DEM)	D_Burkett	19.90%	13.92%	14.22%	18.63%	14.82%	18.34%
		D_Nelson	80.01%	85.94%	85.75%	80.92%	85.13%	81.50%

Functional Analysis - Returns

			9	20	24	26	27	28
Plan PQ00C0109		BVAP	13.02%	50.11%	42.17%	6.92%	7.07%	10.32%
General Elections		HVAP	50.04%	22.98%	38.46%	75.22%	74.16%	73.35%
2020	President	D_Biden	58.24%	75.89%	74.18%	40.49%	49.45%	46.42%
		R_Trump	40.80%	23.52%	25.28%	58.98%	50.01%	52.99%
2018	Governor	D_Gillum	60.99%	79.93%	81.45%	44.44%	53.18%	52.49%
		R_DeSantis	37.66%	19.45%	17.83%	54.26%	45.75%	46.31%
	Attorney General	D_Shaw	57.74%	78.44%	80.05%	42.63%	51.99%	50.86%
		R_Moody	40.31%	20.26%	18.39%	55.44%	46.10%	46.94%
	Chief Financial Officer	D_Ring	60.15%	79.79%	81.53%	44.03%	52.59%	51.92%
		R_Patronis	39.85%	20.20%	18.46%	55.96%	47.41%	48.07%
Agriculture Commissioner	D_Fried	61.55%	80.09%	82.00%	45.29%	54.63%	53.44%	
	R_Caldwell	38.45%	19.89%	18.00%	54.70%	45.38%	46.56%	
US Senate	D_Nelson	59.82%	80.00%	81.36%	44.81%	54.47%	53.46%	
	R_Scott	40.18%	20.00%	18.64%	55.19%	45.52%	46.55%	
2016	President	D_Clinton	61.62%	77.83%	81.05%	50.61%	57.42%	56.46%
		R_Trump	35.03%	20.39%	17.28%	47.09%	40.05%	40.81%
	US Senate	D_Murphy	54.93%	75.64%	75.93%	40.61%	47.78%	47.69%
R_Rubio		41.01%	22.42%	21.99%	57.17%	50.17%	49.92%	
2014	Governor	D_Crist	52.25%	79.92%	82.18%	40.53%	50.00%	51.20%
		R_Scott	42.62%	17.97%	16.24%	56.88%	47.55%	45.89%
	Attorney General	D_Sheldon	48.62%	76.13%	79.80%	36.07%	46.03%	45.82%
		R_Bondi	48.53%	22.42%	18.77%	61.63%	51.96%	51.75%
	Chief Financial Officer	D_Rankin	48.45%	75.48%	79.06%	37.37%	43.49%	45.87%
		R_Atwater	51.55%	24.50%	20.93%	62.62%	56.52%	54.11%
Agriculture Commissioner	D_Hamilton	47.07%	77.02%	79.78%	37.30%	44.30%	46.04%	
	R_Putnam	52.94%	22.99%	20.21%	62.69%	55.69%	53.95%	
2012	President	D_Obama	61.22%	80.52%	82.82%	48.85%	52.22%	54.83%
		R_Romney	37.97%	19.06%	16.83%	50.67%	47.27%	44.61%
	US Senate	D_Nelson	65.83%	81.97%	83.46%	50.74%	54.47%	56.33%
R_Mack		31.67%	16.82%	15.49%	47.10%	44.15%	42.03%	

# SB 2-C Congressional Plan 0109

J. ALEX KELLY

EXECUTIVE OFFICE  
OF THE GOVERNOR

4.19.22



# Comparing SB 2-C Plan 0109 to SB 102 Primary Plan 8019

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## DISTRICTS IDENTICAL IN PLANS 8019 & 0109

10 Districts Identical:

- 1-2 (Panhandle)
- 20-25 (Southeast)
- 27-28 (Southeast)

## IMPROVEMENTS IN PLAN 8019

18 Districts Improved:

- 3-19
- 26 (Southwestern portions)

# Comparing SB 2-C Plan 0109 to SB 102 Primary Plan 8019

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- Starting with the Legislature's Primary Plan 8019:
  - Maintained the same number of performing majority-minority districts.
  - Maintained the Legislature's Panhandle districts.
  - Maintained the Legislature's Southeast districts.
  - Addressed federal constitutional concerns by using the EOG's Northeast districts (w/ minor improvements).
  - Tier 2 improvements through a compromise (hybrid of the Legislature's and EOG's plans) for Gulf Coast counties, stretching from Citrus to Lee counties and impacting some inland counties.
  - Tier 2 improvements by returning to concepts from the House Congressional Redistricting Subcommittee's Central Florida in Plan 8011, with inclusion of one concept from the Senate's Plan 8060.
  - Tier 2 improvements to boundaries by eliminating EOG's adherence to Census Designated Places and adopting the Legislature's Tier 2 focus on use of roadways and waterways.

# Tier 2 Comparing SB 2-C Plan 0109 to SB 102 Primary Plan 8019

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## SB 102 PRIMARY PLAN 8019

### Counties Kept Whole: 49

18 counties split 48 ways

#### Differences:

Where there are differences in county splits, 7 counties split 17 ways (Citrus, Collier, Hillsborough, Marion, Polk, Sarasota, Volusia)

FL's 7 largest counties split 24 ways (Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, Pinellas)

## SB 2-C PLAN 0109

### Counties Kept Whole: 50

17 counties split 46 ways

#### Differences:

Where there are differences in county splits, 7 counties split 16 ways (Citrus, Collier, Hillsborough, Marion, Polk, Sarasota, Volusia)

FL's 7 largest counties split 23 ways (Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach, Pinellas)

# Tier 2 Comparing SB 2-C Plan 0109 to SB 102 Primary Plan 8019

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SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109

- Boundaries: 87.50% use of Tier 2 boundaries
- Therefore: 12.50% Non-Geo/Pol boundary lines

- Boundaries: 88.50% use of Tier 2 boundaries
- Therefore: 11.50% Non-Geo/Pol boundary lines

# Tier 2 Comparing SB 2-C Plan 0109 to SB 102 Primary Plan 8019

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## SB 102 PRIMARY PLAN 8019

- Compactness:
  - Reock: 0.48
  - Area/Convex Hull: 0.82
  - Polsby Popper: 0.42
  - Least mathematically compact CD 4's Polsby Popper is 0.17 (below 0.20)

## SB 2-C PLAN 0109

- Compactness:
  - Reock: 0.47
  - Area/Convex Hull: 0.81
  - Polsby Popper: 0.43
  - Only Plan w/ all CDs > 0.20 Reock & Polsby Popper
  - Improved visual compactness for several CDs

# Tier 2 Comparing SB 2-C Plan 0109 to SB 102 Primary Plan 8019

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## SB 102 PRIMARY PLAN 8019

### City Splits: 16

#### Differences:

- Cape Coral (Lee) – split in 2 CDs
- Plant City (Hillsborough) – split in 2 CDs
- Port Orange (Volusia) – split in 2 CDs
- Lakeland (Polk) – whole
- Longboat Key (Manatee & Sarasota) – whole
- St. Petersburg (Pinellas) – whole

## SB 2-C PLAN 0109

### City Splits: 16

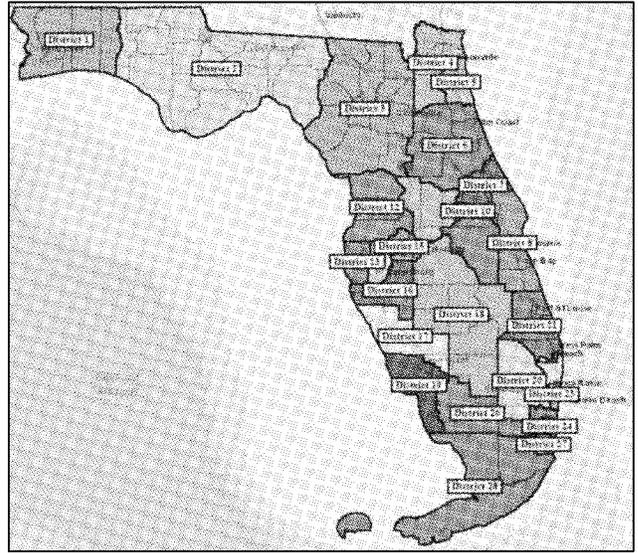
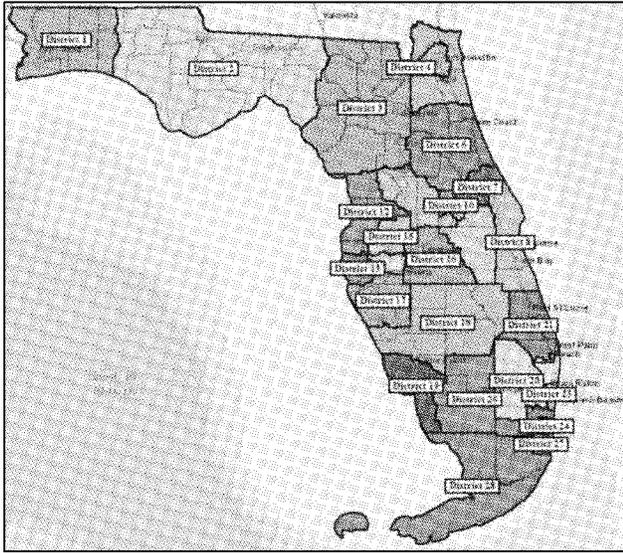
#### Differences:

- Cape Coral (Lee) – whole
- Plant City (Hillsborough) – whole
- Port Orange (Volusia) – whole
- Lakeland (Polk) – split in 2 CDs
- Longboat Key (Manatee & Sarasota) – split in 2 CDs (due to keeping Sarasota County whole)
- St. Petersburg (Pinellas) – split in 2 CDs

# Statewide

SB 102 PRIMARY PLAN 8019

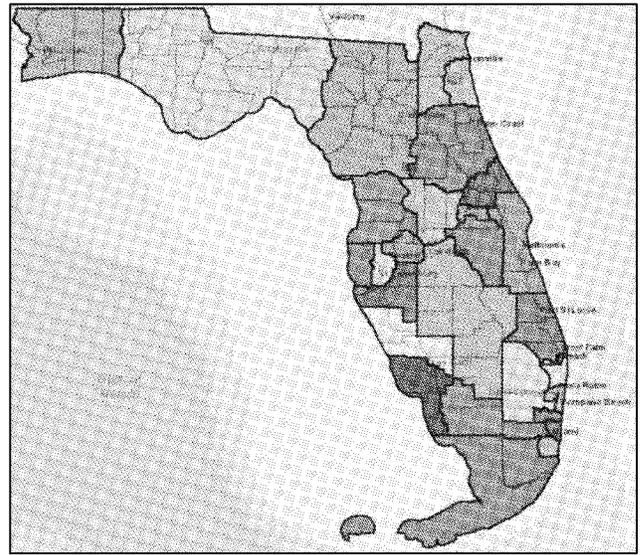
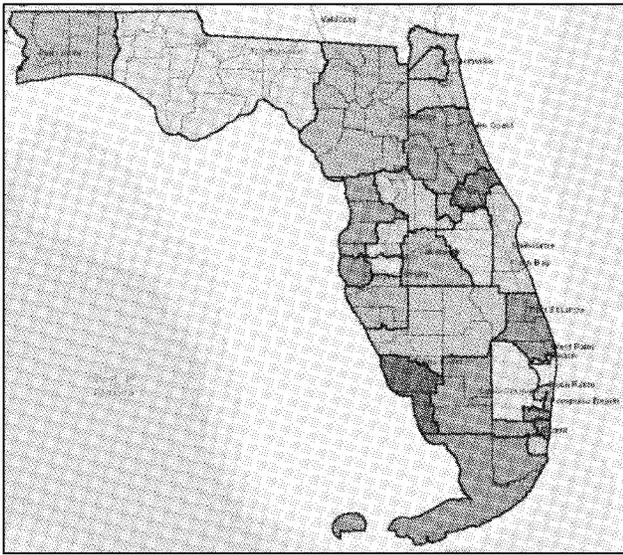
SB 2-C PLAN 0109



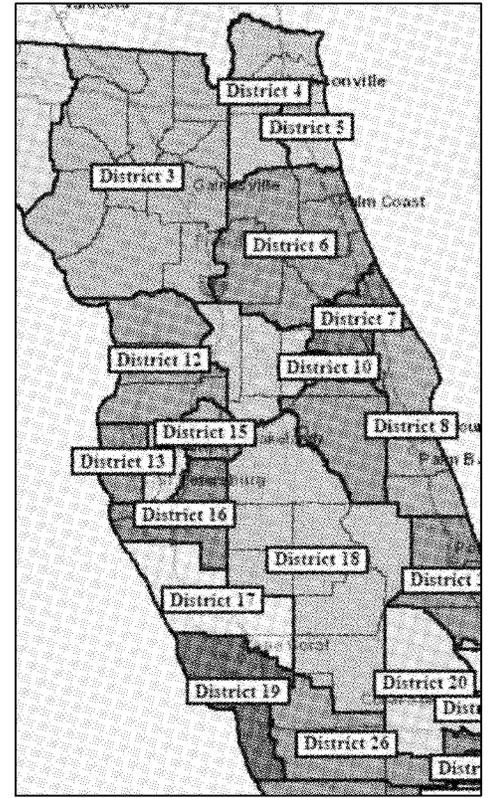
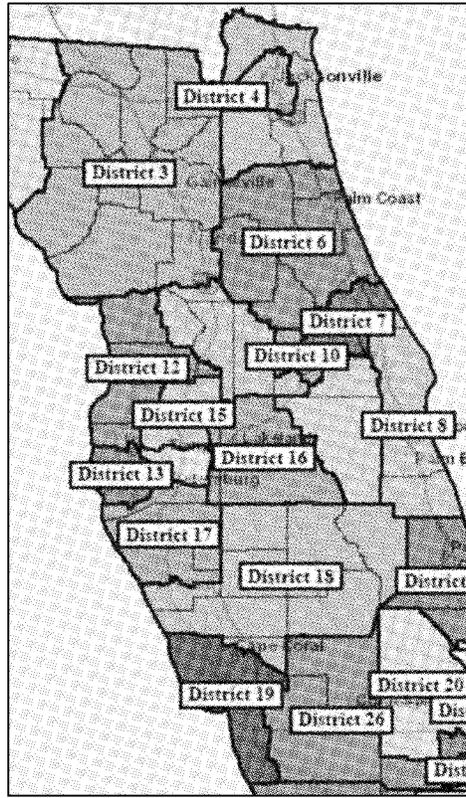
# Statewide Without District Labels

SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109

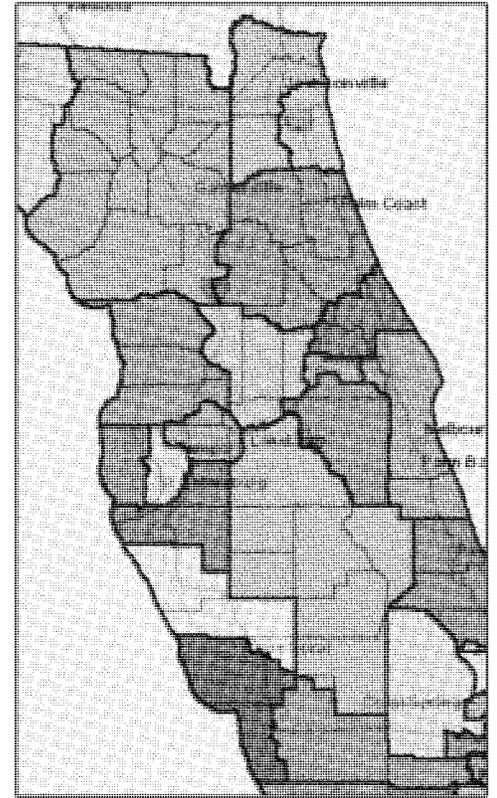
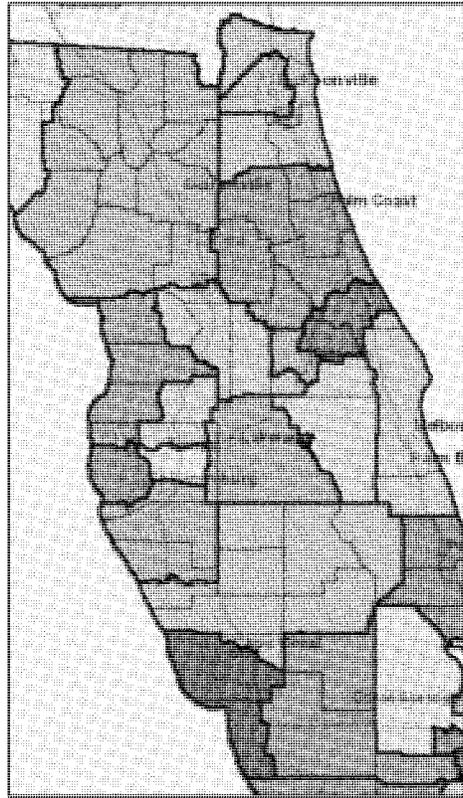


# Focusing on the 18 Districts with Changes



# Focusing on the 18 Districts with Changes

Without District Labels

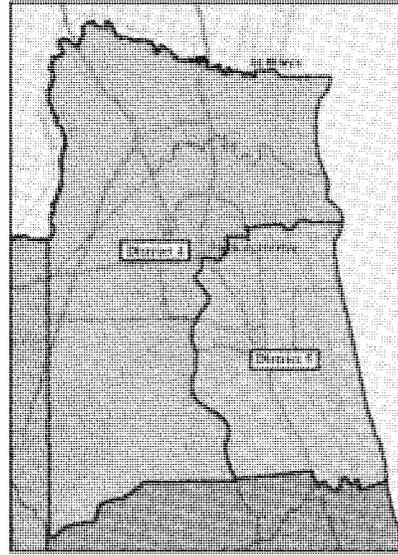
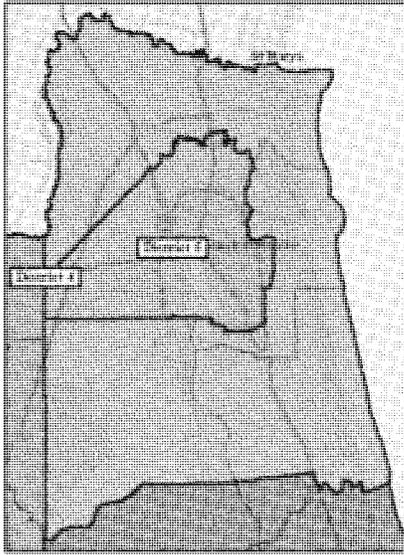


# Districts 4-5

SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109

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# SB 2-C Plan 0109

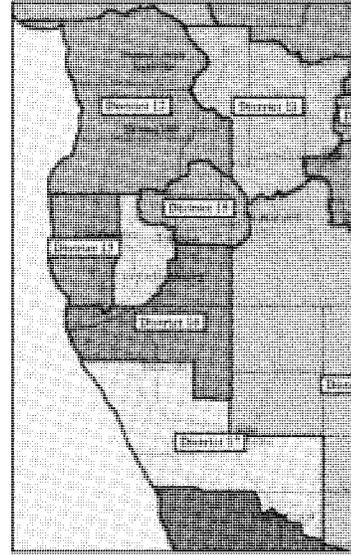
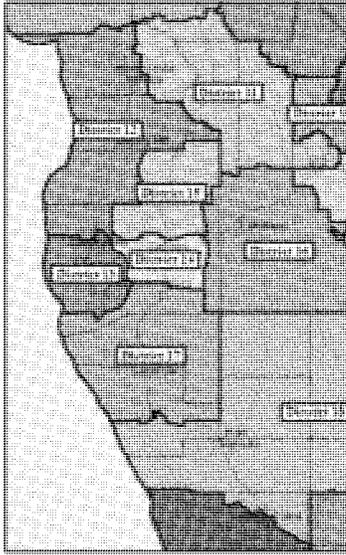
Districts 4-5



# Districts 11-18

SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109

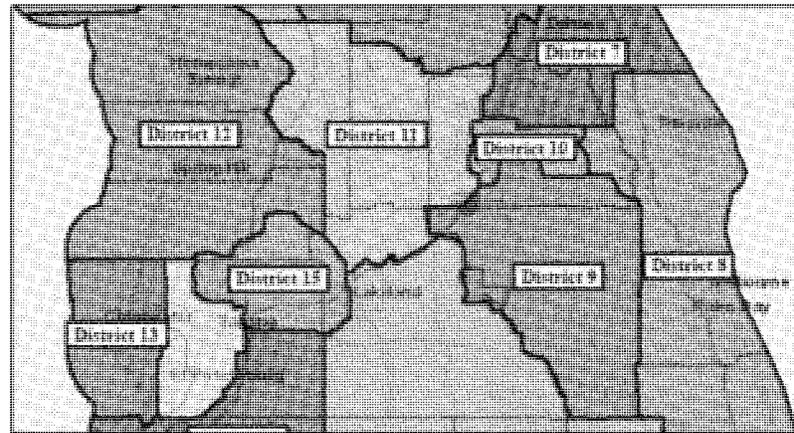
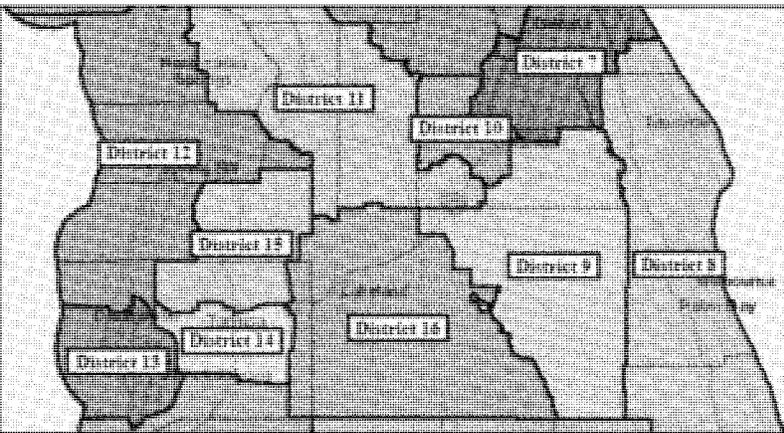


# The I-4 Corridor and Tier 2 Improvements

SB 102 PRIMARY PLAN 8019

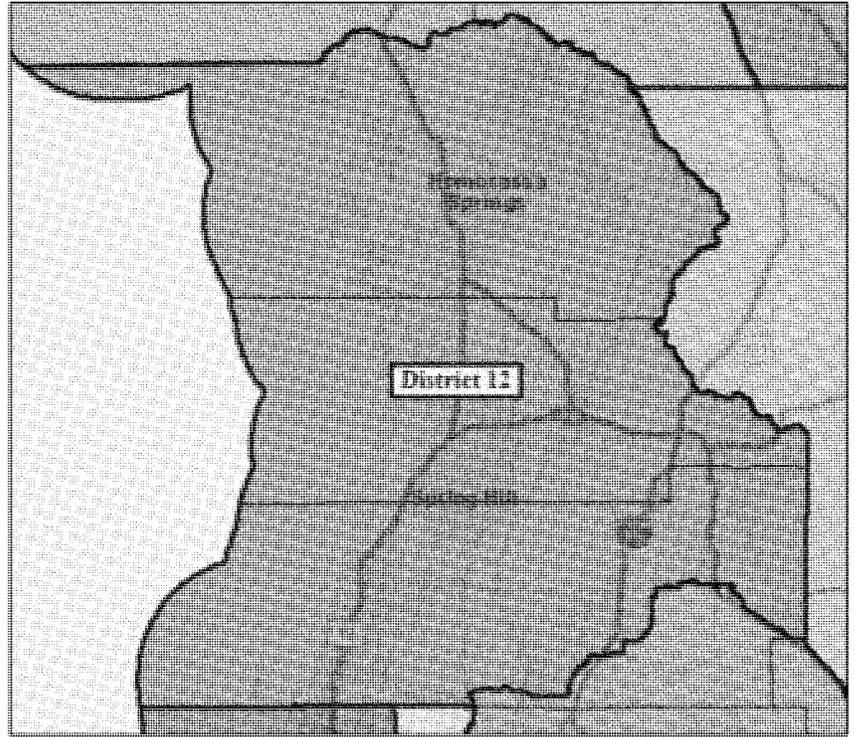
SB 2-C PLAN 0109

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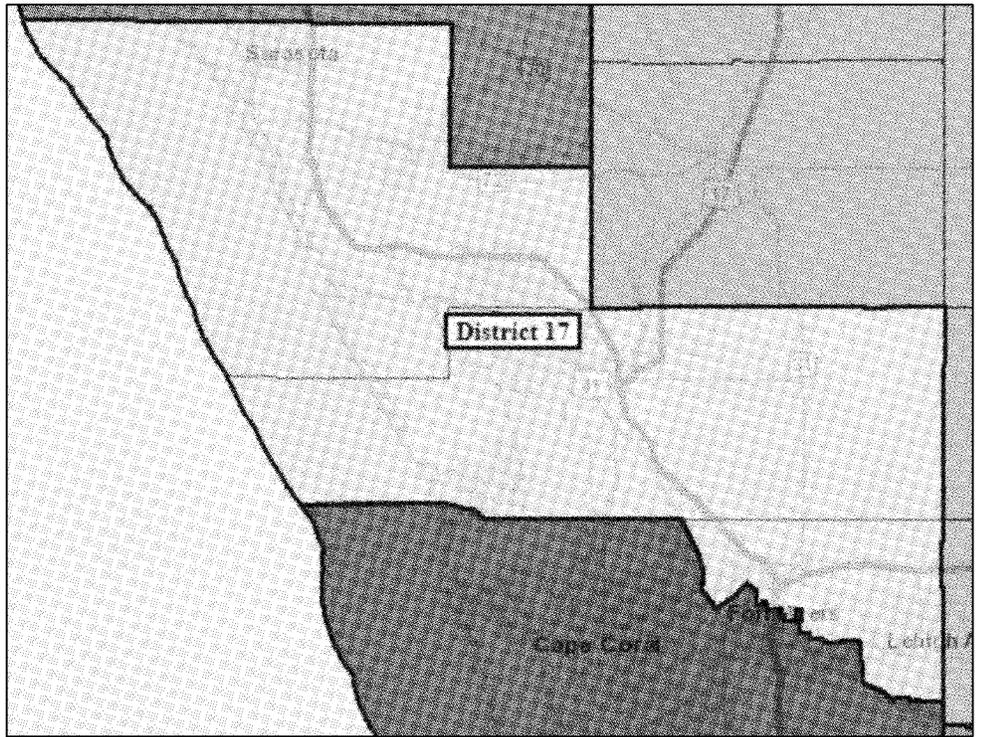
# SB 2-C Plan 0109

District 12



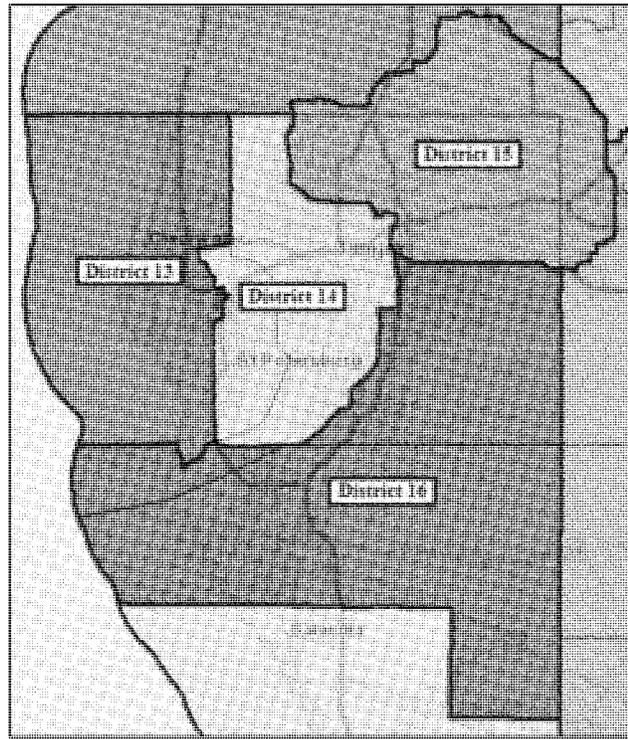
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District 17



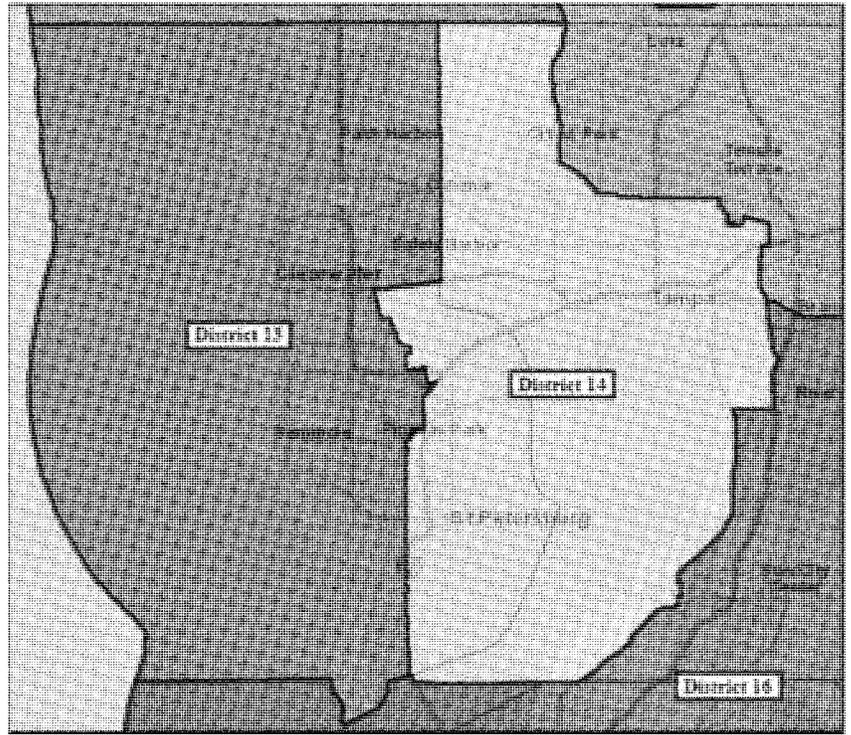
# SB 2-C Plan 0109

Districts 13-16



# SB 2-C Plan 0109

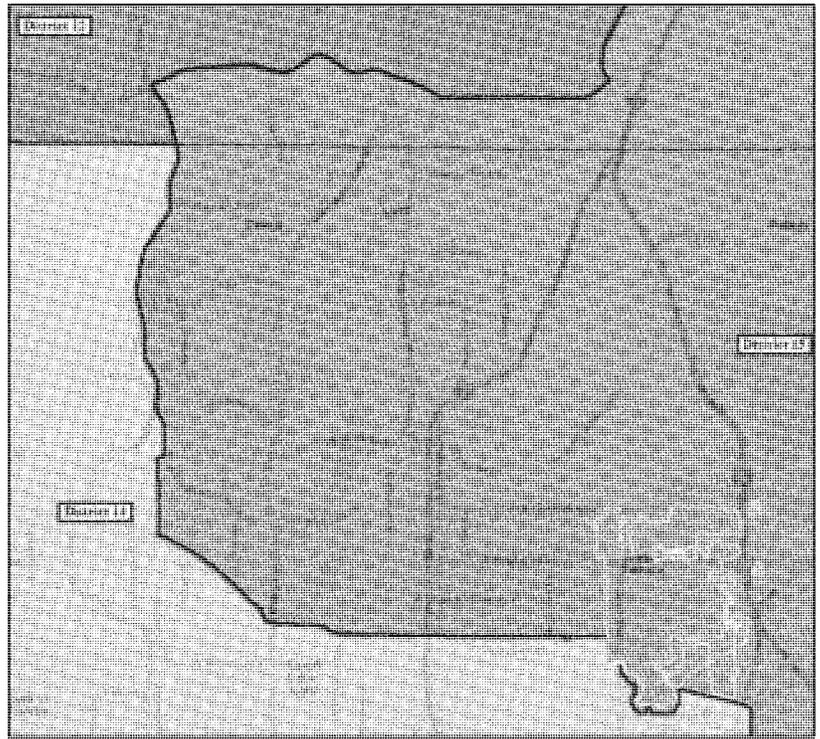
Districts 13-16



# SB 2-C Plan 0109

Districts 12, 14-15

Temple Terrace is highlighted



# SB 2-C Plan 0109

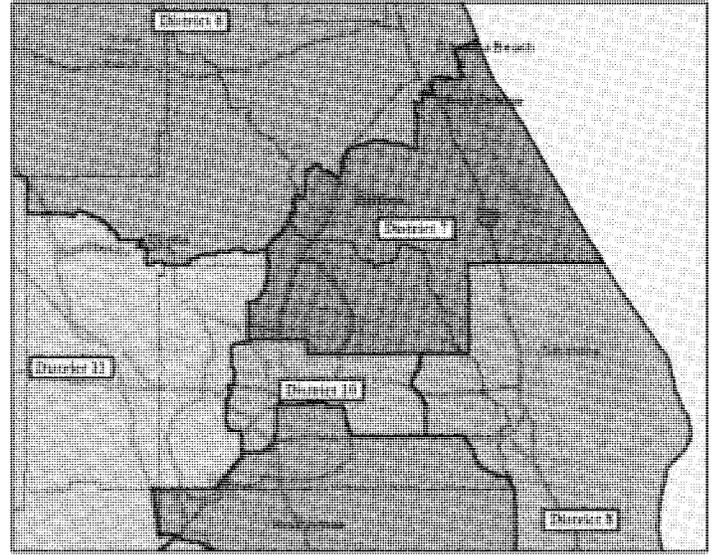
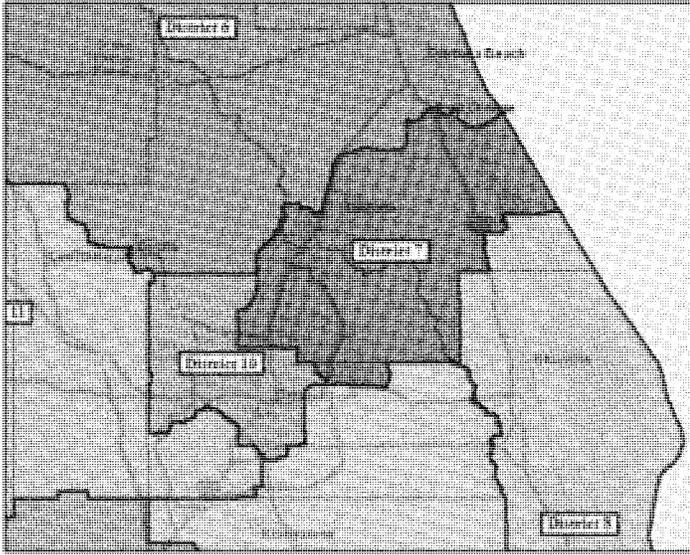
Districts 14-16



# Districts 6-11

SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109



# SB 2-C Plan 0109

Districts 7-11



# SB 2-C Plan 0109

Districts 7-11

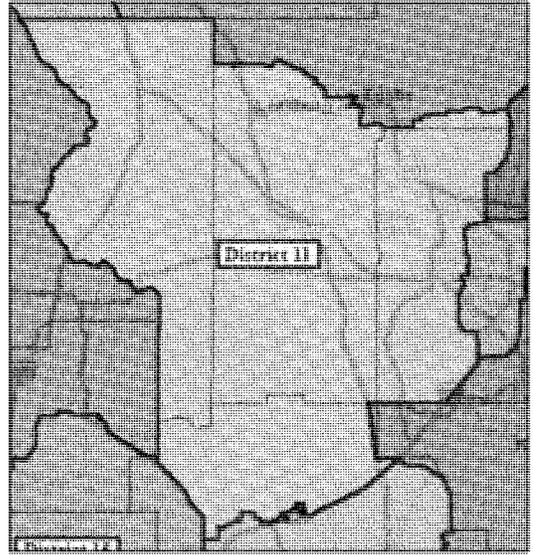
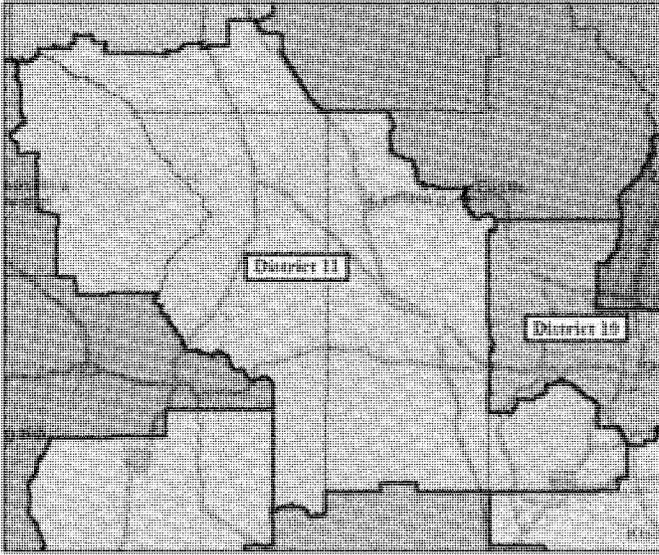
Edgewood is highlighted



# Districts 6, 10-12

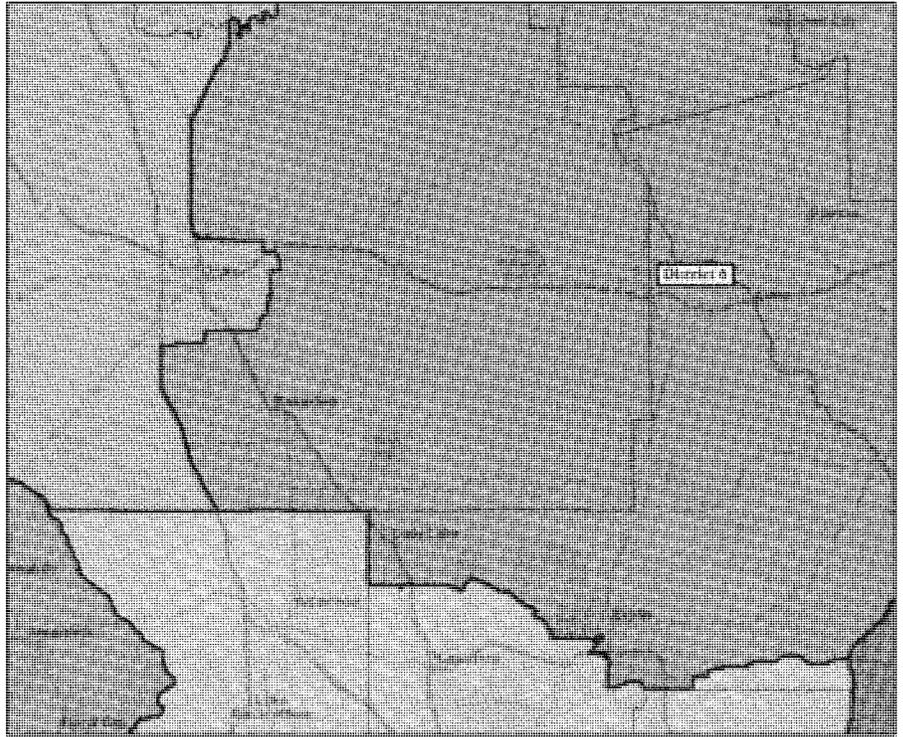
SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109



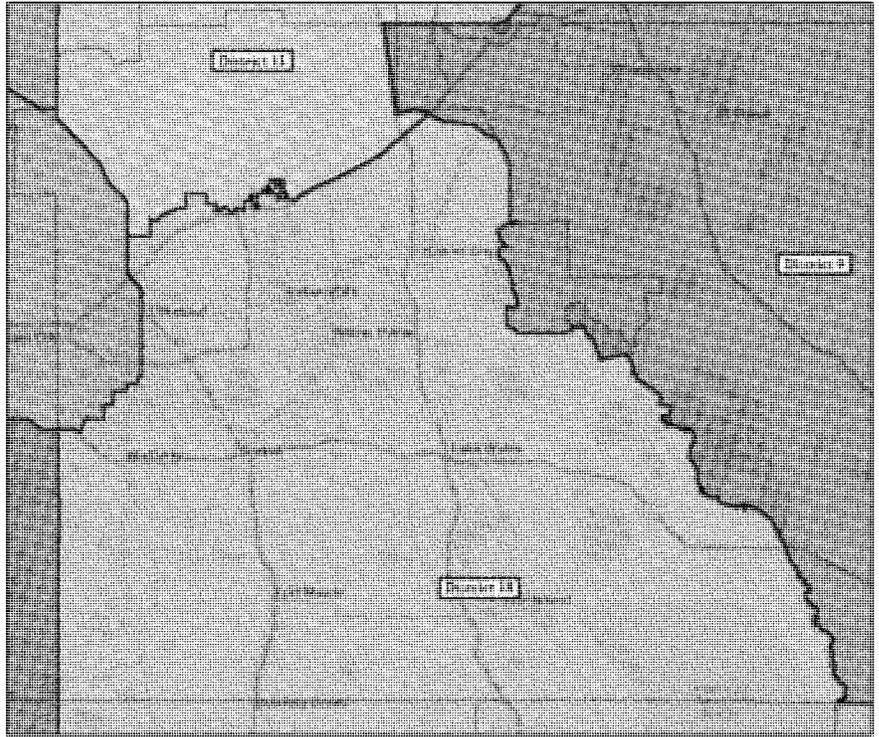
# SB 2-C Plan 0109

Districts 3, 6, 11



# SB 2-C Plan 0109

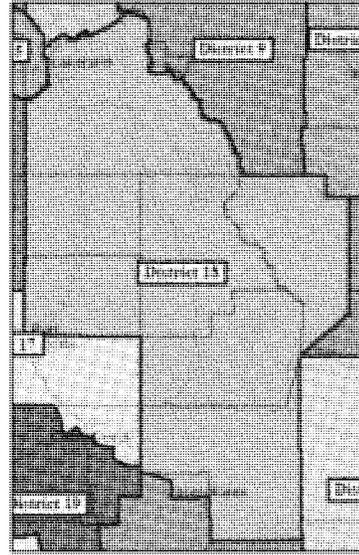
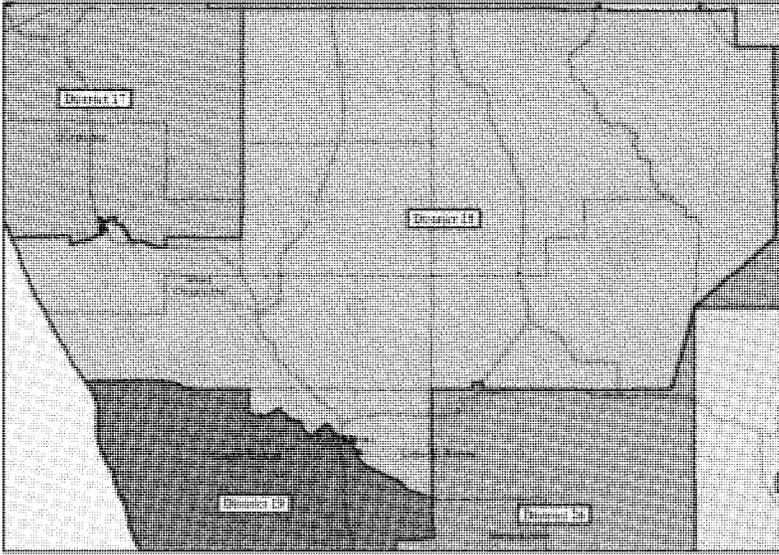
Districts 9, 11, 15, 18



# Districts 17-19, 26

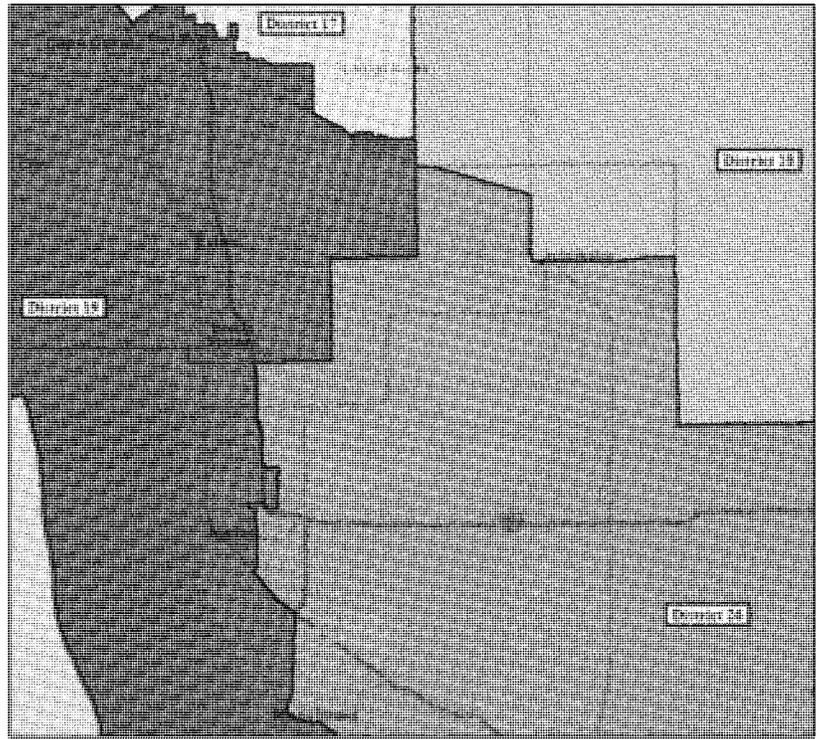
SB 102 PRIMARY PLAN 8019

SB 2-C PLAN 0109



# SB 2-C Plan 0109

Districts 17, 18, 28



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Common Cause, et al. )  
 )  
 v. ) 4:22-cv-109  
 )  
 Cord Byrd )  
 )

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TRANSCRIPTION OF AUDIO RECORDING  
 SENATE COMMITTEE ON REAPPORTIONMENT  
 APRIL 19, 2022

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DIGITAL EVIDENCE GROUP  
 1730 M Street, NW, Suite 812  
 Washington, D.C. 20036  
 (202) 232-0646

1     APRIL 19, 2022

2             CHAIRMAN RODRIGUES: Committee on

3     Reapportionment will now come to order.

4             Dana, please call the roll.

5             THE CLERK: Chair Rodriguez.

6             CHAIRMAN RODRIGUES: Here.

7             THE CLERK: Vice Chair Broxson.

8             Senator Bean.

9             SENATOR BEAN: Here.

10            THE CLERK: Senator Bracy.

11            SENATOR BRACY: Here.

12            THE CLERK: Senator Bradley.

13            Senator Brodeur.

14            SENATOR BRODEUR: Here.

15            THE CLERK: Senator Burgess.

16            SENATOR BURGESS: Here.

17            THE CLERK: Senator Gibson.

18            Senator Harrell.

19            SENATOR HARRELL: Here.

20            THE CLERK: Senator Rodriguez.

21            Senator Rouson.

22            SENATOR ROUSON: Here.

23            THE CLERK: Senator Stargel.

24            Senator Stewart.

25            SENATOR STEWART: Here.

1 THE CLERK: A quorum is present, Mr. Chair.

2 CHAIRMAN RODRIGUES: Thank you. I'd like  
3 to ask everyone to silence your electronic devices.  
4 Anyone wishing to speak before the Committee should  
5 complete an appearance form and hand it in to a  
6 member of the Sergeant's Office. Should you select  
7 to waive your speaking time, your position will be  
8 included in the Committee meeting records.

9 Members, as you know, the Congressional  
10 maps passed by the Legislature in our regular  
11 session were vetoed. We have been called back into  
12 special session to fulfill our constitutional  
13 obligation to reapportion this state.

14 On Tuesday, April the 12th, I was briefed  
15 by the Governor's Office on a map which has been  
16 published as P000C0109. After a conversation with  
17 our Senate counsel, I determined that this map  
18 reflects standards that the Senate can support and  
19 filed it as Senate Bill 2-C.

20 I've asked our general counsel, Mr. Dan  
21 Nordby, to prepare a legal analysis of the  
22 Governor's submission, and that legal analysis is  
23 included in today's meeting materials for your  
24 review. The letter that the Governor's Office sent,  
25 along with their map and their analysis the

1 accompanied the veto message, are also included in  
2 today's materials.

3 At my request, the Governor's Office is  
4 here today to provide members of this committee with  
5 the same briefing that I received last week and to  
6 answer questions about the map. Members earlier  
7 today -- all interested Senators were invited to  
8 attend this meeting.

9 Members of the Committee will be the first  
10 to ask questions relating to the proposed map, after  
11 which, if time permits, non-Committee members will  
12 be allowed to ask questions. Questions should not  
13 be framed in the form of debate. Debate is reserved  
14 for members of the Committee at the appropriate  
15 time.

16 We are scheduled to conclude this meeting  
17 at 4:30. The Senate will reconvene at 5 o'clock, as  
18 required by the earlier recess motion. In order to  
19 keep with the special session schedule, the  
20 President has indicated that he will not be open to  
21 extending today's meeting.

22 If there are no questions about our process  
23 for today, then we will proceed to today's agenda.

24 Seeing no questions, we will now move to  
25 the agenda. Take up tab number 1, Senate Bill 2-C

1 on establishing the Congressional districts of the  
2 state.

3 Mr. Alex Kelly is here on behalf of the  
4 Executive Office of the Governor to walk us through  
5 the map.

6 Mr. Kelly, the floor is yours.

7 ALEX KELLY: Thank you, Chair and members.

8 Again, my name is Alex Kelly, and I  
9 appreciate your time and this opportunity today to  
10 present the map proposed by the Executive Office of  
11 the Governor, the third map filed by our office, and  
12 the proposed Congressional Reapportionment Plan and  
13 to discuss our office's contribution to what is a  
14 compromise plan.

15 And just for a background, I serve as at  
16 the Deputy Chief of Staff for the Governor. A very  
17 brief introduction before I get into the slides.  
18 I'll frequently today refer to improvements in the  
19 plan before you today. Senate Bill 2-C is followed  
20 by the Chair Plan 0109.

21 Although when I refer to changes in this  
22 map, as you may know, you know, my role in terms of  
23 when I talk about my role in these changes, I'm only  
24 really referring to 18 of the 28 districts in this  
25 map. Ten of the districts are unchanged from Senate

1 Bill 102 that you passed during session, so Primary  
2 Plan 8019. So when I refer to changes and I refer  
3 to my work on this map, I'm really just referring to  
4 the 18 districts that I changed.

5 For my role in this process and my reason  
6 for being here today, I am the map drawer of the 18  
7 changed districts in this plan before you. As for  
8 my experience, just to give a little context, a  
9 decade ago I was the Redistricting Committee Staff  
10 Director in the Florida House of Representatives.

11 Starting in January earlier this year, I  
12 initially served for our office just in a role of  
13 providing general guidance and oversight to our in-  
14 house and contract counsel and also to a contract  
15 map drawer, who we brought on to support this work,  
16 and that contract map drawer supported our work in  
17 the Governor's first map that was submitted back in,  
18 I want to say, maybe late January, early February,  
19 Plan 0079.

20 For reference, that contract map drawer of  
21 Congressional Plan 0079, his name is Adam Foltz.  
22 He's also previously drawn maps on behalf of the  
23 Texas and Wisconsin Legislatures. He's currently  
24 drawing maps right now on behalf of the Texas  
25 Legislature.

1 Adam and myself collaborated on our  
2 office's second map, map 0094, which was submitted a  
3 few weeks later. Much like your professional staff,  
4 myself, and our contact map drawer, we've only ever  
5 worked on maps for state government -- or I should  
6 say much like your professional staff and your  
7 Committee.

8 In this map before you today, I alone  
9 authored the changes in this plan, 0109, with  
10 respect to how this new plan compares to the map  
11 that the Legislature passed, the Legislature's  
12 primary plan. And generally speaking, today, I'll  
13 refer to the Legislature's primary plan, except  
14 where I might note otherwise, but generally, I'm  
15 referring to Plan 8019.

16 I will also say at the outset some  
17 important disclaimers. One, no one directed me to  
18 favor or disfavor a political party or incumbent in  
19 my work, and I did not draw with the intent to favor  
20 or disfavor. Two, in drawing any of the districts  
21 submitted by our office, I did not consider or even  
22 look at political data, including party registration  
23 and voting data. In other words, I do not know the  
24 voting history or party registration numbers for any  
25 of the districts that we've drawn as an office for

1 any of the districts that we'll look at today.

2           The only time I did reference political  
3 data was early in the process to determine a  
4 question that you were having to address, to  
5 determine whether or not it was possible to draw a  
6 compact African-American performing district in  
7 Northeast Florida, essentially a more compact  
8 version of the benchmark District 5.

9           I did at that time reference political data  
10 to determine if that was possible and determine if  
11 there was a way to draw such a district that  
12 complied with the U.S. Constitution, the Florida  
13 Constitution, in particular the Florida Constitution  
14 as interpreted by the Florida Supreme Court and  
15 implemented by this Legislature. I ultimately  
16 determined earlier in this process that it was not  
17 possible to essentially check all those boxes.

18           Three, in drawing the plan before you today  
19 -- in drawing and in really contributing to any of  
20 our office's plans and in the totality of our  
21 engagement in this process, I have not consulted  
22 with any outside -- anyone outside the Executive  
23 Office of the Governor, our contract counsel, our  
24 contract map drawer, or the Legislature and the  
25 Legislature staff and counsel.

1           In other words, I can confirm I've had no  
2 discussions with any political consultant, partisan  
3 operative, or any political party official  
4 concerning any plans presented by our office,  
5 including the plan that you'll be considering today.  
6 In effect, I have engaged in this process, including  
7 authoring this proposed comprise plan, in a manner  
8 that meets the same high standards that you set for  
9 your professional staff.

10           And this proposed plan truly is -- Senate  
11 Bill 2-C, Plan 0109, is indeed a compromise. It is  
12 the project of -- a product of consultation and  
13 collaboration between our office and the leadership  
14 in the House and Senate, and it incorporates  
15 portions of the plan passed by the Legislature. when  
16 I noted earlier that 10 of the districts are  
17 identical to what the Legislature passed.

18           It incorporates concepts from maps  
19 previously discussed and presented by -- or  
20 previously submitted to the Legislature by our  
21 office, 0079 and 0094. It incorporates concepts  
22 from the map that was referred out of the House's  
23 Congressional Redistricting Subcommittee, Plan 8011,  
24 and it aligns in several other ways that I'll  
25 describe with the House and Senate's map drawing.

1 I'll jump into the slides. Ten districts  
2 in the compromised plan, as I noted, Districts 1, 2,  
3 20-25, 27, and 28 are unchanged by the plan passed  
4 by the Legislature. The remaining districts, 3-19  
5 and 26, have been modified in various ways to  
6 address the federal constitutional concerns raised  
7 by the Governor and to improve various Tier 2  
8 metrics.

9 In a few minutes, I will walk you through  
10 visually the 18 districts that I changed in this  
11 proposed plan. First though, I'll give you a  
12 general overview on the next slide and then after  
13 that some highlights of the improvements to the Tier  
14 2 metrics.

15 First, in an effort to create a  
16 collaborative product, I worked off the  
17 Legislature's primary plan, 8019. So while I was  
18 seeking to remedy the Governor's veto message and  
19 make improvements throughout the map, I began my  
20 work by downloading the Legislature's Plan 8019 and  
21 subsequently making changes. And I should note that  
22 I drew Plan 0109 entirely with the Legislature's  
23 publicly available website and data.

24 Regarding the proposed plan, the plan  
25 maintains the same number of performing

1 minority/majority seats. It retains, as I noted  
2 before, the Legislature's exact configuration for  
3 congressional districts in the Florida Panhandle,  
4 Districts 1-2, and Congressional Districts in the  
5 southeastern region of the state, essentially St.  
6 Lucie County down to Monroe County, just as in the  
7 Legislature's primary plan.

8           For the reasons set forth in the detailed  
9 memorandum that the Chair referenced and is in your  
10 packets that was prepared by our office's general  
11 counsel that accompanied the Governor's veto  
12 message, the compromised proposal eliminates the  
13 racially gerrymandered versions of Congressional  
14 District 5, which were included in Senate Bill 102  
15 in both -- in different ways, the primary plan and  
16 the secondary plan. Again, members, that legal  
17 memorandum is in your committee packets.

18           In summary, Congressional District 5, in  
19 both the primary and secondary maps enacted by the  
20 Legislature, violates the Equal Protection Clause of  
21 the 14th Amendment of the United States Constitution  
22 because it assigns voters primarily on the basis of  
23 race but is not narrowly tailored to achieve a  
24 compelling state interest.

25           That memorandum otherwise fully explains

1 the Governor's legal objections to both versions of  
2 the district as passed by the Legislature in the  
3 primary and secondary maps. I should note, as a map  
4 drawer, I'm not an attorney. So I'm not going to  
5 play the role of an attorney here today. I'll keep  
6 my comments focused on the map itself and do my best  
7 to answer your questions, but I just want to note  
8 that at the outset, that I'm not legal counsel to  
9 the Governor.

10 Plan 109 creates in Northeast Florida two  
11 new districts, Districts 4 and 5, in the area that  
12 are consistent with the other maps previously  
13 published by our office with some minor  
14 improvements. These two districts are race neutral  
15 and overall more compact than District's 4 and 5 in  
16 the maps passed by the Legislature.

17 In addition to resolving federal -- the  
18 federal constitutional objections raised by the  
19 Governor, the compromised plan makes several overall  
20 improvements with respect to Tier 2 metrics relative  
21 to the maps passed by the Legislature by bringing  
22 together some of the best concepts from the  
23 Legislature's maps and of our office's maps.

24 Plan 109 adjusts the congressional  
25 districts in the Tampa Bay area and the larger Gulf

1 Coast region stretching from Citrus down to Lee  
2 Counties and impacting some inland counties to  
3 create sort of a hybrid, if you will, of some of the  
4 Legislature's and our office's maps. These changes  
5 improve overall visual compactness, have a net  
6 affect of reducing a county split, and significantly  
7 increase usage of other Tier 2 political and  
8 geographic boundary lines.

9 In the Central Florida region, the plan  
10 that you have before you today aligns more closely  
11 with the map that was referred out of the House  
12 Congressional Redistricting Subcommittee Plan 8011  
13 with one distinction that I'll describe later that  
14 aligns with Senate Plan 8060 as you passed out of  
15 the Senate.

16 SENATOR GIBSON: Mister --

17 ALEX KELLY: With --

18 SENATOR GIBSON: Sorry.

19 CHAIRMAN RODRIGUES: (Indiscernible)

20 SENATOR GIBSON: Thank you, Mr. Chair. So  
21 we're waiting until the entire packet is done to ask  
22 any questions because I didn't hear the explanation  
23 of the -- I think Mr. Kelly said of the Governor's  
24 veto language. I don't see it in the packet. So  
25 I'm just -- could he repeat? It was a rationale for

1 --

2 CHAIRMAN RODRIGUES: The veto language was  
3 in the packet we provided.

4 SENATOR GIBSON: And is -- can I have  
5 clarity if that is the language that Mr. Kelly is  
6 talking about that's in this thing?

7 CHAIRMAN RODRIGUES: Do you understand the  
8 question?

9 ALEX KELLY: Yes, Chair.

10 Yes, Senator. Yes. I gave a brief  
11 synopsis of that veto message and the accompanying  
12 message from our general counsel that went with the  
13 veto message.

14 SENATOR GIBSON: I think that's the part I  
15 didn't understand how you put it together. I just  
16 want to make sure I hear it correctly. That's all  
17 --

18 CHAIRMAN RODRIGUES: Okay.

19 SENATOR GIBSON: -- Chair. If he could  
20 repeat it?

21 CHAIRMAN RODRIGUES: Would you repeat that  
22 please?

23 ALEX KELLY: Thank you, Chair. Happy to.

24 SENATOR GIBSON: Thank you.

25 ALEX KELLY: In summary, Congressional

1 District 5, in both the primary and secondary maps  
2 enacted by the Legislature, violates the 14th  
3 Amendment of the United States Constitution because  
4 it assigns voters primarily based on race but is not  
5 tailored to achieve a compelling state interest.

6 SENATOR GIBSON: Okay. Thank you.

7 CHAIRMAN RODRIGUES: Thank you. Please  
8 proceed.

9 ALEX KELLY: Thank you.

10 So again, in the Central Florida region,  
11 the plan that you're looking at today, Plan 0109,  
12 aligns more closely with the map that was referred  
13 out of the House Congressional Redistricting  
14 Subcommittee Plan 8011 with one distinction that  
15 aligns with Senate Plan 8060.

16 With respect to similarities with House  
17 Plan 8011, specifically with respect to  
18 Congressional District 10, we accept the position  
19 articulated by the House's professional staff in  
20 their subcommittee, that this district is not  
21 subject to the Florida Constitution's non-  
22 diminishment standard because the benchmark district  
23 does not contain an African American population  
24 sufficiently large enough to reliably elect a  
25 candidate of their choice.

1           We understand during the course of the  
2 testimony between House and Senate there was a  
3 disagreement on this point. However, because  
4 districts cannot be drawn on the basis of race  
5 unless there is a compelling reason to do so, in the  
6 absence of an agreement between the House and Senate  
7 on the need to treat District 10 as a minority  
8 protected district under the state Constitution  
9 indicates that a compelling basis for using race is  
10 lacking.

11           Accordingly, the proposed plan defers to  
12 the House's stated testimony and my changes to the  
13 district in Central Florida in that region,  
14 including District 10, are drawn on race-neutral  
15 principles. Again, these changes in Central Florida  
16 result in Tier 2 improvements in the Central Florida  
17 region. And in combination, these changes in  
18 Central Florida and in the Gulf Coast counties  
19 result in some additional Tier 2 improvements for  
20 other impacted districts like Districts 3, 6, and  
21 11.

22           Lastly, in-between the submission of our  
23 office's second map plan, 0094, and my drawing of  
24 this plan, 0109, I received feedback from House and  
25 Senate staff regarding our second maps overreliance

1 on the use of census-designated place boundaries. I  
2 was encouraged to follow the House and Senate's  
3 preferred methodology for boundary usage to increase  
4 our usage of major roadways, waterways, and railways  
5 for Tier 2 compliance.

6 Our second map closely adhered to county  
7 and city lines. So that was not a concern, although  
8 less frequently so to other Tier 2 recognized  
9 boundaries. Therefore, throughout the 18 districts  
10 that are revised in this plan, I adopted the House  
11 and Senate's preferred and clear articulation of  
12 Tier 2 compliance. So even when I was trying to  
13 articulate a concept from one of our office's plans,  
14 I made such revisions using the Legislature's  
15 preferred approach to Tier 2 compliance.

16 In the next few slides, I'll walk you  
17 through some key points regarding those Tier 2  
18 improvements. First, the proposed -- the proposed  
19 plan before you today reduces by one the number of  
20 county splits from 18 to 17 by keeping Citrus and  
21 Sarasota Counties whole lieu of Polk, effectively a  
22 two-for-one swap. Furthermore, where there are  
23 county splits, the number -- the number of ways in  
24 which those counties are split is reduced.

25 Probably the most visible example of that

1 is -- at least in a larger county is the change in  
2 Hillsborough County, where portions of Hillsborough  
3 County are now only divided into three districts,  
4 rather than four districts.

5           Second, the proposed plan reduces the  
6 reliance on nongeographic and nonpolitical  
7 boundaries from 12.5 percent to 1.5 -- to -- I'm  
8 sorry -- 12.5 percent to 11.5 percent. In other  
9 words, just a minute ago when I mentioned previously  
10 that I adopted the House and Senate's preferred way  
11 to articulate Tier 2 compliance by substituting  
12 major roadways, waterways, and railways, along with  
13 our map's already strong usage of county and city  
14 lines, my Tier 2 usage of compliant boundaries  
15 surpassed that of the maps passed by the  
16 Legislature.

17           Third, although mean compactness scores are  
18 largely equivalent when comparing my revisions to  
19 plan -- or in Plan 0109 with the Legislature's  
20 primary plan, the proposed plan improves the  
21 compactness score of the least compact district in  
22 the map. I believe this would actually be the first  
23 map considered by the Legislature in which every  
24 district has a Reock or Polsby-Popper score greater  
25 than 0.2.

1           Moreover, visually, as we go through the  
2 map, we'll see in just a few moments many of the  
3 districts are just plainly more circular, squared,  
4 more visually compact shapes that are more easily  
5 understandable.

6           Lastly, my changes in Plan 0109 stayed  
7 equal to the Legislature's achievement of only  
8 splitting 16 cities in its primary plan. There are  
9 some differences about which cities are split when  
10 comparing my revisions in this plan to the  
11 Legislature's enacted plan. Specifically, Cape  
12 Coral, Plant City, and Port Orange would be kept  
13 whole in this plan, while splits would occur in  
14 Lakeland, St. Petersburg, and Longboat Key.

15           What I did take care to do is ensure that  
16 where those essentially trades in city splits  
17 occurred to ensure that other Tier 2 metrics were  
18 being met in the process. For example, as you know,  
19 Longboat Key is one of four cities in Florida that  
20 crosses county lines, and I only split Longboat Key  
21 in the process of keeping Sarasota County whole. So  
22 it seemed a reasonable and rational trade to keep a  
23 county whole in lieu of a city that crossed county  
24 lines.

25           I should say in saying all this I don't

1 ever mean to suggest with these slides that there is  
2 a statistical line in the sand for what is Tier 2  
3 compliant compactness or county splits or city  
4 splits. But recognizing that we could be presenting  
5 a plan to this Legislature and me author -- you  
6 know, authoring a compromised plan, I recognized I  
7 should come to you with a plan that recommends  
8 improvements and builds on the work of the  
9 Legislature and certainly in no way ask you to go  
10 backwards, only ask you to consider improvements,  
11 and that's exactly what I've done.

12 So with that, I'll proceed to a more  
13 detailed visual presentation. The next two slides  
14 are the same content just the second slide doesn't  
15 have the district labels. The statewide view  
16 definitely helps get a sense of some of the visual  
17 compactness -- and we'll zoom in some -- the visual  
18 compactness in this map and some of the  
19 improvements. And this was really here for your  
20 reference, as is the next slide, and you can begin  
21 to really see the changes -- if I might just go to  
22 that slide -- you can begin to really see the  
23 changes when I've excluded the district labels.

24 Again, as much as it was important to  
25 maintain statistical compactness for Tier 2

1 purposes, I also wanted these changes to satisfy the  
2 eyeball test and so offering up some square -- more  
3 square, circular districts, greater usage of clear  
4 and visible boundary lines helped that effect.

5           The next couple slides zoom in a little  
6 closer just focusing on those districts that I  
7 changed in this plan, so excluding the Panhandle and  
8 excluding Southeast Florida. Again, the slide  
9 without district labels might be a little easier to  
10 see, if only to appreciate some of the Tier 2  
11 improvements.

12           One of the other key facets of my work on  
13 this proposed plan -- that I wanted to make sure  
14 there was not essentially collateral unintended  
15 consequences to my changes without making some sort  
16 of equal or better Tier 2 change. For example, as  
17 you see, I split Polk County as part of the swap for  
18 keeping Citrus and Sarasota Counties whole, and I'll  
19 explain in a little more detail later what exactly I  
20 mean by that.

21           In doing so, I incorporated several Tier 2  
22 related changes in Polk County to make sure that the  
23 new lines and how those districts interact with  
24 districts from neighboring counties, how those lines  
25 are still very meaningful in a Tier 2 context.

1           That said, the District 18 that you're  
2 looking at, still two-thirds of the residents in the  
3 proposed District 18 are from Polk County, remaining  
4 residents coming from those rural counties. So Polk  
5 County would still be the significant portion of  
6 population in one of those districts.

7           SENATOR BRACY: Mr. Chair, I have a  
8 question.

9           CHAIRMAN RODRIGUES: Senator Bracy, you are  
10 recognized.

11          SENATOR BRACY: Thank you. All your  
12 comments about -- are about Tier 2 compactness, but  
13 I haven't heard once about Tier 1. Tier 1 obviously  
14 is -- it trumps, no pun intended, but trumps Tier 2.  
15 So why are you focusing on Tier 2 and not Tier 1,  
16 when that clearly is the most important by federal  
17 law?

18          CHAIRMAN RODRIGUES: Mr. Kelly, you are  
19 recognized.

20          ALEX KELLY: Thank you, Mr. Chair.

21          And thank you for the question. So I did  
22 note earlier in my presentation part of that Tier 1  
23 analysis is not intentionally favoring or  
24 disfavoring an incumbent or political party, and I  
25 noted that in no way was I ever instructed to do

1 that and in no way did I ever intend to do that. So  
2 I addressed Tier 1 in that context. Additionally,  
3 there is nowhere in the map where there's a  
4 contiguity issue. So Tier 1 has been addressed in  
5 that context as well.

6 In terms of the non-diminishment standard,  
7 when I went through the benchmark District 5 and the  
8 Governor's veto message, that really was at the  
9 heart of probably the one sort of outstanding Tier 1  
10 question, the division between the Legislature's  
11 maps and the Governor's ultimate veto and objection  
12 to the map because there's this tension between that  
13 district -- that district, the way it was composed  
14 in both the primary and secondary plan violate the  
15 Federal Constitution.

16 So while there is the Tier 1 diminishment  
17 requirement, that Tier 1 diminishment requirement  
18 cannot be utilized to violate federal law, and so  
19 that's what I was referring to as I was walking  
20 through that.

21 SENATOR BRACY: How do we know that you  
22 haven't talked to --

23 CHAIRMAN RODRIGUES: You are recognized for  
24 a follow-up.

25 SENATOR BRACY: Thank you, Chair.

1           You said you haven't spoken to anyone. You  
2 haven't looked at any data regarding race. How do  
3 we know that? I mean, it was -- that was said  
4 before when we had the map drawing process in 2016.  
5 It proved to be wrong. We're just -- why would you  
6 even mention that if there's no way to prove that?

7           CHAIRMAN RODRIGUES: Senator Bracy, I'm not  
8 going to forward that question on. I think he  
9 opened in the preamble by laying out these were the  
10 parameters that he worked from. If the question is  
11 -- you can ask the question, why did he feel he  
12 should lay those parameters out, but I don't think  
13 it's a fair question to put out, how can you prove  
14 something that you believe can't be proven. So I  
15 will yield to Mr. Kelly --

16           SENATOR BRACY: Okay.

17           CHAIRMAN RODRIGUES: -- if he wants to  
18 articulate why he led the preamble of these were the  
19 things I drew from.

20           ALEX KELLY: Sure. Thank you, Chair, and  
21 thank you for the question.

22           And really in due deference and respect to  
23 your process, we know these are standards by which  
24 you have to live too. And so we know that your  
25 work, the work of your professional staff, you hold

1 yourself to this high bar as well, and so I wanted  
2 to make sure that you understood that from our  
3 office's perspective, we were living up to that same  
4 standard that you are.

5 SENATOR BRACY: Question. How do you --

6 CHAIRMAN RODRIGUES: You are recognized.

7 SENATOR BRACY: Thank you, Mr. Chair.

8 How do you feel that District 5, District  
9 10 violates the 14th Amendment?

10 CHAIRMAN RODRIGUES: You are recognized.

11 ALEX KELLY: Sure. Thank you, Mr. Chair.

12 And so I could probably -- I could probably  
13 at this point probably defer a little bit to counsel  
14 because I've probably given sort of my best summary  
15 overview of the tension between the two. I will say  
16 that the memo that has been provided to you details  
17 this significantly and explains the Governor's veto  
18 message.

19 And, of course, I also walked through  
20 District 10. In District 10, we accept the House's  
21 analysis that it's not actually a performing seat.  
22 The House testified to that in committee. It was a  
23 very rational and well-thought-out analysis, and so  
24 we're adopting that analysis here. And in both  
25 cases, if there's absent a compelling state

1 interest, if there's a potential violation of  
2 federal law, at that point, the State's not  
3 obligated to draw those districts in a manner that  
4 aligns with the state constitutional diminishment  
5 standard.

6 CHAIRMAN RODRIGUES: Senator Bracy, did you  
7 get a copy of the veto letter in the packet we  
8 provided?

9 SENATOR BRACY: I didn't, but if the staff  
10 can go through how this violates the 14th Amendment  
11 I guess from the House analysis -- I mean, you're  
12 here to defend this map. So if someone can explain  
13 to me how District 5, District 10 are not protected  
14 minority access seats when it was in our Senate  
15 drawing -- Senate map drawing process. Now all of  
16 the sudden, it's not. I understand that was the  
17 House position. If it can be explained for this  
18 committee so it's clear, I would appreciate that.

19 CHAIRMAN RODRIGUES: Why don't we do this?  
20 Why don't we give you some time to read over the  
21 veto letter, and then I'm going to go to Senator  
22 Rouson for a question. And then we'll come back and  
23 (indiscernible).

24 SENATOR ROUSON: Thank you very much,  
25 Mr. Chairman.

1           You indicated that your rationale for not  
2 drawing Congressional District 5 the way it  
3 currently is configured and for not drawing  
4 Congressional District 10 the way it's currently  
5 configured was because it violates the Equal  
6 Protection Clause because it assigns voters based on  
7 race but not narrowly tailored to meet a compelling  
8 state interest; is that correct?

9           CHAIRMAN RODRIGUES: You are recognized.

10          ALEX KELLY: Thank you, Mr. Chair.

11          And I don't know that I would -- I would  
12 relate the analysis of both districts identically.  
13 I did state regarding District 5 -- benchmark  
14 District 5 and subsequent attempts to redraw that.  
15 I did articulate that that's a violation of the  
16 United States Constitution.

17          The issue with District 10 is just more  
18 plainly -- and we accept the House's analysis of  
19 this -- that the district is not a performing  
20 minority seat, and that analysis was laid out in the  
21 House record. And we have adopted that analysis  
22 into our justification here.

23          And essentially what the House articulated  
24 is that the minority community is not on its own --  
25 it does not on its own have enough strength to elect

1 a candidate of its choice.

2 SENATOR ROUSON: Thank you.

3 CHAIRMAN RODRIGUES: Do you have a follow-  
4 up?

5 SENATOR ROUSON: Yes. Thank you --

6 CHAIRMAN RODRIGUES: You --

7 SENATOR ROUSON: -- Mr. Chair.

8 CHAIRMAN RODRIGUES: -- you are recognized.

9 SENATOR ROUSON: Do you believe that it's a  
10 compelling state interest to reflect diversity in  
11 representation?

12 CHAIRMAN RODRIGUES: You are recognized.

13 ALEX KELLY: Mr. Chair, I'm not sure -- I'm  
14 not sure how to answer the question. It's -- it is  
15 a -- it is a highly scrutinized process to draw a  
16 district based on racial reasons, and to do so,  
17 there must be a very narrowly tailored, compelling  
18 interest to do so.

19 And so absent that, it's unlawful to do so.

20 SENATOR ROUSON: Well, I guess --  
21 Mr. Chairman.

22 CHAIRMAN RODRIGUES: You are recognized.

23 SENATOR ROUSON: Therein lies my question.  
24 Is it not a compelling interest to have  
25 representation that reflects the diversity of the

1 great state of Florida?

2 ALEX KELLY: Chair?

3 CHAIRMAN RODRIGUES: You are recognized.

4 ALEX KELLY: I mean, Chair -- Senator  
5 Rouson, redistricting standards as outlined in the  
6 Florida Constitution and outlined just traditional  
7 redistricting standards refer to things such as  
8 compactness, keeping counties together, keeping  
9 cities together, using clearly identifiable boundary  
10 ways. These are ways to draw districts that have a  
11 lack of political intent, a lack of racial intent, a  
12 lack of any sort of manipulation. And so that is --  
13 that is, generally speaking, the way to draw a  
14 district. The Florida Constitution guides districts  
15 to be drawn that way, and so that is the process  
16 that we followed.

17 SENATOR ROUSON: Thank you.

18 CHAIRMAN RODRIGUES: Senator Stewart.

19 SENATOR STEWART: Thank you, Chair.

20 And you have outlined quite a few  
21 concurrences with the criteria for 2, and, of  
22 course, since it was brought up about Tier 1, it  
23 seems to have much more need for compelling review.

24 One of the Tier 1 guidelines along the  
25 federal law directs the lawmakers -- and we heard

1 this in committee over and over and over again --  
2 that districts shall not be drawn with the intent or  
3 result of denying or abridging the equal opportunity  
4 of racial or language minorities to participate in  
5 the political process or to diminish their ability  
6 to elect representatives of their choice.

7 Now, I have not heard yet from this map  
8 that was drawn if that was also considered.

9 ALEX KELLY: Mr. Chair.

10 CHAIRMAN RODRIGUES: You are recognized.

11 ALEX KELLY: I think I've just answered  
12 that same question a couple different ways. I'm not  
13 sure I have any more to offer.

14 CHAIRMAN RODRIGUES: Senator Bracy, have  
15 you had an opportunity to read the veto letter?

16 SENATOR BRACY: I perused the letter.

17 CHAIRMAN RODRIGUES: You are recognized for  
18 a question.

19 SENATOR BRACY: So and you just said that  
20 minorities cannot elect a candidate of its own. It  
21 does not have enough, I guess, voting strength to do  
22 that, and that is why you don't consider District 5  
23 or District 10 a minority -- protected minority  
24 access seat; is that correct?

25 CHAIRMAN RODRIGUES: You are recognized.

1           ALEX KELLY: Just to -- just to clarify,  
2 there are some points there where the analysis  
3 regarding benchmark District 5 and benchmark  
4 District 10 would be different. So the analysis  
5 regarding benchmark District 5 is very plain sighted  
6 in that regard. There is not sufficient voting  
7 strength in the minority community to, by itself,  
8 elect a candidate of its choice. So the analysis  
9 for the two is not identical.

10           SENATOR BRACY: Got it. So --

11           CHAIRMAN RODRIGUES: You are recognized.

12           SENATOR BRACY: -- thank you, Mr. Chair.

13           So what is the benchmark where minorities  
14 could elect the candidate of their choice? What  
15 would be that percentage if you --

16           CHAIRMAN RODRIGUES: You are recognized.

17           ALEX KELLY: Mr. Chair, thank you.

18           That would require an analysis of the  
19 political data for any district. I don't know that  
20 there's one line in the sand, but generally, the  
21 idea is that could that minority community -- on its  
22 own voting strength without help, could that  
23 minority community elect a candidate of its choice?  
24 But that's going to be different in every single  
25 district.

1           SENATOR BRACY: So if you didn't --  
2 Mr. Chair?

3           CHAIRMAN RODRIGUES: You are recognized.

4           SENATOR BRACY: So if you didn't look at  
5 any data to determine that this is a minority access  
6 seat, how did you determine it? By eyeballing it?  
7 How did you make that determination?

8           CHAIRMAN RODRIGUES: He said earlier that  
9 he did use the political data on District 5 when he  
10 was attempting to draw the district. So on that, I  
11 believe he's already answered that question.

12          SENATOR BRACY: Okay. So you did use  
13 political data, and you -- when you were looking at  
14 the political data for District 5, what  
15 determination did you -- how did you determine that  
16 that was not a minority access seat since you did  
17 look at the data for that? What did the data show  
18 you that --

19          CHAIRMAN RODRIGUES: You --

20          SENATOR BRACY: -- told you?

21          CHAIRMAN RODRIGUES: You're recognized.

22          ALEX KELLY: Thank you, Mr. Chair.

23                 So the look at District 5 -- benchmark  
24 District 5 in different configurations the  
25 Legislature considered wasn't a question so much of

1 the political effectiveness of the community. It  
2 was a question of multiple facets at the same time.  
3 The district is clearly -- the benchmark is clearly  
4 drawn from Duval to Gadsden Counties is clearly a  
5 racial gerrymander. That's what the district is  
6 plain sighted.

7 So the question becomes does it meet some  
8 compelling state interest in doing so? And our  
9 analysis, particularly early on as we were weighting  
10 this question and I was personally weighing this  
11 question was, was there a manner in which that  
12 district could be drawn more compactly, more in line  
13 with traditional redistricting criteria so that, in  
14 effect, from a federal law perspective, state law  
15 perspective, and sort of the traditional  
16 redistricting criteria, could you, so to speak,  
17 check all the boxes and find a way to have a sort of  
18 compromise?

19 The reality through analysis of that  
20 district, including just observing the Legislature's  
21 process, there was not a way to draw a compact,  
22 politically effective, minority district and check  
23 all the boxes, so to speak, without violating some  
24 manner of law.

25 CHAIRMAN RODRIGUES: Do you have a follow-

1 up?

2 SENATOR BRACY: I do. I do.

3 CHAIRMAN RODRIGUES: You're recognized.

4 SENATOR BRACY: You mentioned that your  
5 determination was basically, did it meet a state --  
6 a compelling interest? But I want to go -- but I  
7 feel like you haven't answered the question about  
8 minority voting strength. You said it did not meet  
9 the criteria because it did not have enough of a  
10 minority voting strength to be a protected seat.  
11 How did you determine -- I know you said it didn't  
12 have state compelling interest.

13 But specifically to why you said it did not  
14 have enough of a voting -- a minority voting  
15 strength to make it a minority access seat, how did  
16 you determine that specifically? Was there a  
17 percentage that it did not meet that made you decide  
18 it did not meet the threshold?

19 CHAIRMAN RODRIGUES: You're recognized.

20 ALEX KELLY: Thank you, Chair.

21 So and I apologize. I think we're having a  
22 little bit of just confusion, which is certainly  
23 understandable, between our district of benchmark  
24 District 5 and benchmark District 10.

25 Benchmark District 10 in Orlando -- or

1 Orange County, I should say, for that district, I  
2 was specific in saying it does not have a  
3 significant enough minority community to have the  
4 electoral strength to elect a candidate of their  
5 choice.

6 So that analysis was provided in public  
7 testimony by the House's professional Redistricting  
8 Committee's staff in their Congressional  
9 Redistricting Subcommittee. It was -- the analysis  
10 was a sound analysis, and we have adopted that. We  
11 have essentially adopted their judgment in our  
12 process, and we've agreed with their analysis.

13 So that's where the analysis for District  
14 10 departs some from District 5. District 5 starts  
15 with the question of the district is a racial  
16 gerrymander. Is it done in such a way that is so  
17 narrowly tailored to a compelling state interest?  
18 And it ultimately fails a different test. It fails  
19 a test of violating the U.S. Constitution.  
20 Obviously, we can't take any element of our state  
21 Constitution and use that against the U.S.  
22 Constitution and violate that.

23 SENATOR BRACY: Okay. So just so that I  
24 understand, you did not make your determination on  
25 District 5 based on the minority voting strength.

1 You made that determination on District 10; is that  
2 correct?

3 CHAIRMAN RODRIGUES: You're recognized.

4 ALEX KELLY: Mr. Chair.

5 Yes. Correct.

6 SENATOR BRACY: Okay. Okay. So let's go  
7 to District 10 then. How did you determine that  
8 District 10 did not have enough of a minority voting  
9 strength for it to be a minority access seat,  
10 protected access seat?

11 CHAIRMAN RODRIGUES: I think he's answered  
12 that, Senator Bracy. They adopted the House  
13 analysis, which the testimony in the House Committee  
14 was --

15 SENATOR BRACY: But with --

16 CHAIRMAN RODRIGUES: -- over time --

17 SENATOR BRACY: With all due respect  
18 though, this is not the House's map. This is the  
19 Governor's map. And so I'm asking how the  
20 Governor's Office made this determination, not the  
21 House.

22 CHAIRMAN RODRIGUES: Well, he answered that  
23 question, Senator Bracy. He said they adopted the  
24 House position. Do you have a follow-up question?

25 SENATOR BRACY: Okay. Can you clarify what

1 the House's position is again?

2 CHAIRMAN RODRIGUES: Could you clarify that  
3 again please?

4 ALEX KELLY: Sure. Thank you, Mr. Chair.

5 The House's position -- the House staff  
6 articulated in their committee meeting or  
7 Congressional Redistricting Subcommittee meeting  
8 that they looked at recent elections history, and  
9 that when they looked at that recent elections  
10 history, the black community in Orange County, in  
11 Congressional District 10 was not sufficient enough  
12 on its own to elect a candidate of its choice. They  
13 did that analysis on their own. We didn't do that  
14 analysis, but the logic that they articulated in  
15 committee was sound logic and a sound analysis. And  
16 so we adopted that.

17 SENATOR BRACY: Okay. I don't serve in the  
18 House. I did not see that election data. So I  
19 understand you took their position, but I guess I'm  
20 asking for specifics on their data and how they made  
21 that determination. And I don't know if our staff  
22 can clarify how they came to that position. I  
23 understand what their position was, but I'm trying  
24 to understand how they came to that position.

25 CHAIRMAN RODRIGUES: Jay, do you have

1 insight on that?

2 JAY FERRIN: Thank you, Mr. Chairman. If  
3 I'm understanding the question correctly, I believe  
4 the House reviewed the data for benchmark CD 10 and  
5 determined that, over time, over the different  
6 election cycles, the level of primary control for  
7 African American voters in the Democratic Primary  
8 was slipping below 50 percent and, therefore,  
9 concluded that the voters in that benchmark district  
10 did not outright control the Primary and, therefore,  
11 made their determination based on that.

12 And that's my understanding of the House's  
13 analysis on that district, and that's probably about  
14 all I can speak to on that.

15 SENATOR BRACY: Just a follow-up. So from  
16 your understanding, the black voting age population  
17 in that CD 10 had a voting strength of less than 50  
18 percent in a primary, which in turn is how they and  
19 the Governor determined that that is not a protected  
20 seat. Is that the way you understand it?

21 CHAIRMAN RODRIGUES: Jay, you're  
22 recognized.

23 JAY FERRIN: Mr. Chairman.

24 Yeah. Without trying to speak for the  
25 House or the Governor, that is my understanding is

1 that they reviewed elections over time and noticed a  
2 trend in terms of primary control. It has nothing  
3 to do with voting age population but in terms of  
4 primary control for African American voters on the  
5 Democratic Primary and based their conclusions on  
6 that.

7 SENATOR BRACY: So they took an average of  
8 elections, not just like the past 2020 elections.  
9 They took an average of recent elections and put  
10 that together and determined together that it went  
11 less than 50 percent?

12 CHAIRMAN RODRIGUES: Jay.

13 JAY FERRIN: No. Senator Bracy, we did  
14 look at the average in the Senate to try to control  
15 for electoral trends. The House looked at the  
16 trends. They looked at each individual -- each  
17 election -- the primary control in each election  
18 cycle individually and looked at that over time and  
19 noticed that it was decreasing every two years.

20 SENATOR BRACY: Okay. So they are  
21 anticipating, the way you understand it, that the  
22 trend will be that it will go below 50 percent, but  
23 maybe it's not there yet. But the trend is trending  
24 toward below 50 percent; is that a correct analysis  
25 of how you understand it?

1           CHAIRMAN RODRIGUES: Jay, do you recall  
2 what the percentage was?

3           JAY FERRIN: Unfortunately, I don't recall  
4 the percentages offhand, and I can't always speak to  
5 the House's analysis of that. But that's how I  
6 understood it to work.

7           SENATOR BRACY: Okay. Well, I'll just say  
8 I think it's troubling that the Governor's Office is  
9 coming before us and touting an analysis that no one  
10 really understands -- and he cannot speak to either  
11 -- and this is how he's determined that District 10  
12 is not a protected access seat. I think that's  
13 important information.

14           So, you know, if you can't answer my  
15 question, we can move on, but I just want to make  
16 the point that we're here for this purpose of  
17 learning more information. And no one can speak to  
18 it. Thank you.

19           CHAIRMAN RODRIGUES: Senator Broxson, you  
20 are recognized.

21           VICE CHAIR BROXSON: Thank you,  
22 Mr. Chairman.

23           I'd like to kind of put this in perspective  
24 of the predicate that you started on. When you  
25 looked over the Senate -- State Senate and State

1 House, you used more of a Florida standard of what  
2 we were trying to accomplish. Now, you're looking  
3 at the Congressional maps, which this probably will  
4 be contested, and you believe that based on the U.S.  
5 prototype that these conform with the intent of the  
6 current law and gives you the position that you have  
7 -- you've stated today. Is that kind of where we  
8 are?

9 CHAIRMAN RODRIGUES: Alex, you are  
10 recognized.

11 ALEX KELLY: And thank you for the  
12 question. So essentially, yes. We've brought -- if  
13 I understood correctly, we've brought forward a map  
14 that we believe complies with the U.S. Constitution  
15 and the State Constitution. So obviously, we have  
16 an obligation to try to balance and comply with  
17 both, of course, and so we believe we've brought  
18 forward a map that complies with both and gives the  
19 Legislature a work product that brings forward the  
20 best of both.

21 CHAIRMAN RODRIGUES: Senator Gibson.

22 SENATOR GIBSON: Thank you, Mr. Chair.

23 In terms of the statement of, I guess,  
24 apparently there was no way to meet the state's  
25 interest in drawing minority access seats, in the

1 best interest of the state to do what?

2 CHAIRMAN RODRIGUES: Senator Gibson, I'm  
3 not sure I understand the question. Could you  
4 restate it?

5 SENATOR GIBSON: The maps in the -- I guess  
6 it's in the veto message or the way Mr. Kelly talked  
7 about it, there was language that says they could  
8 not draw maps that were in the best interest of the  
9 state that would perform for minority communities.

10 CHAIRMAN RODRIGUES: Mr. Kelly.

11 ALEX KELLY: Sure. Thank you, Mr. Chair.  
12 Thank you for the question. So --

13 SENATOR GIBSON: What is in the best  
14 interest of the state?

15 ALEX KELLY: Thank you. And that's not  
16 really a question I could answer. The compelling  
17 interest is for the map drawer to define. I did not  
18 draw benchmark District 5. I did not draw, you  
19 know, any of the Legislature's attempts to redraw or  
20 reconfigure benchmark District 5. So that  
21 compelling interest is something that you, the  
22 Legislature, would have to define.

23 SENATOR GIBSON: Follow-up?

24 CHAIRMAN RODRIGUES: You are recognized.

25 SENATOR GIBSON: And so when you said the

1 statement about what's in the best interest of the  
2 state in terms of the districts, that was not --  
3 those were not your words. That is something that  
4 was just written in the veto message. So you don't  
5 necessarily have any explanation of what is in the  
6 best interest of the state when it comes to creating  
7 the districts, particularly for minority voters?

8 CHAIRMAN RODRIGUES: Were you referring to  
9 the veto letter in that statement, Mr. Kelly?

10 ALEX KELLY: Thank you, Mr. Chair.

11 I was referring to the veto letter and also  
12 the accompanying memorandum that our general counsel  
13 wrote to further explain the veto letter. I was  
14 just giving a short summary of it.

15 SENATOR GIBSON: Follow-up?

16 CHAIRMAN RODRIGUES: You are recognized.

17 SENATOR GIBSON: Thank you, Mr. Chair.

18 I see it now. It says but since this --  
19 let me ask you this before I even ask you a  
20 question. Since this is the Governor's language  
21 where it says, "The bill contains a primary map and  
22 a secondary map that included a racially  
23 gerrymandered district, Congressional District 5,  
24 that is not narrowly tailored to achieve a  
25 compelling state interest." So since those are not

1 your words, you cannot explain what the compelling  
2 state interest is?

3 CHAIRMAN RODRIGUES: Mr. Kelly.

4 ALEX KELLY: Thank you, Mr. Chair.

5 That obligation would be on the part of the  
6 map drawer. I did not draw the Legislature's  
7 attempts to redraw benchmark District 5, and I  
8 didn't redraw -- I didn't draw benchmark District 5.  
9 So that would be a compelling interest that the  
10 Legislature would have to put forward through your  
11 process if you were attempting to redraw that and  
12 narrowly tailor that to some state compelling  
13 interest.

14 SENATOR GIBSON: Follow-up?

15 CHAIRMAN RODRIGUES: You're recognized.

16 SENATOR GIBSON: May I? Thank you, Mr.  
17 Chair.

18 There's no functional analysis in the  
19 packet that I see of the districts. Is there no  
20 functional analysis because it is the -- is there  
21 some understanding that if it's not going to be a  
22 minority access seat, then there's no reason to have  
23 a functional analysis?

24 CHAIRMAN RODRIGUES: Senator Gibson, I'm  
25 going to refer to Staff Director Jay Ferrin on that

1 question because we covered that very same topic in  
2 our maps.

3 JAY FERRIN: Senator Gibson, you're  
4 correct.

5 SENATOR GIBSON: There's no need to do a  
6 functional analysis if there is no minority  
7 district; is that what I said?

8 CHAIRMAN RODRIGUES: You are recognized.

9 SENATOR GIBSON: Yes. That's what I said.

10 JAY FERRIN: Mr. Chairman.

11 Yes, Senator. That's correct.

12 SENATOR GIBSON: All right.

13 JAY FERRIN: The purpose of the functional  
14 analysis is to evaluate the performance of the  
15 minority district.

16 SENATOR GIBSON: Thank you. And may I?

17 CHAIRMAN RODRIGUES: You are recognized.

18 SENATOR GIBSON: Thank you, Mr. Chair.

19 And so since I think what I heard was there  
20 was no data looked at to come up with the, what is  
21 that, Senate Bill 2 -- no. What's the Governor's  
22 map number, 102?

23 CHAIRMAN RODRIGUES: 109.

24 SENATOR GIBSON: 109, sorry, 109, SB 2-C  
25 Plan 0109. What information only just -- I don't

1 understand the information in that was used to  
2 determine that the Senate 8019, which I want to make  
3 sure we're also clear that 8019 and the House's map  
4 -- primary and secondary maps were all voted on  
5 before special session. And those maps are not the  
6 maps that the Governor or that you all drew at the  
7 Governor's direction; is that correct?

8 CHAIRMAN RODRIGUES: You are recognized.

9 ALEX KELLY: Mr. Chair.

10 Yes. Primary plan 8019 and secondary plan  
11 8015 are the two maps that you, the Legislature,  
12 approved within the contents of Senate Bill 102, and  
13 that's the bill that the Governor vetoed.

14 SENATOR GIBSON: Follow-up?

15 CHAIRMAN RODRIGUES: You are recognized.

16 SENATOR GIBSON: Thank you. Thank you,  
17 Mr. Chair.

18 And I wanted to make sure that that was  
19 clear because there is some confusion about which  
20 came first, the chicken or the egg, whether it was  
21 the House maps that came over that were passed out  
22 and not the Governor's maps because we are now  
23 addressing the Governor's proposed maps, correct?

24 CHAIRMAN RODRIGUES: I'll answer that. we  
25 are taking up the Governor's map now.

1           SENATOR GIBSON: Thank you. Follow-up,  
2 Mr. Chair?

3           CHAIRMAN RODRIGUES: You are recognized.

4           SENATOR GIBSON: I want to go back to -- so  
5 CD 5, which was different before it became 5, I  
6 think in the last redistricting, the last how many  
7 years has an African American been elected in the  
8 maps previously that represented -- that included  
9 representation of what is currently shown as CD 5?

10          CHAIRMAN RODRIGUES: I think we're getting  
11 beyond the contents of the lines he's drawn there,  
12 but I'll give him a shot at it.

13          ALEX KELLY: To my knowledge, of course,  
14 that district has only existed since the court  
15 adopted it in late 2015 and it went into place for  
16 the 2016 election cycle. Prior to that, the  
17 district, instead of going from Jacksonville to  
18 Gadsden County went from Jacksonville to Orlando,  
19 and if I recall correctly, Congresswoman Brown had  
20 that seat since somewhere in the early-to-mid '90s.  
21 I don't remember the exact year.

22          SENATOR GIBSON: Follow-up?

23          CHAIRMAN RODRIGUES: You are recognized.

24          SENATOR GIBSON: Thank you, Mr. Chair.

25                 And then the recent CD 5 that elected an

1 African American, the drawing of the maps concluded  
2 that that -- or the drawing of the Governor's maps  
3 concluded that that map was not gerrymandered but  
4 the previous adaptation of CD 5, which went east to  
5 west, is gerrymandered?

6 CHAIRMAN RODRIGUES: Could you restate that  
7 please?

8 SENATOR GIBSON: He shook his head. I  
9 think he understood it.

10 ALEX KELLY: Thank you, Chair. I think I  
11 got it.

12 Yeah. So yes. And this is articulated in  
13 the memorandum too, but I can say unequivocally the  
14 district currently today as drawn from Jacksonville  
15 over to Gadsden County stretching about three and a  
16 half hours is a racial gerrymander.

17 SENATOR GIBSON: I'm sorry. Mr. Chair?

18 CHAIRMAN RODRIGUES: Could you repeat that?

19 SENATOR GIBSON: The last -- you said  
20 what's three and a half hours?

21 ALEX KELLY: The drive from Jacksonville to  
22 Gadsden County, the length of the district.

23 SENATOR GIBSON: Thank -- Mr. Chair?

24 CHAIRMAN RODRIGUES: Okay. Members, we're  
25 going to go back to the map.

1 SENATOR GIBSON: Oh.

2 CHAIRMAN RODRIGUES: And there'll be more  
3 time for questions at the end.

4 Pick up your presentation please.

5 ALEX KELLY: Thank you, Mr. Chair.

6 So shifting to the part of the region we're  
7 talking about, shifting to Districts 4-5 on this  
8 slide and the next, of course, obviously, we've  
9 already had a lengthy discussion. So just some  
10 other general points to give you some sense of the  
11 final lines for the proposed map in front of you  
12 here today.

13 And, again, as we noted through the  
14 questioning, on the left, you see the plan -- the  
15 primary plan as adopted by the Legislature; on the  
16 right, the plan before you here today in Senate Bill  
17 2-C.

18 The boundary between the two is mostly the  
19 St. Johns River. As you know, Jacksonville is the  
20 single lone city in the entire state that's actually  
21 larger in population than a congressional district.  
22 So the river, which nearly equally divides the city,  
23 stands out as certainly a logical, recognizable Tier  
24 2 boundary to divide Jacksonville if you're going to  
25 have to divide it somewhere. And at the same time,

1 the new configuration here still allowed us to  
2 improve overall on compactness.

3 The southern boundaries of Districts 4 and  
4 5 are still actually exactly as the Legislature  
5 proposed them. So the boundary between Clay and  
6 Putnam is as the Legislature proposed it, and the  
7 split in St. Johns County is exactly what the  
8 Legislature proposed. So we didn't change that.

9 The last point I just want to make in this  
10 slide, just zooming in a little bit on these two  
11 districts, is at some point, just for the sake of  
12 equal population, District 4 does need to come  
13 across the river just to equalize a couple thousand  
14 residents if I recall correctly. And so at some  
15 point the district does have to come across the  
16 river.

17 The original iteration of this crossing  
18 that we drew in one of our earlier maps was I would  
19 say less deliberative. In this improved  
20 configuration, I used the bridges of the Arlington  
21 Expressway and Interstate 295 to literally allow a  
22 resident of District 4 to not have to leave the  
23 district in order to traverse the entire district.  
24 So we just tried to use those boundary lines a  
25 little more logically if we were going to have to

1 cross the river and gain equal population.

2 SENATOR BRACY: Mr. Chair?

3 CHAIRMAN RODRIGUES: Yes?

4 SENATOR BRACY: I have a question on the  
5 map. I'm looking at District 2. How far does  
6 District 2 go from east to west?

7 CHAIRMAN RODRIGUES: Do you have that on a  
8 slide, or do you want to answer that?

9 ALEX KELLY: Thank you, Mr. Chair.

10 And I don't, and I don't actually know. We  
11 didn't draw District 2. The Legislature drew  
12 District 2. And I will say in general in the maps  
13 that we drew out of our office, I don't recall if we  
14 ever made any changes to the Legislature's  
15 configurations in Districts 1 or 2, but we  
16 definitely did not change them for the purposes of  
17 this map compared to what the Legislature passed.

18 CHAIRMAN RODRIGUES: Okay.

19 SENATOR BRACY: Well, the reason why I  
20 bring it up is that you said that District 5 was a  
21 racial gerrymander that spread 200 miles, but I'm  
22 looking at District 2. It looks like it goes about  
23 200 miles, maybe more.

24 So the fact that you singled out District 5  
25 for it going east to west that far but you got other

1 ones that do, you got a problem. It seems that --  
2 anyway, I just wanted to explain how -- I would like  
3 for you to explain how District 2 can go 200 miles,  
4 but District 5 can't.

5 CHAIRMAN RODRIGUES: You are recognized.

6 ALEX KELLY: Thank you, Mr. Chair.

7 I think if you're looking at Northeast  
8 Florida, where you have Nassau, Duval. You have  
9 Clay. You have St. Johns Counties. Within those  
10 four counties, you can fit more than two  
11 congressional districts because a third district is  
12 even started in southern St. Johns in the  
13 configuration we're looking at today.

14 You're comparing that to rural Florida, the  
15 Panhandle, where there's significantly less  
16 population. Naturally, a district in the Panhandle  
17 is going to comprise probably several entire rural  
18 counties. The same is true if you look in the  
19 southern central part of the state as well where you  
20 have rural communities.

21 And that's just generally a reality of  
22 drawing a district that perhaps is maybe based out  
23 of a municipality or a larger city or a larger  
24 county versus drawing a district that's centered  
25 around a number of rural counties. So a compact

1 district in rural communities might take on a very  
2 aesthetically compact shape, but it's physically  
3 likely to be larger than, of course, a compact  
4 district in an urban community.

5 CHAIRMAN RODRIGUES: Thank you. Please  
6 continue.

7 ALEX KELLY: Thank you.

8 So the next few slides, slides 14 through  
9 21, visualize my changes to the Gulf Counties. As I  
10 noted earlier in the opening from Citrus down to Lee  
11 Counties and even how those districts in those  
12 counties tie to inland counties to the east, north,  
13 and south.

14 And I'm showing you this way to give you a  
15 sense of how I actually thought about going through  
16 the map and making those Tier 2 improvements. I  
17 really want to take you through my thought process,  
18 and essentially what you have in this region of the  
19 state is a hybrid of the Legislature's maps and our  
20 office's prior plans in this region. And in order  
21 to really achieve worthwhile Tier 2 improvements to  
22 this region, I had to revisit how the entire region  
23 was drawn.

24 To give a sense of what I mean by that, as  
25 this slide illustrates, the Legislature made a

1 decision to keep Broward, Osceola, and Polk Counties  
2 whole. This decision essentially places a little  
3 bit of a limitation on the map drawer. And  
4 obviously there's -- obviously, it's a good goal to  
5 keep counties whole, but it places a little bit of  
6 limitation on the map drawer. And that limitation  
7 essentially then forces your hand as a map drawer in  
8 the Tampa Bay region.

9           Keeping Broward, Osceola, and Polk whole  
10 essentially creates a wall across three-quarters of  
11 the state. So if, as we do in Plan 109, if we're  
12 able to essentially break that wall in Polk County,  
13 there are means to do that in meaningful, Tier 2,  
14 metric-driven ways that make gains for the map  
15 overall, and we can still, as we'll show later, make  
16 meaningful Tier 2 decisions in Polk County as well.  
17 And that really allows a number then of Gulf Coast  
18 counties decisions that make a number of Tier 2  
19 gains for this map.

20           I'll give some specific examples. So in  
21 this example in slide 16, this became a means to  
22 keep Collier -- sorry, not Collier -- Citrus County  
23 whole in District 12, which you can see here, and  
24 this district is a much more squared-up, linear  
25 district. District 12 actually is still in this

1 configuration a majority Pasco County seat yielding  
2 about 141,000 of its residents in the southern part  
3 of the county into District 15.

4 Just while we have it on the screen, the  
5 boundaries there -- this is all of Citrus, all of  
6 Hernando, and most of Pasco. The boundaries between  
7 District 12 and 15 -- 15 is the pinkish district in  
8 the south there -- the boundaries there, the city of  
9 Zephyrhills is entirely in District 15. The cities  
10 of St. Leo, San Antonio, and Dade City are entirely  
11 in 12. And those lines, despite their curves,  
12 they're predominantly state roads all throughout.

13 Moving on to slide 17, south of the Tampa  
14 Bay region, we were also able to keep, through  
15 changes made in the Polk County area, we're able to  
16 also keep Sarasota County whole. As I opened it up,  
17 essentially what I've done in this map is I've  
18 articulated two whole counties in exchange for  
19 splitting another county. So gaining that net whole  
20 county in the map, keeping Citrus whole, keeping  
21 Sarasota whole, splitting Polk.

22 In this particular configuration, keeping  
23 Sarasota whole, aligning it with all of Charlotte  
24 County and aligning it with some unincorporated  
25 communities in Lee County to essentially equalize

1 the population, and the boundaries in Lee County are  
2 almost entirely either major roadways or city  
3 boundaries.

4 On slide 18, taking this approach north and  
5 south of Tampa Bay then allowed us to go -- or  
6 allowed me to go work in the Tampa Bay area because  
7 overall just comparing the map that we had  
8 previously worked on, comparing that to the  
9 Legislature's map, the population distribution was  
10 just simply different.

11 So again, as I noted earlier, really had to  
12 lift the whole region out and look at options to  
13 reconfigure it. Taking this approach north and  
14 south of Tampa Bay and gave me a better chance to  
15 draw more visually compact districts in Tampa Bay  
16 and make improved usage of Tier 2 political and  
17 geographical boundary lines.

18 Zooming just a little bit further on  
19 Pinellas County and the bay, it seemed from the  
20 Legislature's process that there was a goal to have  
21 a seat wholly in Pinellas County, and so this map  
22 still accomplishes this goal. I literally started  
23 in this region working from west to east. Doing so,  
24 essentially, I was able to create a very squared-up,  
25 compact district.

1           In the northern part of District 13 where  
2     it connects to District 14, that's just your  
3     Pinellas-Hillsborough line. The southern part of  
4     the seat just follows state road in-between Pinellas  
5     -- or actually through the city of St. Pete, I  
6     should say, follows a state road, and a just nice  
7     clean line splits District 13 and District 14.

8           And then I continued just to work my way  
9     east as I build District 14, again, seeking to  
10    utilize as clean, clear, distinguishable lines --  
11    municipal boundary lines, really leaning heavily on  
12    Tier 2 standards. I essentially then built District  
13    16 north at the same time and built District 16  
14    north with the same goal in line of having those  
15    boundaries match, again, clearly distinguishable  
16    roadways. And I should say too District 16 still  
17    keeps all of Manatee County whole.

18           CHAIRMAN RODRIGUES: Senator Rouson, you  
19    are recognized for a question.

20           SENATOR ROUSON: Thank you very much,  
21    Mr. Chairman.

22           The way you have drawn CD 14 and CD 13, 13  
23    being St. Pete and Pinellas, 14 being Tampa and  
24    Hillsborough, you have packed black voters of  
25    Midtown, South St. Pete with black voters in East

1 Tampa. Current configuration of the district is  
2 different from what you've suggested. Can you  
3 explain the difference?

4 CHAIRMAN RODRIGUES: You are recognized.

5 ALEX KELLY: Mr. Chair, thank you.

6 To be frank, I actually am unaware of the  
7 black voting age population of District 14. This  
8 was not even drawn with any type of racial intent at  
9 all. This was not drawn with any type of even  
10 looking at any racial data for this district. There  
11 was not to my knowledge any reason to do so. So I  
12 was just drawing a district based on nice, clean,  
13 compact lines, lines that adhered to major roadways,  
14 major recognizable roadways, and try to split as few  
15 cities as possible in this area.

16 I do trade a split of St. Pete for -- my  
17 apology --

18 SENATOR ROUSON: You traded --

19 ALEX KELLY: -- one other city, my apology,  
20 but I do -- there is a city split trade in this  
21 area. But so the overall city splits are equal to  
22 what the Legislature adopted, but I just utilized  
23 the major roadways and worked my way east and worked  
24 my way north.

25 CHAIRMAN RODRIGUES: Senator Rouson, do you

1 have a follow-up?

2 SENATOR ROUSON: No.

3 SENATOR BRACY: Mr. Chairman, I do have a  
4 question.

5 CHAIRMAN RODRIGUES: We'll go to Senator  
6 Bracy and then Senator Gibson.

7 SENATOR BRACY: Thank you.

8 Is Mr. Alex Kelly under oath for this  
9 committee?

10 CHAIRMAN RODRIGUES: No. He's not.

11 SENATOR BRACY: I know we do it in certain  
12 circumstances, certain secretaries. Could we make  
13 that happen in this committee?

14 CHAIRMAN RODRIGUES: The time to have done  
15 that would have been before we began the  
16 presentations. So at this point, I would rule that  
17 out of order.

18 Senator Gibson, did you have a question?

19 SENATOR GIBSON: Thank you, Mr. Chair.

20 In terms of the -- I think I heard the  
21 primary elections showed some data that CD 5  
22 couldn't on its own elect a candidate of their  
23 choice, some historical image and something about  
24 historical, and that's, I guess, in any other  
25 district that should be a minority access district,

1 you mentioned that the primary elections showed that  
2 they couldn't -- is that correct -- by themselves --

3 CHAIRMAN RODRIGUES: Mr. Kelly?

4 SENATOR GIBSON: -- elect someone?

5 ALEX KELLY: Thank you, Mr. Chair.

6 I think the question you're asking about  
7 pertained somewhat to my comments about  
8 Congressional District 10, not Congressional  
9 District 5. But I'm not totally sure. There might  
10 have been some blurring of the line there between  
11 the two in the question.

12 SENATOR GIBSON: Follow-up, Mr. Chair?

13 CHAIRMAN RODRIGUES: You are recognized.

14 SENATOR GIBSON: It may be blurring because  
15 they impact the same ethnic people perhaps, but it  
16 was said that data had shown -- that was in context  
17 of 5 and 10, that the primary data showed that the  
18 CD 5 couldn't elect a minority member of Congress on  
19 their own, which is why we weren't following any  
20 Tier 1 because all we're talking about today is Tier  
21 2. And that's the reason for it's not diminished;  
22 is that what you said about the primary data --

23 CHAIRMAN RODRIGUES: Mr. Kelly.

24 SENATOR GIBSON: -- primary election data?

25 ALEX KELLY: Thank you, Mr. Chair.

1 I think your question or at least what  
2 you're referencing from my testimony refers to my  
3 comments about Congressional District 10, and I was  
4 reflecting on the House professional staff's, their  
5 analysis of Congressional District 10. We didn't  
6 look at the political data for Congressional  
7 District 10. I didn't look at the political data  
8 for Congressional District 10.

9 The House, in their subcommittee,  
10 referenced their analysis of Congressional District  
11 10 and that based on their analysis of past years  
12 primary electoral data, that their analysis showed  
13 that the black community in Orange County, in  
14 Congressional District 10, could not on their own  
15 elect a candidate of their choice.

16 Congressional District 5, I don't think  
17 I've heard anyone question that the district has an  
18 ability to elect. Their issues are similar, but the  
19 issues are not identical. The question in  
20 Congressional District 5 is it is a gerrymandered  
21 district drawn predominantly based on one criteria,  
22 a strong -- predominantly based on race and was it  
23 drawn in a way that meets a compelling state  
24 interest, which is a question that would have to be  
25 asked of the map drawer to justify the district.

1 SENATOR GIBSON: So --

2 CHAIRMAN RODRIGUES: You are recognized.

3 SENATOR GIBSON: Thank you, Mr. Chair.

4 And so the map drawer only looked at an  
5 analysis that didn't include a functional analysis  
6 in any configuration, correct?

7 CHAIRMAN RODRIGUES: You are recognized.

8 ALEX KELLY: My apology. I'm not sure I  
9 understood the question.

10 SENATOR GIBSON: So -- I'm sorry.

11 CHAIRMAN RODRIGUES: Restate.

12 SENATOR GIBSON: Thank you, Mr. Chair.

13 In the purported gerrymandered district  
14 based on race, the -- and now in the map that we're  
15 dealing with today, there was -- a functional  
16 analysis was not reviewed to recognize communities  
17 of interest, not gerrymandered based on race,  
18 because it's all race neutral; is that correct?

19 CHAIRMAN RODRIGUES: Do you understand it  
20 now?

21 ALEX KELLY: I think so. Yes. Thank you,  
22 Mr. Chair and thank you.

23 So I'm going to break that down. So our  
24 office has not done a functional analysis on any of  
25 the districts. We have not -- I have not drawn

1 districts based on communities of interest. What  
2 you did say at the end, we drew districts -- is  
3 correct. We drew districts in a race neutral way.

4 SENATOR GIBSON: Mr. Chair?

5 CHAIRMAN RODRIGUES: Follow-up?

6 SENATOR GIBSON: I keep trying to  
7 understand the -- is there a definition for race  
8 neutral drawing?

9 CHAIRMAN RODRIGUES: You're recognized.

10 ALEX KELLY: Thank you, Mr. Chair.

11 I mean, I'll give you a non-attorney  
12 definition. Essentially, for me, race was not a  
13 driving factor of how I drew the district. It was  
14 definitely not a predominant factor, and as I noted  
15 when we talked earlier about District 14, I couldn't  
16 even tell you -- and I still can't tell you -- what  
17 the actual black voting age population of the  
18 district is.

19 I drew that district, District 13, 14, all  
20 the districts around it solely based on trying to  
21 draw districts that are compact, aesthetically  
22 compact, statistically compact, that follow clearly  
23 definable political and geographical boundary lines  
24 that meet that Tier 2 test. So I didn't draw a  
25 single district in this map based on race.

1 SENATOR GIBSON: Follow-up?

2 CHAIRMAN RODRIGUES: You are recognized.

3 SENATOR GIBSON: Thank you, Mr. Chair.

4 And so the Tier 1 never came into play in  
5 terms of keeping communities of interest together,  
6 that it doesn't have to be a majority, but certainly  
7 their ability to elect the representative of their  
8 choice, that was never a factor. It's just strictly  
9 where the lines are and let people fall where they  
10 may; is that kind of how it --

11 CHAIRMAN RODRIGUES: You are recognized.

12 SENATOR GIBSON: -- it is?

13 ALEX KELLY: Thank you, Mr. Chair.

14 Again, I drew districts based on drawing  
15 compact districts that followed aesthetic  
16 compactness, statistical compactness, followed  
17 clearly identifiable, recognizable, political and  
18 geographical boundary lines. I did not use  
19 communities of interest as a standard, and I did not  
20 draw race-based districts.

21 SENATOR GIBSON: Thank you, Mr. Kelly.

22 CHAIRMAN RODRIGUES: Senator Stewart, did  
23 you have a question?

24 SENATOR STEWART: Thank you, Chair.

25 A little bit toward where Senator Gibson

1 was going, but what I'm gathering from the  
2 discussion thus far is that Tier 1 guidelines that  
3 was the federal law was not considered in this map  
4 and primarily you went by roadways and to make sure  
5 that the Tier 2 was done correctly?

6 CHAIRMAN RODRIGUES: You are recognized.

7 ALEX KELLY: Thank you, Mr. Chair.

8 Senator, the Tier 1 guidelines are part of  
9 state law, not federal law.

10 CHAIRMAN RODRIGUES: Do you have a follow-  
11 up, Senator Stewart?

12 SENATOR STEWART: That's news to me. Thank  
13 you.

14 CHAIRMAN RODRIGUES: Senator Bracy.

15 SENATOR BRACY: Thank you. Thank you,  
16 Mr. Chairman.

17 Senator Rouson talked about the black  
18 people in Pinellas, and now they're moved to a  
19 district over that will now have them most likely  
20 representing -- having a Republican representative.  
21 And you're saying you are not aware of that at all  
22 whatsoever, did not have any impact on your  
23 decision-making.

24 CHAIRMAN RODRIGUES: You are recognized.

25 ALEX KELLY: Thank you, Mr. Chair.

1 Race and political partisan data in no way  
2 related at all to my drawing of Districts 13, 14,  
3 15, 16, or any of the districts on the map. Really  
4 leaned in heavily to Tier 2 standards of compactness  
5 and use of Tier 2 boundaries in these districts.  
6 Again, I made a split in northern -- the northern  
7 part of District 13 along the Pinellas-Hillsborough  
8 County line, in the southern part of District 13 and  
9 14 right along U.S. 19 as a southern divider.  
10 There's a little bit of equal population work done  
11 just north of St. Pete in the unincorporated Feather  
12 Sound area as --

13 SENATOR BRACY: I got it. Thank you. I  
14 understand. So District 5 -- excuse me -- District  
15 10 --

16 CHAIRMAN RODRIGUES: You are recognized for  
17 a follow-up.

18 SENATOR BRACY: Thank you, Mr. Chairman.

19 So in District 10, the district that I  
20 represent now, in West Orange County, all of the  
21 black people in West Orange County have now been  
22 moved to a district that will be represented mostly  
23 by Lake County.

24 So you have an area that has elected Val  
25 Demings, who was a potential Vice President

1 Democratic nominee for President, who will now be  
2 electing possibly Representative Anthony Sabatini,  
3 who is known for blackface.

4 And I mean no district, but I'm trying to  
5 make a point that you're telling me that this group  
6 of people who have elected someone completely  
7 different now will be electing someone like that.  
8 And you're saying you had no idea. This is the  
9 first time that you're ever considering that point.

10 CHAIRMAN RODRIGUES: You are recognized.

11 ALEX KELLY: Thank you, Mr. Chair.

12 My reading of the state Constitution, it  
13 would have violated the law on several -- Tier 1 law  
14 in several ways for me to even go anywhere near an  
15 analysis like that. So I have no consideration for  
16 anything like that. I think to put something into  
17 context here too that is important.

18 And I can -- Mr. Chair, if it's okay, I can  
19 skip to District 10 if that might help.

20 CHAIRMAN RODRIGUES: Let's do that.

21 ALEX KELLY: So this is Congressional  
22 District 10. Well, this is the region. This is how  
23 it compares to the map that the Legislature passed,  
24 which is not dissimilar from the benchmark and then  
25 Congressional District 10 in the map before you

1 today.

2 That Congressional District 10 is a very,  
3 very Tier 2-adherent district, very compact. All of  
4 those lines are used to define either major roadways  
5 or municipal boundaries, and to put this into  
6 context, the benchmark Congressional District 10, to  
7 my knowledge, has a black voting age population  
8 somewhere just under 27 percent, somewhere in the  
9 high 26 percent range.

10 The district that you're looking at there  
11 today has like a 25.98, 25.96, a very close  
12 percentage to 26. So it's not even a 1 percent.  
13 It's maybe a 7/10 or 8/10 of a percent point drop in  
14 its black voting age population.

15 So just drawing a compact seat -- and I can  
16 walk through the different city and roadway  
17 boundaries. Just drawing a compact seat that lines  
18 up with -- you can see that's the Seminole-Orange  
19 County line. You can see some major roadways. That  
20 piece of District 9 that goes up into District 10,  
21 that's the cities of Belle Isle and Edgewood. So  
22 it's keeping some municipalities whole. Maitland,  
23 Winter Park are kept whole in 10. You've got Winter  
24 Garden, Ocoee, Apopka are kept whole in 11.

25 So just following all those principles, we

1 were able to draw a very compact District 10 that's  
2 not even a percentage point difference in its black  
3 voting age population. So we really adhered to the  
4 principles in Florida law and drew a very compact  
5 district, and that's something that was similar to  
6 what the House had drawn and articulated good  
7 reasons for drawing it. And so when I worked on  
8 this map, that is the seat that I drew, and it  
9 really is a very compact and very lawfully compliant  
10 seat.

11 SENATOR BRACY: Mr. Chairman?

12 CHAIRMAN RODRIGUES: You're recognized.

13 SENATOR BRACY: Thank you.

14 You mentioned before that you had no idea  
15 on percentages. You did not use that for any  
16 outcomes, yet you just quoted the black voting age  
17 population, how much it changed. So help me  
18 understand.

19 CHAIRMAN RODRIGUES: You want to provide  
20 some clarity there?

21 ALEX KELLY: Thank you, Mr. Chair.

22 I noted that comment specific to District  
23 14. District 10, we recognized that there was a  
24 tension between the testimony in the House and  
25 Senate. And so it was important to understand the

1 black voting age population, as well as the Hispanic  
2 voting age population of that district, that  
3 benchmark district, again, somewhere, you know,  
4 around, give or take, close to 26-something percent.  
5 I forget the exact number, but 26-something percent  
6 black voting age population in the benchmark. And I  
7 think the Hispanic voting age population is actually  
8 larger, around 28 percent Hispanic voting age  
9 population.

10 So this was a district where we did have to  
11 look at -- I had to look at the data for the black  
12 voting age population, the Hispanic voting age  
13 population, try to come to an understanding of that  
14 tension between the House and Senate testimony, and  
15 figure out an appropriate resolution.

16 SENATOR BRACY: Okay. So you were aware of  
17 --

18 CHAIRMAN RODRIGUES: You are recognized.

19 SENATOR BRACY: Thank you, Mr. Chair.

20 So you were aware of the black voting age  
21 population, Hispanic voting age population when  
22 making the changes that you were -- that you made in  
23 District 10; that is correct?

24 CHAIRMAN RODRIGUES: You are recognized.

25 ALEX KELLY: Yes.

1           SENATOR BRACY: Okay. All right. Just  
2 looking at the Federal Voting Rights Act, and it  
3 protects against retrogression. And it defines that  
4 as the ability of racial and language minorities to  
5 elect representatives of their choice. So any  
6 effect to that would be considered retrogression.

7           So what I'm saying is to move the people  
8 from West Orange County, who have elected Val  
9 Demings as their Congresswoman, to now move them in  
10 a district in Lake County with the villages and  
11 others where now they won't be able to elect the  
12 representative of their choice, from this  
13 definition, it clearly goes against the Voting  
14 Rights Act. It clearly is retrogression.

15           How do you explain that group of black  
16 people having the choice to vote for one, but now  
17 they will not be able to elect the candidate of  
18 their choice?

19           CHAIRMAN RODRIGUES: Mr. Kelly, you are  
20 recognized.

21           ALEX KELLY: Thank you, Mr. Chair.

22           And I won't claim to be an expert on every  
23 facet of the Voting Rights Act, but in general, I  
24 don't know of any way in which a Voting Rights Act  
25 challenge could be brought to a district that's 26

1 percent of the black -- or 26 percent of it's the  
2 black community, 28 percent of it's the Hispanic  
3 community. I don't know that there's any connection  
4 at all to the Voting Rights Act for a district like  
5 that.

6 Generally, that type of challenge is, to my  
7 knowledge -- and counsel could probably clarify --  
8 but to my knowledge is applicable to a district  
9 where a majority of the district is a particular  
10 minority community, so a district, in other words,  
11 where it has a 50 percent-plus black voting age  
12 population.

13 There's further analysis required, more  
14 than just that, but in general, this district and  
15 the Voting Rights Act wouldn't have anything to do  
16 with each other.

17 CHAIRMAN RODRIGUES: Senator Bracy?

18 SENATOR BRACY: But you said before you  
19 don't even know the percentages the House used to  
20 determine if this is even a minority seat or not.  
21 So --

22 CHAIRMAN RODRIGUES: Well, he did say he  
23 looked at District 10.

24 SENATOR BRACY: He looked at the black  
25 voting age population, but to determine if it is a

1 minority seat -- you know what. We're going in  
2 circles. What I would ask, Chairman, is that we've  
3 got a lot of people here, and I think there's  
4 honestly only three, four districts that are really  
5 what people are paying attention to.

6 So I appreciate the presentation from the  
7 Governor's Office, but just so that we have time for  
8 debate and that people have a chance to speak, I  
9 would ask that we could conclude the presentation or  
10 really expedite it and then allow for people to  
11 speak.

12 CHAIRMAN RODRIGUES: Senator Gibson.

13 SENATOR GIBSON: Thank you, Mr. Chair.

14 And I certainly will save time for public  
15 testimony. I appreciate those who have come today.  
16 On the -- I'm unclear as to which -- when there was  
17 data reviewed, when there wasn't data reviewed.

18 But just in the House primary map -- I  
19 believe that was one that you all utilized, I think,  
20 a little bit or tweaked it a little bit -- the black  
21 voting age population according to this full  
22 analysis was around 35 percent, a little over 35  
23 percent. In the data for the race neutral maps,  
24 that goes down to 12 percent.

25 And so it's your testimony today that

1 because -- that there's no diminishment because that  
2 population couldn't elect a candidate of their  
3 choice in a primary?

4 CHAIRMAN RODRIGUES: You are recognized.

5 ALEX KELLY: Thank you, Mr. Chair.

6 I apologize. I don't have the benefit of  
7 the data that you're looking at. So I'm not sure  
8 what you're looking at.

9 CHAIRMAN RODRIGUES: Do you have a follow-  
10 up?

11 SENATOR GIBSON: Mr. Chair? Yes.

12 So I have the packet with the map that  
13 we're discussing, which district by district,  
14 includes percentages for the various districts based  
15 on the map that we received.

16 CHAIRMAN RODRIGUES: Senator Gibson, our  
17 staff --

18 SENATOR GIBSON: So this is the staff data.

19 CHAIRMAN RODRIGUES: Our staff prepared --

20 SENATOR GIBSON: Okay.

21 CHAIRMAN RODRIGUES: -- that data.

22 SENATOR GIBSON: Well, Mr. Chair, may I?

23 CHAIRMAN RODRIGUES: Yes.

24 SENATOR GIBSON: Regardless of the  
25 preparation -- and I trust what our staff does --

1 those are the percentages. And that is not  
2 diminishment because CD 5 is no longer considered to  
3 have need for a minority access district? Would  
4 that be the premise?

5 CHAIRMAN RODRIGUES: Mr. Kelly.

6 ALEX KELLY: I have to apologize. I'm not  
7 sure. Are we talking about District 5 or District  
8 10?

9 SENATOR GIBSON: I said -- I'm sorry.

10 ALEX KELLY: And I'm still not really sure  
11 what data -- I don't know if we're referencing data  
12 regarding racial and language minorities. I don't  
13 know if we're referencing elections data. I'm  
14 struggling to follow the question?

15 SENATOR GIBSON: May I?

16 CHAIRMAN RODRIGUES: He's at a disadvantage  
17 not having the packet.

18 SENATOR GIBSON: May I explain it?

19 CHAIRMAN RODRIGUES: Sure.

20 SENATOR GIBSON: Thank you, Mr. Chair.

21 So we have something called a voter age  
22 voting data, right, or the voting age population in  
23 each of the congressional districts that were drawn  
24 in Plan 109, and the projection for the CD 5 in 109  
25 of black voting age population in CD 5 is now 12

1 percent, which was previously in the map I believe  
2 you referenced that the Senate passed -- you chose  
3 this one -- 8019, was 35 percent.

4 And so my question -- but you don't --  
5 because you don't have the -- because you don't have  
6 the data, can you not answer the question based on  
7 the percentages that I gave?

8 CHAIRMAN RODRIGUES: Mr. Kelly.

9 ALEX KELLY: Sure. Okay. And thank you.  
10 And thank you for the clarification. I think I'm  
11 starting to understand what you're asking. So  
12 you're referring to District 5 in map 8019, and  
13 District 5's black voting age population in map 8019  
14 is 35.32 percent.

15 I wouldn't say that District 5 in map 0109  
16 is the comparable district. Neither district really  
17 resembles it, but I wouldn't say that it's the  
18 comparable district. District 4 in that map, in map  
19 0109, has a black voting age population of 31.66  
20 percent, and that achieved that 31.66 percent  
21 without attempting in any way to draw it with race  
22 as a consideration.

23 SENATOR GIBSON: District 4 has the 30  
24 percent.

25 CHAIRMAN RODRIGUES: That's what he said.

1           SENATOR GIBSON: Okay. And District 5 is  
2 12 percent.

3           CHAIRMAN RODRIGUES: He'll have to take  
4 your word for that. He doesn't have the data.

5           SENATOR GIBSON: And thank you, Mr. Chair.

6           And so collectively in previous maps, those  
7 -- it's the split between the districts that then  
8 create a difference in the numbers and also go to a  
9 different area, correct?

10          CHAIRMAN RODRIGUES: you are recognized.

11          ALEX KELLY: Thank you, Mr. Chair.

12          You know, Senator, I think this visual  
13 helps articulate based on the district -- or the  
14 districts that the Legislature drew in its primary  
15 plan and the districts that I've drawn in this plan  
16 before you today.

17          When you look to the left, District 5 that  
18 the Legislature drew, and you tried to compare the  
19 geography, therefore, the population to District 4  
20 that I drew, really most of the Legislature's  
21 District 5 -- most of it but obviously not all of it  
22 -- most of it population wise is in that District 4  
23 that I drew.

24          You can see there's a little portion of  
25 kind of -- not fully southwest Jacksonville but

1 getting into Southwest Jacksonville in the  
2 Legislature's District 5 that for the map that I  
3 drew is in a different district. That would explain  
4 the changes in the numbers because the populations  
5 don't match perfectly.

6 SENATOR GIBSON: Well --

7 CHAIRMAN RODRIGUES: You are recognized.

8 SENATOR GIBSON: Thank you. Thank you,  
9 Mr. Chair.

10 And it's still diminishment; is that  
11 correct? In each of the districts, it's not 35  
12 percent any longer --

13 CHAIRMAN RODRIGUES: You are recognized.

14 SENATOR GIBSON: -- correct?

15 ALEX KELLY: Thank you, Mr. Chair.

16 As I noted in my opening, the district as  
17 drawn in the different configurations by the  
18 Legislature violates the Equal Protection Clause of  
19 the 14th Amendment of the United States  
20 Constitution. So in effect, the plain language way  
21 of looking at that is there was no benchmark  
22 district to be redrawn. So, therefore, there is no  
23 diminishment to be considered.

24 SENATOR GIBSON: Last question?

25 CHAIRMAN RODRIGUES: Last question.

1 SENATOR GIBSON: Thank you, Mr. Chair.

2 And, well, I'll put it in kind of a  
3 compound question. So in terms of compactness, are  
4 the two districts in Jacksonville area equal in  
5 compactness, and is there another configuration that  
6 can be drawn that keeps more of the African American  
7 community of interest together and have the same  
8 compactness and did you try?

9 Thank you, Mr. Chair.

10 CHAIRMAN RODRIGUES: You are recognized.

11 ALEX KELLY: Thank you, Mr. Chair.

12 And in terms of compactness, the plan 109 -  
13 - 0109 on the right compared to the plan -- the  
14 primary plan the Legislature adopted, Plan 0109, is  
15 -- those two districts combined is statistically  
16 more compact than the primary plan the Legislature  
17 drew. The main reason being is that District 4, as  
18 the Legislature drew it, is very noncompact. So it  
19 brings down your overall compactness of those two  
20 districts combined. So Plan 0109 is an improvement  
21 upon compactness.

22 CHAIRMAN RODRIGUES: Are there any other  
23 members of the committee that have a question?

24 SENATOR BRACY: Mr. Chairman? Sorry.

25 CHAIRMAN RODRIGUES: Mr. Bracy?

1 SENATOR BRACY: Yeah.

2 CHAIRMAN RODRIGUES: Senator Bracy.

3 SENATOR BRACY: Thank you, Senator Gibson.  
4 I get your point.

5 Last two questions. Mr. Kelly, how do you  
6 justify splitting the minority population in Orlando  
7 into two separate districts when it had been  
8 contained in CD 10 in the benchmark?

9 CHAIRMAN RODRIGUES: You are recognized.

10 ALEX KELLY: Thank you, Mr. Chair.

11 As I noted before, there was no obligation  
12 in any way to redraw District 10, the benchmark  
13 district. There's no lawful obligation to redraw  
14 that seat that way. What I did was I drew a  
15 District 10, which, again, for reference, is nearly  
16 equal, maybe a 7/10 or 8/10 of a percentage point  
17 different in terms of its black voting age  
18 population.

19 I drew a District 10 in an area that  
20 includes Winter Park, Maitland, is more centrally  
21 located in Orange County, a very compact seat, and  
22 drawing of that district actually allowed for some  
23 Tier 2 compliance in several other ways around the  
24 seat as well, essentially helping with District 9,  
25 District 11.

1           So I followed the outline of Florida law to  
2 draw those seats, draw those seats compactly,  
3 utilize political and geographical boundary lines,  
4 and I didn't consider race in any way in the drawing  
5 of the seat.

6           SENATOR BRACY: Thank you, Mr. Chairman.

7           Last question. But aren't you -- in doing  
8 it that way, aren't you putting Tier 2 requirements  
9 above Tier 1?

10          CHAIRMAN RODRIGUES: You are recognized.

11          ALEX KELLY: Thank you, Mr. Chair.

12          And as I noted in my opening, you know,  
13 part of Tier 1 is contiguity obviously, which I  
14 followed that, and then part of Tier 1 is not  
15 intentionally favoring or disfavoring an incumbent  
16 or political party. And as I noted in my opening, I  
17 did not do that, and I did not intend to do that.  
18 And I did not in any way take any feedback from  
19 anyone to try to do something like that.

20          So I didn't violate that Tier 1 standard,  
21 and there was no diminishment obligation for that  
22 district. So I complied with Tier 1, moved to Tier  
23 2, and drew very compact districts that follow  
24 political and geographical boundary lines.

25          CHAIRMAN RODRIGUES: Okay. Are there any

1 other questions from members of the committee?

2           Seeing none, we have a new member to the  
3 Senate who's not on the committee who has joined us.  
4 If you would like, please introduce yourself to the  
5 crowd, and you may ask your question.

6           SENATOR OSGOOD: Thank you, Mr. Chair.

7           I am Senator Rosalind Osgood, newly elected  
8 for District 33, and thank you so much.

9           Just trying to understand in listening at  
10 the responses to Senator Bracy, where it's keep  
11 being said that we didn't use race, but then we've  
12 determined that one district is racial  
13 gerrymandering. And you just said that, when you  
14 were asked about Tier 1 and Tier 2, that when you  
15 looked at CD 5, that there was no attempt to -- you  
16 said you didn't discuss with anyone about favoring a  
17 political party. You didn't have a conversation.  
18 But if that is the outcome of what has been done,  
19 then how do we address that, you know?

20           You clearly said you didn't -- it was not  
21 your intent. And sometimes we can work and do  
22 things, especially when we're just using maps and  
23 highways, and the result ends up being something  
24 other than what we intended. Because when we look  
25 at what's going on with 5, 10, and the overall

1 schemes of these maps, it does appear to be  
2 politically motivated. And it also appears to not  
3 take the hardworking black citizens of this state  
4 serious.

5 And I'm sorry if I don't know all the  
6 correct languages. I'm just asking my question so  
7 that I would be able to respond to the people that  
8 elected me to represent them.

9 CHAIRMAN RODRIGUES: Could you restate your  
10 question please?

11 SENATOR OSGOOD: So in the conversation and  
12 questions back and forth with the Senators here, Mr.  
13 Kelly has expressed the process he took and his  
14 intent. That's not my question, okay. But the  
15 results means that we're eliminating two seats that  
16 gave minority access, where one political party is  
17 being diminished in numbers and another one is  
18 gaining.

19 So that clearly to me, when I look at Tier  
20 1, violates when it talks about favoring a political  
21 party. So I'll stop there first. So I'm just  
22 trying to understand because we, you know, we talk  
23 about race neutral, and then we talk about racial  
24 gerrymander. We're either using race or we're not.

25 CHAIRMAN RODRIGUES: I'm sorry. Could you

1 restate the question again?

2 SENATOR OSGOOD: Okay. I'll start with the  
3 first question.

4 CHAIRMAN RODRIGUES: It sounds like we're  
5 getting into debate, and I just want to make sure  
6 we're asking --

7 SENATOR OSGOOD: No. I'll start --

8 CHAIRMAN RODRIGUES: -- a question.

9 SENATOR OSGOOD: Okay. I'll start with the  
10 first question.

11 Okay. Mr. Kelly has stated that it was not  
12 -- that he didn't have any conversations with  
13 anybody to favor a political party. When we look at  
14 the results we got, Tier 1 says clearly that we  
15 cannot favor a political party, and we haven't  
16 talked a lot about Tier 1. It's been mentioned a  
17 couple of times. So how do we substantiate what  
18 you've given us does not violate Tier 1? Let me --

19 CHAIRMAN RODRIGUES: All right.

20 SENATOR OSGOOD: -- ask him that.

21 CHAIRMAN RODRIGUES: Thank you.

22 Mr. Kelly?

23 ALEX KELLY: Thank you, Mr. Chair.

24 And thank you, Senator. And as I noted in  
25 my opening -- and the Tier 1 standard's intent and I

1 noted in my opening that I've never had any  
2 conversations that would compromise that intent.  
3 I've never had anyone push or encourage any type of  
4 intent such as that, that would either favor or  
5 disfavor an incumbent or political party, and that's  
6 not what I intended to do. So I've not violated the  
7 Tier 1 standard of intent. Speaking of the results  
8 of the map, I don't know what the results are. So I  
9 couldn't even begin to provide an answer to that  
10 question.

11 CHAIRMAN RODRIGUES: Do you have a follow-  
12 up?

13 SENATOR OSGOOD: Mr. Chair, I have one  
14 follow-up.

15 Okay. Let me go back to District 5. I'm  
16 trying to understand with District 5. I understood  
17 your comments about the 14th Amendment and about the  
18 racial gerrymandering, but it appears to me to  
19 violate the Voting Rights Act. So can you tell me  
20 how what you're recommending to eliminate District 5  
21 does not violate the Voting Rights Act?

22 CHAIRMAN RODRIGUES: You are recognized.

23 ALEX KELLY: Thank you, Chair.

24 So Senator, generally, as I was -- one of  
25 the questions earlier was similar when we were

1 talking about District 10, my general understanding  
2 of the Voting Rights Act is it's not implicated --  
3 it's not a potential Voting Rights Act question  
4 unless a majority of the district's population -- a  
5 majority of the voting age population, I should say,  
6 of the district is of the same minority community.

7 So if a majority of the district -- that's  
8 not the only question as to whether or not there  
9 could be a Voting Rights Act implication, but that  
10 benchmark district, Congressional District 5, a  
11 majority of that district is not represented by any  
12 particular minority community. So the Voting Rights  
13 Act should not be implicated in any way.

14 SENATOR OSGOOD: In District 5, not 10, 5.

15 CHAIRMAN RODRIGUES: You are recognized.

16 ALEX KELLY: Thank you, Mr. Chair.

17 My statement there would actually apply to  
18 both 5 and 10.

19 SENATOR OSGOOD: Okay. Thank you, Mr.  
20 Chair. And thank you for allowing me to ask the  
21 question.

22 CHAIRMAN RODRIGUES: Yes, ma'am.

23 That concludes questions, and it concludes  
24 the presentation. Thank you, Mr. Kelly.

25 Next, we do have an amendment from Senator

1 Rouson.

2 Let's take up amendment barcode 917356.

3 Senator Rouson, you are recognized to  
4 explain your amendment.

5 SENATOR ROUSON: Thank you very much,  
6 Mr. Chair.

7 And there are a lot of things to say in a  
8 short period of time, and I do want to give respect  
9 to those who traveled here and want to speak in  
10 public comment. So I'll keep my description of the  
11 amendment fairly brief.

12 First, this amendment restores District 5  
13 in Northern Florida as a minority access seat as it  
14 has been. Secondly, it restores the 10th District  
15 in Orlando area as a minority seat, as it has been.  
16 It also keeps the city of Tampa entirely within  
17 District 14 and keeps the city of St. Petersburg  
18 whole in District 13.

19 The intent of this amendment is to protect  
20 minority access districts from retrogression as the  
21 black communities in those areas have had access for  
22 decades, and it continues the legacy of minority  
23 representation. And that's the amendment.

24 CHAIRMAN RODRIGUES: Are there questions on  
25 the amendment?

1 Senator Broxson, you are recognized.

2 SENATOR BROXSON: Senator, and you are an  
3 attorney, but in your opinion, would this violate  
4 the federal intent of how we draw congressional  
5 maps?

6 CHAIRMAN RODRIGUES: Senator Rouson, you  
7 are recognized.

8 SENATOR ROUSON: No.

9 CHAIRMAN RODRIGUES: Are there any other  
10 questions?

11 Seeing no questions, we do not have  
12 appearance forms for the amendment.

13 So now, we'll move to debate. Is there  
14 debate on the amendment?

15 Hearing no debate, Senator Rouson, you are  
16 recognized to close on the amendment.

17 SENATOR ROUSON: Thank you very much,  
18 Mr. Chairman.

19 Diversity and diversity in representation  
20 matters. Like the late, great Charles Rangel,  
21 Congressman from Harlem, said, full participation in  
22 government and society has been a basic right of  
23 this country and this state, symbolizing the full  
24 citizenship and equal protection of all.

25 The amendment seeks to not allow

1 retrogression, which reduces in the main bill the  
2 opportunity of minorities to elect a person of their  
3 choice. The underlying bill screams of diminishment  
4 because it eliminates two minority districts.

5 As divisions both real and imagined deepen  
6 in our political, social, economic, in our health  
7 and justice worlds, even our education world, it  
8 becomes increasingly important, even critical, that  
9 everyone have a seat at the table where decisions  
10 are being made. This amendment goes a long way  
11 towards ensuring that. And with that, I close and  
12 ask for your favorable support.

13 CHAIRMAN RODRIGUES: All those in favor of  
14 the amendment say yea.

15 (Multiple yeas)

16 CHAIRMAN RODRIGUES: All opposed, say nay.

17 (Multiple nays)

18 CHAIRMAN RODRIGUES: The amendment fails.

19 There is another amendment, which I had  
20 filed, barcode 644248.

21 Without objection, show that amendment has  
22 been withdrawn.

23 We're now going to move to appearance forms  
24 for the bill, and we have quite a few. Okay. I'm  
25 going to start with those who are waiving against

1 the bill so that we have their statements on the  
2 record.

3 We have Reverend Dr. Joe Parramore, who is  
4 waiving against the bill.

5 We have Deborah Baker-Rian from Niceville,  
6 Florida, who is waiving against the bill.

7 We have Jean Simbaneller (phonetic) from  
8 Milton, Florida, who is waiving against the bill.

9 We have Matt Dailey from Tallahassee, who  
10 is waiving against the bill.

11 We have Lisa Perry from St. Petersburg,  
12 Florida, who is waiving against the bill.

13 Next, we're going to move to individuals  
14 from Jacksonville, Florida, who are also waiving  
15 against the bill.

16 We have Robert Buchanan (phonetic) waiving  
17 against the bill.

18 We have Joy Burgess from Jacksonville,  
19 Florida, waiving against the bill.

20 We have Jonathan Burgess from Jacksonville,  
21 Florida waiving against the bill.

22 Okay. Next, we're going to continue with  
23 Jacksonville individuals who are waiving against the  
24 bill.

25 We have Gwendolyn Colman from Jacksonville

1 waiving against the bill.

2 We have -- it looks like -- and I'm having  
3 difficulty reading the handwriting, but it looks  
4 like Haraska Lavashal (phonetic) from Jacksonville,  
5 Florida, waiving against the bill.

6 Samille Davis (phonetic) from Jacksonville,  
7 Florida, waiving against the bill.

8 Sheila Singleton from Jacksonville,  
9 Florida, waiving against the bill.

10 Joanne Brooks from Jacksonville, Florida,  
11 waiving against the bill.

12 Next, we have additional people from  
13 Orlando who are waiving against the bill.

14 It looks like Rylan Wagner (phonetic) from  
15 Orlando waiving against the bill.

16 Lore Cordova (phonetic) from Orlando  
17 waiving against the bill.

18 John Kemper from Orlando waiving against  
19 the bill.

20 Anastasia Jackson from Orlando waiving  
21 against the bill.

22 Allison Clark from Maitland, Florida,  
23 waiving against the bill.

24 Mecca Godwin (phonetic) from Orlando  
25 waiving against the bill.

1 Jasmine Fernandez from Orlando waiving  
2 against the bill.

3 Anyone else?

4 Now, we're into our list of speakers.  
5 We're going to begin with speakers from Orlando, who  
6 have filled out the appearance card and are not  
7 being compensated for their appearance. We're going  
8 to get the non-compensated forms up first, and then  
9 as time permits, move through those who have been  
10 compensated for their testimony.

11 We're going to begin with Reverend Dr.  
12 Martin M. Spoony (sic) from Orlando. Thank you,  
13 sir. And you are recognized for two minutes, sir.

14 REVEREND DR. ROBERT M. SPOONY: Thank you.  
15 Good morning -- good afternoon, and that's Reverend  
16 Dr. Robert M. Spoony from Orlando, Florida.

17 CHAIRMAN RODRIGUES: Thank you.

18 REVEREND DR. ROBERT M. SPOONY: But I'll  
19 take Martin.

20 To the committee Chair and his committee  
21 members, again, my name is the Reverend Dr. Robert  
22 M. Spoony. I'm pastor of Mt. Zion Missionary  
23 Baptist Church in Orlando, Florida, which is in  
24 Congressional District 10. I also live in  
25 Congressional District 10. I'm not a politician,

1 but I consider myself a public servant. Some people  
2 also may consider me a subject matter expert on  
3 servant leadership.

4 And I'm here today because the church is  
5 called to be engaged. The church is called to lead.  
6 The church is called to lend voice, moral authority,  
7 resources in an effort to resist evil and -- and to  
8 bring reorder to the common life of -- of those who  
9 are most vulnerable, those who need to be protected.

10 We're servants to our congregations, and as  
11 servant leaders, one of the things I do understand  
12 is that servant leadership consists of ethicalness  
13 and moral -- you're either -- you're ethical and  
14 moral. Leadership can be taught, but ethics is tied  
15 to your character.

16 And so what I'm here to talk about in only  
17 these two short minutes is the fact that morally is  
18 this the right thing to do to eliminate two  
19 congressional districts, which will, in turn,  
20 marginalize many, many people?

21 I've heard all the statistics spouted this  
22 afternoon, and many of them, I -- I know for a fact  
23 that they're just not necessarily true. I wonder  
24 where -- what -- what you looked at for -- to  
25 determine that the amount of African Americans and

1 Latinos who live in the district because I live in  
2 the 10th District, and I know that the numbers are  
3 not the same as I just heard today.

4 And so my -- my point is, will you morally  
5 be able to live with yourself if you really make  
6 this decision to just push a whole group of people  
7 out of the way and -- and allow them not to  
8 participate in the American system?

9 This is your decision. You've already  
10 vetted your process. You came up with your answers.  
11 You came up with a map, and now it's been vetoed and  
12 turned around. Will you stand up and do the right  
13 thing? Or will you bow down and be bullied?

14 That's the question that I just -- that's  
15 just resonating in my mind. We've elected you to do  
16 the right thing, and I just ask that you do the  
17 right thing. Remember, we are one. Our cause is  
18 one, and if we're ever to be successful in this  
19 world, we ought to help one another. Help other  
20 people get a chance to vote. Thank you.

21 CHAIRMAN RODRIGUES: Thank you for your  
22 comments.

23 Carla Jones, and on deck, we'll have  
24 LaShonda Holloway.

25 Ms. Jones --

1 CARLA JONES: Good afternoon.

2 CHAIRMAN RODRIGUES: -- you are recognized  
3 for two minutes.

4 CARLA JONES: Thank you. My name is Carla  
5 Jones. I am from Orlando, Florida, and I'm the  
6 candidate running for Chief Financial Officer of the  
7 State of Florida. I'm not an attorney, but I wake  
8 up with one every morning.

9 And I'm here to, as you know, let you all  
10 know that I am against the redistricting planned,  
11 and I am -- because I know the representative from  
12 the Governor's Office, he stood here, and he said  
13 that race did not play a role in the redistricting  
14 process. I'm here to tell you that I don't believe  
15 it.

16 I think that it is the main factor that we  
17 are looking at, and it's unfortunate. Because  
18 minorities, they vote. They pay taxes. They own  
19 property. They have rights, and a lot of that --  
20 it's been looked over. And I'm highly disappointed  
21 in the redistricting.

22 I'm the mother of six children, and they  
23 are all of voting age. And a couple of them have  
24 come -- have approached me about this redistricting,  
25 and so I'm here today to stand up and say it's

1 wrong. I think race plays a big, big factor in the  
2 decisions that's being made. And unfortunately we  
3 aren't -- we -- we're -- we're one, but we're not  
4 living as one. United, we stand. Divided, we fall.

5 So I would like to ask everyone, everyone  
6 standing within the -- within -- if you can hear me  
7 today, please reconsider this bill, please. It is  
8 racist in my opinion. I don't know how much that  
9 means, but it is racist. And I need to take some  
10 true answers back to my children. I don't want to -  
11 - I don't want them to be --

12 CHAIRMAN RODRIGUES: You need to --

13 CARLA JONES: -- lied to.

14 CHAIRMAN RODRIGUES: -- bring it in for a  
15 close.

16 CARLA JONES: Okay. I don't want them to  
17 be lied to. So please reconsider. Please  
18 reconsider this bill. It is racist, and I thank you  
19 for listening to me.

20 CHAIRMAN RODRIGUES: Thank you for your  
21 comments today.

22 We have LaShonda Holloway. On deck, Dr.  
23 Evie Welch (phonetic).

24 You are recognized for two minutes.

25 LASHONDA HOLLOWAY: Good afternoon. My

1 name is LaShonda L.J. Holloway, and I am the  
2 candidate to represent the people of the 5th  
3 Congressional District. But, moreover, I am a  
4 fourth generation Jacksonvillian and Floridian.

5 It is -- it is an abomination that we are  
6 wasting taxpayer dollars regarding this  
7 reapportionment and regarding redistricting when we  
8 elect citizens -- I'm sorry -- we elect you, the  
9 legislators, to come here and make laws and to draw  
10 the lines.

11 However, notwithstanding your willingness  
12 to stand up and -- stand up to the Governor, I am  
13 here to say that this map denies equal access to the  
14 political process, and it discriminates on the basis  
15 of not only the African American race but black and  
16 brown people and also language minorities in the  
17 vein of Hispanics.

18 Furthermore, Mr. Kelly stated that he used  
19 the Tier 2 standard. I believe -- not I believe --  
20 the law states, one, that all persons -- all persons  
21 in the State of Florida, the fair district laws, the  
22 law that the citizens stated that they wanted fair  
23 districts.

24 Look, 20 seats is not fair. Twenty  
25 Republican seats versus eight Democratic seats is

1 not fair. So not only does it violate the will of  
2 the people, under the equal protection of the law,  
3 the equal protection argument, in particular,  
4 Section 2 of the Voting Rights Act of 1965, it  
5 specifically prohibits voting practices or  
6 procedures that discriminate on the basis of race,  
7 color, or membership in one language minority group.

8 We must protect minority access districts  
9 from retrogression. I'll repeat that. We must  
10 protect minority access districts from  
11 retrogression. The --

12 CHAIRMAN RODRIGUES: Please bring it in for  
13 a landing.

14 LASHONDA HOLLOWAY: I'll bring it in for  
15 the landing. Last, I will say that representation  
16 of all citizens is indeed a compelling state  
17 interest. Minority representation matters. We  
18 deserve representation, and this outright attempt by  
19 Governor DeSantis to dilute the voice of minorities,  
20 it is an abomination. And all voices deserve to be  
21 heard. Protect our democracy and -- and --

22 CHAIRMAN RODRIGUES: Thank you for your  
23 comments.

24 LASHONDA HOLLOWAY: -- maintain the maps.  
25 Thank you.

1 CHAIRMAN RODRIGUES: Dr. Evie Welch. On  
2 deck is Gail Frances Gardner.

3 Dr. Welch, you are recognized for two  
4 minutes.

5 DR. EVIE WELCH: My name is Evie.

6 CHAIRMAN RODRIGUES: I'm sorry. Dr. Evie  
7 Welch.

8 DR. EVIE WELCH: Adams Welch.

9 CHAIRMAN RODRIGUES: I apologize.

10 DR. EVIE WELCH: I vote in District 5. I  
11 am the committeewoman for Voting District 713 in  
12 Jacksonville, Florida. You're looking at one of the  
13 warriors of the boots on the ground.

14 Before I give my disappointment, I must  
15 commend Senator Rouson for giving me a ray of hope.  
16 Before I came here, it appeared to me that you  
17 weren't in keeping with any of the laws that really  
18 looks at the minority people who are marginalized.  
19 I couldn't believe my ears, and so I'm here today.  
20 At least there is a glimmer of hope.

21 We must contain the ideas of the  
22 Constitution, Amendment 14, Section 2. We must go  
23 back and read what the people voted for in the  
24 revision of the Constitution. They -- the people of  
25 Florida, not the Governor himself, said that we must

1 look at the federal statutes, and we must consider  
2 what the Voting Rights Act of 1965 really made us to  
3 look at making this a more perfect union.

4 And as a person who spent most of her life  
5 professionally and academically working very hard to  
6 make sure that Amendment 19 was always remembered,  
7 do consider what you are doing to the State of  
8 Florida. You are dividing us. We don't want to go  
9 back, and we will not go back. Thank you for  
10 listening to me.

11 CHAIRMAN RODRIGUES: Thank you for your  
12 comments.

13 We have Gail Frances Gardner. David  
14 Rucker, you're on deck.

15 GAIL FRANCES GARDNER: Good afternoon.

16 CHAIRMAN RODRIGUES: You have two minutes,  
17 ma'am.

18 GAIL FRANCES GARDNER: In the '60s, my  
19 ancestors, who live in the north where I was born  
20 and grew up, would board a charter bus and head  
21 south, where they are born and grew up. Well, now,  
22 I too boarded a charter bus today for the same  
23 reason my ancestors did. I too want to defend  
24 theirs, mine, and generations to come voting rights.

25 The Congressional District redistricting

1 map not just to draw the lines but hold the line and  
2 make this legislative body accountable and not allow  
3 the persuasive executive decision by the Governor to  
4 be a force to diminish the black vote, of which  
5 those of you who benefited from the Fair Districts  
6 Amendments of 5 and 6, that profit politicians from  
7 drawing districts to favor themselves and their  
8 parties and to ensure that minorities will have the  
9 opportunity to elect representatives of their  
10 choice. Let's not allow history to repeat itself.  
11 Thank you.

12 CHAIRMAN RODRIGUES: Thank you for your  
13 comments.

14 David Rucker. And on deck is Odwan  
15 Whitfield (phonetic).

16 Mr. Rucker, you have two minutes. Thank  
17 you.

18 DAVID RUCKER: Good afternoon, Chair and  
19 members, representatives.

20 My name is David Rucker. I'm from Orlando,  
21 Florida. I also lived in District 10. I am highly  
22 disappointed on the way things are being done right  
23 now. For 57, almost 58 years, we're still fighting  
24 about minorities voting.

25 Currently, the Governor wanted to cut two

1 seats when we already have four. I don't understand  
2 that. All right. You're demising the vote for  
3 minorities, and I want to say black folks first.  
4 Then we can trickle down to the rest, the Latinos  
5 and other people, but it's unfair the way that you  
6 had a map going.

7           You decided not to use your map and use  
8 what the Governor wants to do, all right. I think  
9 it's a bigger disappointment for the people that you  
10 represent and the people that you don't represent  
11 but are voters. I am a super voter. I have been  
12 voting here since 1965. I haven't missed but one  
13 vote in my whole life doing this, all right.

14           So some things has to change, and some  
15 things don't. But what you need to do is make a  
16 conscious decision on what you're going to do about  
17 drawing these maps. Let us have our own voice and  
18 do what we need to do for us and not include us with  
19 everyone else. But that would be fair to do, and I  
20 don't know if you all know how to be fair sometimes.

21           So I think you need to look at this and  
22 really make a concentration on getting -- keeping  
23 the four that we have now instead of cutting it down  
24 like the Governor want to do with two. Thank you.

25           CHAIRMAN RODRIGUES: Thank you for your

1 comments.

2 We have Mr. Whitfield followed by Dr.

3 Carolynn Zonia.

4 Mr. Whitfield, you are recognized for two  
5 minutes.

6 ODWAN WHITFIELD: Thank you. My name is  
7 Odwan Whitfield. I am a taxpayer in District 5, in  
8 Congressional District 5, and I'm here today because  
9 this is a serious matter. I have this Senator here,  
10 who has been looking at her laptop the whole time.

11 I have two Senators back there that have been  
12 looking at their laptops. I've been watching them.

13 This is a serious matter. There's lives at  
14 stake here. There are lives at stake here. The --  
15 the representative from the Governor's Office said  
16 that Tier 1 is only intent and that he didn't  
17 converse or he didn't talk to anybody that -- that  
18 helped him to decide these maps. Yet, he looked at  
19 public testimony on video or he read the record. So  
20 technically, he looked at everybody's opinion on  
21 these maps before he drew them. How is that not --  
22 disregard that. Disregard that.

23 Even if the -- the Governor's Office said  
24 you know what. I think it's -- it's better for this  
25 environment, for this government, for this -- for

1 this state that 1 percent of everybody needs to be  
2 killed. He came up here, gave those statistics to  
3 you all in a nice manner. It is still left up to  
4 you all to make that decision.

5 This is people's livelihoods. I am a  
6 United States Army veteran, served in Iraq and  
7 Kuwait. Some of you would say so did my son. So  
8 did my daughter. So did my father. So did my  
9 sister. None of them have to come back to this  
10 United States and do what I am doing here today.  
11 They don't have that. They have a luxury. They  
12 have a benefit.

13 I'm standing here today fighting for my  
14 livelihood after I fought in Desert Storm, after I  
15 fought in Iraq, in -- in other countries, only to  
16 come back here to fight for my right to vote, for my  
17 right to representation.

18 Senators, do your jobs. This is not right,  
19 and this is not fair. I don't care what statistics  
20 say. You know it in your hearts. You know it. Do  
21 the right things.

22 CHAIRMAN RODRIGUES: Thank you for your  
23 comments and thank you for your service.

24 Dr. Zonia.

25 ODWAN WHITFIELD: Don't thank me for my

1 service. Give me my representation.

2 CHAIRMAN RODRIGUES: And ZsaZsa Ingram-  
3 Fitzpatrick, you're on deck.

4 DR. CAROLYNN ZONIA: Thank you, Mr.  
5 Chairman. And, Senators, thank you for the  
6 opportunity to speak.

7 I really can't say it any better than the  
8 previous speaker, but I'm asking you to follow  
9 Florida's Constitution and remind you of your  
10 promise to support, protect, and defend the  
11 Constitution of the United States and Florida.

12 I'm also here as a physician working on the  
13 front lines to speak for families who are struggling  
14 to keep up. Essential workers cannot find or afford  
15 a place for their families to live. Homeowners can  
16 no longer find or afford property insurance. Folks  
17 are working hard but cannot afford the basic  
18 necessities like utilities, and the looming prospect  
19 of many losing healthcare in the next few months  
20 adds to the pain that many are feeling.

21 By the Governor's own proclamation,  
22 legislative business this week may be transacted if  
23 introduced by consent of two-thirds of the  
24 membership of both houses of Legislature.

25 So on behalf of Florida families, I'm

1 asking you to please follow the Constitution on  
2 redistricting and vote no on the Governor's map and  
3 to use this special session to also address the real  
4 emergencies that are crushing your constituents.

5 Thank you.

6 CHAIRMAN RODRIGUES: Thank you for your  
7 comments.

8 We have ZsaZsa Ingram-Fitzpatrick with Dr.  
9 Nancy Staats on deck.

10 Is Ms. Ingram-Fitzpatrick here?

11 Dr. Staats. And then we'll have Judy  
12 Sheckland on deck.

13 DR. NANCY STAATS: Good afternoon,  
14 everyone. My name is Dr. Nancy Staats.

15 CHAIRMAN RODRIGUES: Staats, thank you.

16 DR. NANCY STAATS: Thank you.

17 CHAIRMAN RODRIGUES: I apologize for --

18 DR. NANCY STAATS: No worries.

19 CHAIRMAN RODRIGUES: -- butchering that.  
20 You are recognized for two minutes.

21 DR. NANCY STAATS: Okay. Thank you. I'm a  
22 board certified medical doctor, but you don't need  
23 an advanced degree to see what's happening here. We  
24 know this is the blatant disenfranchisement of  
25 African American communities and their

1 representatives. It's unfortunate that some of you  
2 can't even look at me.

3 Just two months ago, you all worked very  
4 hard making maps that adhered to Florida statutes,  
5 and then the Governor proposed his own maps, which  
6 you rightfully said, no, Gov, this is too far. But  
7 then he vetoed yours, came back with his, and now  
8 suddenly, you folded like a cheap suit.

9 I'm wondering what happened in those two  
10 months. Were there backroom talks maybe working out  
11 the budget details? I don't know. Arm twisting?  
12 I'm not sure. Your arms all look fine, but maybe we  
13 need to think about what you are here for, which is  
14 to, as people have said, represent your  
15 constituents.

16 It's painfully clear to me, to everyone in  
17 this room, and everyone outside this room that this  
18 special session is a farce. There is not even  
19 another map being considered, and you won't consider  
20 amendments. And it also has been mentioned this  
21 Harvard-educated Governor of ours must be well aware  
22 that his maps violate both the Fair Districts  
23 Amendment and the Voting Rights Act, but perhaps, he  
24 wants the attention. Perhaps he wants to go to a  
25 Supreme Court case. That may be exactly what he

1 wants.

2 At any rate, you're making it easy for him,  
3 but he must know that he's necessitating more  
4 lawsuits, which more appeals after that, all of this  
5 at the expense of all of Florida's citizens, like  
6 these special sessions.

7 As we all learned in early grade history --  
8 American history, our government was formed in  
9 response to an authoritarian ruler, King George.  
10 Remember that? Our Founding Fathers created a  
11 system of three distinct, autonomous branches of  
12 government, yet here we are today seeing complete  
13 complicity to a new king.

14 As a physician, I pledged to uphold the  
15 Hippocratic Oath. You too, all of you, took an oath  
16 too to uphold --

17 CHAIRMAN RODRIGUES: Please --

18 DR. NANCY STAATS: -- your state's  
19 constitution, which demands, mandates that you form  
20 these maps, and you have not done so.

21 CHAIRMAN RODRIGUES: Please bring it in for  
22 a landing.

23 DR. NANCY STAATS: Please, please remember  
24 the oath you took, which you seem to have forgotten.  
25 We will not forget. Thank you.

1           CHAIRMAN RODRIGUES: Thank you for our  
2 comments. Judy Sheklin. And Trish Brown will be on  
3 deck.

4           JUDY SHEKLIN: My name is Judy Sheklin.  
5 I'm from Jacksonville, Florida. I too am opposed to  
6 the Governor's proposed maps. It is the  
7 responsibility of the legislators, the Legislature,  
8 to create congressional maps during redistricting  
9 according to Article III of the Florida  
10 Constitution.

11           The House and Senate did that, created  
12 approved maps and that they were satisfied with, and  
13 as we now know -- we've heard this all day -- were  
14 then vetoed and redrawn by the Governor. This is  
15 unprecedented in Legislatures all over the country.  
16 This hasn't been done.

17           You, as legislators, quickly acquiesced to  
18 the Governor, creating a dramatic imbalance of power  
19 in our state government. This is very troubling.  
20 The Governor's maps are a radical departure, and  
21 they aren't in compliance with state and federal  
22 law. These maps, as we've heard again here today,  
23 reduce the likelihood of minorities to elect  
24 congressional members of their choice, eliminating  
25 two minority districts and violating the Voting

1 Rights Act.

2 In 2010, Florida passed the Fair Districts  
3 Amendment, and the citizens of this state  
4 overwhelmingly spoke. They deserve and expect  
5 fairness in redistricting decisions. The Governor's  
6 plan creates 20 Republican-majority districts and 8  
7 Democratic-majority districts. This blatantly  
8 demonstrates partisan gerrymandering. Please stand  
9 up for all Floridians and oppose these unfair maps.  
10 Thank you.

11 CHAIRMAN RODRIGUES: Thank you for your  
12 comments.

13 Trish Brown. And we have Rodney Long on  
14 deck.

15 Trish Brown?

16 Rodney Long.

17 For the record, Trish Brown is against the  
18 bill.

19 Mr. Long, you are recognized for two  
20 minutes.

21 RODNEY LONG: Thank you, Mr. Chairman.

22 I'm Rodney Long. I don't live in  
23 Congressional District 5 or 10. I'm from Alachua  
24 County, Gainesville, Florida.

25 Because I am a concerned resident of this

1 state, I drove here today to speak to you in  
2 opposition to the proposed plan, SB 2-C Plan 019  
3 (sic) for three reasons. First, because if you  
4 approve this map, it will reduce the minority  
5 representation in the State of Florida by 50  
6 percent. Second is there's no doubt in my mind that  
7 these maps, if you approve them, will lead to  
8 retrogression, which violates the Voting Rights Act.

9 Thirdly, I'm a person who believes in  
10 process. I've served in local government for 17  
11 years. I was president of the Florida Association  
12 of Counties, served two terms. I understand how  
13 government works very well, but what I do not  
14 understand is this. We have a process that we  
15 follow, and we all are sworn to oaths. And we  
16 follow those oaths.

17 What I do not understand as a person who  
18 understands process is how do you acquiesce the  
19 authority given to you as a legislative body to draw  
20 district lines under reapportionment? I'm a person  
21 who believes in process. I can accept the fact --  
22 if you approved the maps and I don't like the maps  
23 but you approved the maps, I could live with that.

24 What I cannot live with is that you're just  
25 not going to approve any maps. That is a

1 dereliction of your oath and your duties. Do the  
2 right thing. I could live with whatever maps you  
3 all approve, but what I cannot live with is you  
4 abdicating your responsibility to do your job.

5 CHAIRMAN RODRIGUES: Thank you for --

6 RODNEY LONG: Do the right thing.

7 CHAIRMAN RODRIGUES: -- your comments.

8 Next, we have Matt Van Wormer with Whitney  
9 Wogen (phonetic) on deck.

10 You are recognized for two minutes.

11 MATT VAN WORMER: Okay. Thank you.

12 I was just going to waive, but I'm going to  
13 say a couple words because I'm on the other side of  
14 this bet and will be the first to speak to that.

15 The map looks very square to me. It looks  
16 very logical. Now, I don't -- I don't live in  
17 Orlando. I moved in here recently, and so I don't  
18 understand what some -- much of the politics are  
19 here that have gone before. But I don't see weird  
20 little lines going in here and there to try to  
21 protect or do weird things. It seems very logical.  
22 So I'm favor of what plan to -- Senate Plan 2-C 109.  
23 So thank you.

24 CHAIRMAN RODRIGUES: Thank you for your  
25 comments.

1           We have Whitney Wogen with Bridget Smith  
2     (phonetic) on deck.

3           Ms. Wogen, you have two minutes.

4           WHITNEY WOGEN: Thank you. My name is  
5     Whitney Wogen. I just wanted to voice my support  
6     for SB 2-C Plan 109. Thank you.

7           CHAIRMAN RODRIGUES: Thank you for your  
8     comments.

9           Bridget Smith. And we have Carmen Soto on  
10    deck.

11          BRIDGET SMITH: Bridget Smith, I'm from  
12    Marion County, Florida. A lot of PhDs here, a lot  
13    of physicians here. I'm a nurse. So I don't have a  
14    redistricting degree. It is a science in all of  
15    itself. I was here for the House and Senate debates  
16    during session, and it is a lot. I commend you all  
17    for even understanding all this. It's a lot.

18          But me, as a lay person to this,  
19    redistricting to me is to equalize populations among  
20    electoral districts after publication of the census,  
21    but it seems today it's been all about race issues  
22    and color.

23          From what I understand, the Fair District  
24    Act, it's -- it was to state that a minority group  
25    would not be prohibited from voting in their

1 candidate. But looking at the maps currently with  
2 the contiguousness of them, which is what we're  
3 supposed to do, and not make it about race,  
4 according to everything we've talked about today, it  
5 has become about race. And it's very confusing to  
6 all of us.

7 I support this bill. The 2017 Supreme  
8 Court decision, this is different. The Supreme  
9 Court decision, a North Carolina case brought up the  
10 fact that the gerrymandering had too many blacks in  
11 that district. So they threw that map out because  
12 it was gerrymandered. Now, based on that decision,  
13 District 5 is considered gerrymandered, the previous  
14 District 5. So that's my interpretation of it. I  
15 do support the bill. Thank you very much.

16 CHAIRMAN RODRIGUES: Thank you or your  
17 comments.

18 We have Carmen Soto, and Robert Schmidt  
19 (phonetic) is on deck.

20 CARMEN SOTO: Hi. My name is Carmen Soto,  
21 and I'm waiving in favor of the bill.

22 CHAIRMAN RODRIGUES: Thank you for your  
23 comment.

24 CARMEN SOTO: Thank you.

25 CHAIRMAN RODRIGUES: Robert Schmidt. And

1 then we've got John Berry (phonetic) on deck.

2 ROBERT SCHMIDT: Good afternoon. I'm  
3 speaking in support of SB 2-C Plan 109, 0109. While  
4 this plan was drawn for common sense districting,  
5 today's discussions have devolved into political  
6 accusations.

7 Not one voice has been silenced today by  
8 this map. Everyone still has a voice. I am happy  
9 this Governor has shown backbone. We hear people  
10 discuss the unprecedented nature of this map. I  
11 might remind those that look to other states such as  
12 New York to see what real gerrymandering looks like  
13 for political gains.

14 This map represents common sense and allows  
15 for the seismic shifts that are happening in Florida  
16 today. Thank you.

17 CHAIRMAN RODRIGUES: Thank you for your  
18 comments.

19 John Berry.

20 I don't see John. Lauren -- John is in  
21 support of the map.

22 Lauren Dickenson (phonetic).

23 LAUREN DICKENSON: I waive in support of  
24 the map.

25 CHAIRMAN RODRIGUES: Waives in support,

1 thank you.

2 Okay. That concludes testimony from the  
3 non-compensated.

4 We're going to move to the compensated.  
5 We've got about 40 minutes, and I believe the  
6 members are going to want to debate. So we're going  
7 to do one minute testimony.

8 We'll start with Marsha Davis, and on deck  
9 will be Cristian Cardona.

10 Marsha Davis? Thank you, ma'am.

11 MARSHA DAVIS: I waive against Governor  
12 DeSantis' legislative map. Floridians, and I was  
13 one of them, voted the Fair District Act Amendment  
14 into the state Constitution to protect minority  
15 voters and to prevent legislators from doing what it  
16 appears has been done, making sure that you protect  
17 your party. It's not right.

18 Minority growth alone, by the last census,  
19 indicates that there should probably be more  
20 minority representation in the Legislature, but the  
21 Governor plans to cut our representation in half.  
22 That's not right. The plan is unfair, and I believe  
23 that it is unconstitutional. Thank you.

24 CHAIRMAN RODRIGUES: Thank you for your  
25 comments.

1 Cristian Cardona. And we have Stacy  
2 Williams (phonetic) on deck.

3 CRISTIAN CARDONA: Thank you. My name is  
4 Cristian Cardona. I am worker and leader with the  
5 Fight for \$15 and the union from Orlando, Florida.  
6 Different movements are gathered here today because  
7 Florida's Republican leadership is trying to silence  
8 black and brown communities by passing voter  
9 suppression laws.

10 By eliminating protections that Fair  
11 Districts Amendment provides, this map is a direct  
12 attack on black representation and our democracy,  
13 and that ain't right. By proposing a congressional  
14 map that reduces Florida's black and brown  
15 representation by 50 percent, the Governor is trying  
16 to advance his political career at the expense of  
17 black and brown voters.

18 Let me tell you about my experience as a  
19 voter and why this issue is important to me. I  
20 moved to Orlando, Florida, with my family in 2009.  
21 I gained citizenship just in time to vote for  
22 Amendment 2. Amendment 2 brought us one step closer  
23 to a living wage, which is something I have been  
24 organizing and speaking up about for years.

25 This amendment has a direct impact on the

1 community around me, my family, my friends, and my  
2 neighbors. It felt powerful to organize and  
3 campaign to raise the standard of living for  
4 millions of Floridians. The day I got to vote yes  
5 on Amendment 2 --

6 CHAIRMAN RODRIGUES: Please bring it in for  
7 a close.

8 CRISTIAN CARDONA: All right. This --  
9 after months of campaigning and yelling it out to  
10 the world, I finally had the chance to cast my vote  
11 with my community. This is why it's important that  
12 workers have a strong voice and a vote.

13 I want to thank everyone for showing up and  
14 taking time out of their day because I know workers  
15 have never been --

16 CHAIRMAN RODRIGUES: Thank you for your  
17 comments.

18 CRISTIAN CARDONA: -- given rights.

19 CHAIRMAN RODRIGUES: I appreciate it.

20 Stacy Williams. And Larry Coleton  
21 (phonetic) on deck.

22 LARRY COLETON: Good afternoon --

23 CHAIRMAN RODRIGUES: Thank you.

24 LARRY COLETON: -- Mr. Chairman.

25 CHAIRMAN RODRIGUES: You are recognized for

1 a minute.

2 LARRY COLETON: Ms. Williams is not here.

3 I'm Larry Coleton.

4 CHAIRMAN RODRIGUES: Okay.

5 LARRY COLETON: The writer James Baldwin  
6 said, not everything that is faced can be changed,  
7 but nothing can be changed until it is faced. The  
8 columnist Leonard Pitts wrote that one party in  
9 America is steering the ship of this state towards  
10 jagged rocks, and that's where we find ourselves.

11 I like what the former and late President  
12 John Kennedy asked. He wrote a book called Profiles  
13 in Courage. In these next few days, we're going to  
14 see one of two things, either profiles in courage or  
15 profiles in cowardice.

16 We have a bully as a Governor, and  
17 unfortunately, we have members of this body,  
18 Mr. Chairman, that have essentially capitulated your  
19 constitutionally required responsibilities.

20 CHAIRMAN RODRIGUES: Please bring it in for  
21 a close.

22 LARRY COLETON: It's up to you. It's  
23 either going to be courage or cowardice, and  
24 unfortunately, the fear is it will be cowardice.

25 CHAIRMAN RODRIGUES: Thank you for your

1 comments.

2 We have Hedder Pierre-Joseph with Gail  
3 Presley on deck.

4 HEDDER PIERRE-JOSEPH: Good afternoon to  
5 the committee and committee members. My name is  
6 Hedder Pierre-Joseph. I am a member of  
7 Congressional District 10 for the last 19 years.

8 Redistricting is the process by which new  
9 congressional and state legislative districts are  
10 drawn. Federal law stipulates that districts must  
11 have nearly equal protection, equal population, and  
12 must not discriminate on the basis of race or  
13 ethnicity.

14 The current redistricting map, which  
15 eliminates Congressional House representation for  
16 black people is based on fear, fear that black  
17 people are voting. As black people who are  
18 descendants of the enslaved Africans, we know our  
19 history, and we know -- and we have seen this devil  
20 before.

21 I implore you not to continue down the path  
22 of your ancestors and deny black people their  
23 constitutional right of representation. I remind  
24 all of you to remember the Boston Tea Party of 1773.  
25 Finally, I ask you to look around or to remember the

1 presence of the people that were in this room, and  
2 for me, I see the promise of the enslaved African.  
3 We are on the side of justice, and with the God of  
4 Abraham, Isaac, and Jacob and our ancestors --

5 CHAIRMAN RODRIGUES: Bring it in for a  
6 landing please.

7 HEDDER PIERRE-JOSEPH: -- we shall always  
8 overcome. Remember this, we win with God and time.  
9 Thank you for your consideration.

10 CHAIRMAN RODRIGUES: Thank you for your  
11 comments.

12 Gail Presley with Cheryl Jones on deck.  
13 Ms. Presley, you are recognized for a  
14 minute.

15 GAIL PRESLEY: Thank you. Good afternoon  
16 to each and every one of you, Chairman, and also to  
17 Mr. Randolph Bracy. Thank you so very much. It is  
18 indeed my pleasure to be here today but in an awe of  
19 disbelief.

20 I am very heartbroken as a resident of  
21 Congressional District 10, long life resident. I  
22 come from a family that marched those march in 1960.  
23 I come from a family who knows about how it feels  
24 when it comes to voter's right and standing up for  
25 the injustice that are done to the people who are

1 black and brown. I come from a family who was very  
2 proud to know that it is your -- your vote and your  
3 voice that matters.

4 And today I come to you very disappointed.  
5 I oppose C-0109 (sic) because I feel that it is a  
6 disparity on the black and brown people, and I come  
7 from a congressional district where I want to see --

8 CHAIRMAN RODRIGUES: Please bring it --

9 GAIL PRESLEY: -- someone --

10 CHAIRMAN RODRIGUES: -- in for a close.

11 GAIL PRESLEY: -- who looks like me and  
12 represent and know how we feel. So with that being  
13 said, it is your right. You took the oath. You  
14 said that you would serve us, and we're looking here  
15 now and listening to statistics. And I don't  
16 understand where those statistics are coming from  
17 because I am a proud resident of Orange County,  
18 Florida.

19 CHAIRMAN RODRIGUES: Thank you for your  
20 comments.

21 GAIL PRESLEY: And I thank you for this  
22 time, Chairman, and you all have a wonderful day.

23 CHAIRMAN RODRIGUES: Thank you.

24 Cheryl Jones with Pastor Marcus McCoy on  
25 deck.

1 I do not see Cheryl. She is against the  
2 bill.

3 We have Pastor McCoy on the way. After  
4 Pastor McCoy, we'll have Barney Roberts on deck.

5 You are recognized for a minute.

6 PASTOR MARCUS MCCOY: Thank you. Blessings  
7 to all with special recognition to my own Senator,  
8 Senator Bracy. My name is Marcus McCoy, Junior. I  
9 serve as the senior pastor of the Historic Greater  
10 Refuge Memorial Church, which sits in Congressional  
11 District 10, existing now over 150 years.

12 I stand on behalf of my community to  
13 strongly urge this committee to vote no on the  
14 proposed map C-0109 by Governor -- by our Governor  
15 that removes black representation in Congress.

16 Currently, Florida has four black access  
17 seats of twenty-seven. If the map were to be  
18 approved, that number would reduce to 50 and would  
19 leave Florida with less than 10 percent of the  
20 congressional districts represented by members in  
21 black access seats. It is disheartening to see that  
22 with already such low representation, this Governor  
23 wants to dilute representation even more.

24 And while I and those that I represent do  
25 not fully agree with the decision made to offer a

1 two-map solution during this year's legislative  
2 session, at least it was the decision of this  
3 Legislature. The map being --

4 CHAIRMAN RODRIGUES: Please bring it in for  
5 a close.

6 PASTOR MARCUS MCCOY: -- considered today  
7 is not your own. I stand here urging you to reject  
8 political games and partisanship in drawing  
9 Florida's new congressional districts. Thank you.

10 CHAIRMAN RODRIGUES: Thank you for your  
11 comments.

12 Barney Roberts. And on deck will be  
13 Rosemary McCoy.

14 Mr. Roberts, you are recognized for a  
15 minute.

16 BARNEY ROBERTS: Hi. I'm Barney Roberts.  
17 I -- I stand opposing the Governor's bill. I think  
18 that it is another disheartening thing to consider  
19 in Florida.

20 In -- in 2010, the Florida voters added  
21 amendments to the state Constitution in the Article  
22 III, Sections 20 and 21. These amendments  
23 prohibited line drawing that intentionally favors or  
24 disfavors a political party or an incumbent. The  
25 amendment also afforded protection to racial and

1 language minorities.

2           Districts may not draw -- districts may not  
3 be drawn with the intent or resulting in denying or  
4 abridging the equal opportunity of racial or  
5 language minorities to participate in the political  
6 process or to diminish their ability to elect  
7 representatives of their choice.

8           Finally, unless it would conflict with the  
9 standards described above, amendments require that  
10 district populations be as neatly equal as  
11 practicable and that districts be compact, where  
12 feasible, follow existing political, geographical  
13 boundaries.

14           Ladies and gentlemen --

15           CHAIRMAN RODRIGUES: Please bring it in for  
16 a close.

17           BARNEY ROBERTS: -- I would beg and ask if  
18 you'll consider that the things we do today, our  
19 children are going to have to live with it. And for  
20 me, as a veteran and a man in the U.S., I love it  
21 when kids see us, and they're proud about what we  
22 do. We should make our kids proud, and we should  
23 bring them together, not divide them on all facets.  
24 Thank you.

25           CHAIRMAN RODRIGUES: Thank you for your

1 comments and thank you for your service.

2 Rosemary McCoy. And on deck is Troy  
3 Squire.

4 ROSEMARY MCCOY: Thank you so much --

5 CHAIRMAN RODRIGUES: You are recognized for  
6 a minute.

7 ROSEMARY MCCOY: -- Chair and thank you so  
8 much for, Senator Audrey Gibson, for allowing us to  
9 be here, and I respect all of you. But I want to  
10 prick your hearts. This is not about just signing  
11 off because of your party. This is about real-life  
12 situations.

13 There's a war going on, Ukrainians and  
14 Russians. We do not want that here in the United  
15 States, nor do we want it in the state of Florida.  
16 But if we keep on -- and it starts from you, all  
17 right. Everything trickles down. From your  
18 leadership, it comes down. And if we have a war  
19 here among you all against your people, we have  
20 Ukranian (sic) and Russia. I don't want that.

21 So I'm asking you to check your own hearts  
22 out. I'm asking you to just look at it. If it's  
23 fair, then go with it. But if you check your hearts  
24 out and you find out that it isn't fair, then I'm  
25 asking you to vote no.

1           See this? It's blue. But you know what  
2 they have? Pink. Act like this is pink. And if  
3 you fail to vote correctly, you need a pink slip.  
4 Do your job. That's all we asking you to do. You  
5 want me to do my job. So I can pay taxes.

6           CHAIRMAN RODRIGUES: Please bring it in for  
7 a close.

8           ROSEMARY MCCOY: Guess what? The people  
9 want you to do your job. That's all we ask. I  
10 think that's fair. Do you think it's fair? I do.  
11 Do your job.

12          CHAIRMAN RODRIGUES: thank you for your  
13 comments.

14          Troy Squire. And we'll have Tameka Hobbs  
15 on deck.

16          I don't see Mr. Squire. He is against the  
17 map.

18          Tameka Hobbs.

19          I don't see Tameka. She is against the  
20 map.

21          Ebony Hardy-Allen, also against the map.

22          Hazel Gillis. And on deck will be Myrtle  
23 Lucas (phonetic).

24          Thank you, Ms. Gillis. You have a minute.

25          HAZEL GILLIS: Thank you. Good afternoon.

1 My name is Hazel Gillis. I am a member of the James  
2 Weldon Johnson Branch of the ASALH, Association for  
3 the Study of African American Life and History, and  
4 I live in Congressional District 5 in Jacksonville,  
5 Florida.

6 Governor Ron DeSantis' rejection of the  
7 Florida Legislature's drawn political map is a  
8 direct attack on black representation and our  
9 democracy. By proposing a congressional map that  
10 reduces Florida's black representation in Congress  
11 by 50 percent, the Governor is attempting to silence  
12 the voices of hundreds of thousands of black voters.  
13 We oppose any map that has been drawn by Governor  
14 Ron DeSantis.

15 In 2010, Florida passed the Fair Districts  
16 Amendments 5 and 6 that prohibits politicians from  
17 drawing districts to favor themselves and their  
18 parties and to ensure minority voters have equal  
19 opportunity to participate in the political process  
20 and have a fair opportunity to elect representatives  
21 of their choice, their party. We must end this  
22 manipulation at all costs to protect our democracy  
23 and black vote. Thank you so much. Thank you, Your  
24 Honor.

25 CHAIRMAN RODRIGUES: Thank you for your

1 comments.

2 Hazel Gillis. Oh, that was you. Thank  
3 you.

4 Myrtle Lucas. And then on deck is Ingrid  
5 Montgomery.

6 MYRTLE LUCAS: Good evening. My name is  
7 Myrtle Lucas. I'm -- I am a member of the James  
8 Weldon Johnson Branch of the ASALH, the Association  
9 for the Study of African American Life and History.

10 I oppose any map that has been drawn by  
11 Governor Ron DeSantis, and let's see. We vote to --  
12 let me see. I'm sorry. We vote for -- to draw maps  
13 from fair districts, and we want them to do their  
14 job and not for Governor Ron DeSantis to be a  
15 dictator and a bully. That's it.

16 CHAIRMAN RODRIGUES: Thank you for your  
17 comments.

18 Ingrid Montgomery with Walter Smith, Junior  
19 on board.

20 Ms. Montgomery, you are recognized for a  
21 minute.

22 INGRID MONTGOMERY: Good afternoon. My  
23 name is Ingrid Montgomery, and I live in Duval  
24 County. I'm here today to voice my condemnation of  
25 this redistricting plan for Northern Florida. This

1 plan splits black communities across three different  
2 congressional districts, which personally impacts me  
3 because it results in the loss of my congressional  
4 district, CD 5, which has been the "black  
5 opportunity district" linking Jacksonville and  
6 Tallahassee.

7 SB 2-C, also C-0109, is intentionally and  
8 unconstitutionally designed to make it ever more  
9 challenging for us black voters to elect black  
10 Democratic members of Congress. You elected took  
11 the oath to stand up for equal ground. "If we merge  
12 mercy with might and might with right, then love  
13 becomes our legacy and change our children's  
14 birthright." Amanda Gorman, The Hill We Climb. Do  
15 the right thing. Thank you.

16 CHAIRMAN RODRIGUES: Thank you for your  
17 comments.

18 Walter Smith, Junior. And on deck is Lee  
19 Harris.

20 Are you Mr. Smith?

21 WALTER SMITH, JR.: Yes. Good --

22 CHAIRMAN RODRIGUES: You are --

23 WALTER SMITH, JR.: -- afternoon.

24 CHAIRMAN RODRIGUES: -- you are recognized  
25 for a minute. Thank you.

1                   WALTER SMITH, JR.: Good afternoon again.  
2    I am Commander Sergeant Major Walter Smith, Junior,  
3    retired U.S. Army, 30 years of military service for  
4    this country. I oppose this proposal by the  
5    Governor. This proposal reminds me of what took  
6    place after Reconstruction. Thank you.

7                   CHAIRMAN RODRIGUES: Thank you for your  
8    comments.

9                   I've been told that Lee Harris is not here.  
10   We'll have the record show that he is against the  
11   bill.

12                  Next up, Jonathan Webber with Florida  
13    Conservation Voters.

14                  Mr. Webber, you are recognized for a  
15    minute.

16                  JONATHAN WEBBER: Thank you so much. My  
17    name is Jonathan Webber. I'm the deputy director of  
18    Florida Conservation Voters, and just for the  
19    record, I am a resident of CD 5, Al Lawson's  
20    district, here in Tallahassee, just south of  
21    Apalachee.

22                  We at Florida Conservation Voters, we  
23    strongly believe that the health of our environment  
24    is directly tied to the health of our republic. And  
25    just as we monitor our water for pollution, we

1 monitor our government for signs of sickness. Fair  
2 representation is one of the best metrics we have to  
3 measure the health of our government. The census  
4 and ensuing redistricting process is the test.

5 Today, we are asking ourselves questions  
6 like was this map drawn with complete transparency?  
7 Does it respect the rules set forth in the Voting  
8 Rights Act and in the State and Federal  
9 Constitutions? Were the people of Florida given  
10 ample opportunity to participate and comment on this  
11 map? And most importantly, considering the profound  
12 legacy of state-sponsored oppression in Florida,  
13 does it protect or diminish the right of black  
14 Floridians to elect leaders of their choice?

15 You all know the answers to these  
16 questions, and while fair representation is vital,  
17 fear of doing the right thing is the ultimate  
18 terminal sickness in democracy. Our republic is  
19 only as strong as the right of minority groups to  
20 participate. I love this country not so much for  
21 its history but for its promise.

22 CHAIRMAN RODRIGUES: Please bring it in for  
23 a close.

24 JONATHAN WEBBER: That promise must be  
25 guaranteed to everyone, not just the powerful, the

1 monied, or the ruling class. We stand in solidarity  
2 with our friends and allies across the state in  
3 opposition to these maps. Thank you and thank you  
4 to everyone who showed up today.

5 CHAIRMAN RODRIGUES: Thank you for your  
6 comments.

7 Cecile Scoon with the League of Women  
8 Voters of Florida.

9 CECILE SCOON: Good afternoon. My name is  
10 Cecile Scoon with the League of Women Voters, and  
11 I've been here a few times. I am very disappointed,  
12 as many people are, that we are in this position.  
13 When this whole thing started, there was many  
14 promises made to adhere to all of the laws, and it  
15 was interesting that Mr. Kelly did not mention that  
16 the Tier 1, which is the citizens initiative of the  
17 Fair Districts, not only has an intent provision, it  
18 has an impact provision.

19 So it doesn't matter if he came here and  
20 drew the maps, and he did not intend anything.  
21 That's irrelevant to the other half, which says, if  
22 you have this impact that harms the ability to  
23 select the representative of your choosing if you  
24 are a racial or language minority, that's a problem  
25 under our law. And so what they have done is

1 completely violated Tier 1 of our Constitution,  
2 which was found lawful and correct by our Florida  
3 Supreme Court.

4 So that is the status of the law as we  
5 stand, and anything that comes now that rebukes that  
6 or does anything like that is looking for a new  
7 court to make a different decision. But the law  
8 right now says --

9 CHAIRMAN RODRIGUES: Please bring it in --

10 CECILE SCOON: -- that is illegal.

11 CHAIRMAN RODRIGUES: -- for a close.

12 CECILE SCOON: And we would ask you to  
13 adhere to the law as we all know it, Fair Districts  
14 and the Voting Rights Act. Thank you.

15 CHAIRMAN RODRIGUES: Thank you for your --

16 SENATOR GIBSON: Chair --

17 CHAIRMAN RODRIGUES: -- comments.

18 SENATOR GIBSON: May I ask a question?

19 CHAIRMAN RODRIGUES: We still have another

20 --

21 SENATOR GIBSON: Quickly.

22 CHAIRMAN RODRIGUES: -- speaker. And we --

23 SENATOR GIBSON: It's just --

24 CHAIRMAN RODRIGUES: -- are doing a hard  
25 stop at 4:30.

1 SENATOR GIBSON: It's a 30-second answer.

2 CHAIRMAN RODRIGUES: I'm not going to  
3 recognize it at this time.

4 Matthew Isabel (phonetic).

5 SENATOR GIBSON: Well, may I ask you a  
6 question, Mr. Chair?

7 CHAIRMAN RODRIGUES: What's that?

8 SENATOR GIBSON: May I ask the question of  
9 you? Maybe our staff may know the answer.

10 CHAIRMAN RODRIGUES: Yes.

11 SENATOR GIBSON: Thank you. I'm just  
12 wondering if we know how many hundreds of thousands  
13 of votes across this state did the Fair Districts  
14 Amendment pass by.

15 CHAIRMAN RODRIGUES: I don't know. We'll  
16 have staff look into that and get back to you.

17 SENATOR GIBSON: Thank you, Mr. Chair.

18 CHAIRMAN RODRIGUES: Mr. Isabel, you are  
19 recognized for a minute.

20 MATTHEW ISABEL: Members of this  
21 committee, for months, a vast majority of you  
22 pledged your support to preserving districts that  
23 gave African Americans the ability to elect a  
24 candidate of their choice. You defended seats that  
25 were in some form or fashion drawn three decades ago

1 to correct centuries of injustice. The laws and  
2 cases from the late 20th century saw an explosion of  
3 minority representation. Since the passage of the  
4 1982 Voting Rights Act, the number of African  
5 American Congresspeople has gone from 18 to 60.  
6 Florida is part of this very tradition.

7 Redistricting in Florida began with such  
8 promise. Draft maps from both chambers had anywhere  
9 from three to four seats designed to give African  
10 Americans a chance to elect a candidate of their  
11 choice. Efforts for alt-right Twitter activists to  
12 dismantle districts like CD 5 and 10 were ignored by  
13 you lawmakers for the longest time, but now with the  
14 Governor's intervention, you have backtracked on all  
15 of these principles in the name of party unity.

16 And for what reason? To appease a Governor  
17 who sees his path to the Presidency by acting like a  
18 modern-day George Wallace. We see the private  
19 grumblings that many of you have fed to the press,  
20 expressing your off-the-record concern. Most of you  
21 openly admitted in private to being afraid of the  
22 Governor. He's threatened primaries to you, to your  
23 colleagues, and he's threatened to black -- to veto  
24 --

25 CHAIRMAN RODRIGUES: Please bring it in for

1 a close.

2 MATTHEW ISABEL: -- budget items. He's --  
3 I'm closing. Why don't you just come out and say  
4 he's blackmailing you? Instead of coming up with  
5 fake legal justifications, why don't you at least  
6 admit that you're afraid of him, and you want him to  
7 like you? Why don't you just admit that you're  
8 cowards.

9 CHAIRMAN RODRIGUES: Thank you for your  
10 comments.

11 SENATOR STARGEL: Mr. Chair?

12 CHAIRMAN RODRIGUES: That concludes public  
13 testimony.

14 Is there debate?

15 SENATOR STARGEL: Mr. Chair?

16 CHAIRMAN RODRIGUES: Senator Stargel, you  
17 are recognized.

18 SENATOR STARGEL: Mr. Chair, I move that we  
19 -- this committee vote in SB 2-C on or before 4:27.

20 CHAIRMAN RODRIGUES: That motion is made.  
21 Show it adopted without objection.

22 We're now in debate.

23 Senator Gibson.

24 SENATOR GIBSON: Thank you, Mr. Chair.

25 First, I want to start with the whole idea

1 that the state of Florida's Constitution doesn't  
2 cover Tier 1, and it absolutely does, which is why I  
3 was trying to determine approximately the hundreds  
4 of thousands of votes that -- from our constituents  
5 that supported the Fair Districts Amendment to the  
6 -- to our state Constitution, which is also a part  
7 of our first packet that we got on the Florida  
8 Redistricting packet, which I, of course, thank the  
9 staff again for. I have papers all over the place.

10 And so -- in that, in the Fair Districts  
11 Amendment to the Constitution -- and I wrote a note  
12 that I don't believe that the Constitutional  
13 Revision Commission in 2018 made any changes or  
14 changed at all the Fair Districts Amendment, which  
15 speaks to the fact that districts may not be drawn  
16 with the intent or result of denying or abridging  
17 the equal opportunity of racial or language  
18 minorities to participate in the political process  
19 or diminish their ability to elect representatives  
20 of their choice.

21 And there are other parts of this, but I  
22 want to hasten so that others get to debate. And I  
23 don't lose some other important points that I wanted  
24 to make. One of those is if you've never been  
25 denied anything, then you have no context as to why

1 representation is important. And so -- and why it  
2 is important that the representative understands the  
3 community that they're representing in totality.

4 And so what's on the line? First of all,  
5 CD 5 came about as a large representing minority  
6 population because of a lawsuit years ago, and that  
7 is why that congressional district existed as a  
8 minority access district in Jacksonville. The suit  
9 was filed by our previous member of Congress -- I  
10 don't know. It was 19-whatever it was -- '70, '60s,  
11 in order for there to be representation to include  
12 representation of people of color.

13 And so in a conversation I had the other  
14 day, when, you know, when people try to figure out,  
15 oh, it's about race. Well, it's more than about  
16 race. It's also about need. And so in order for  
17 those folks with health -- more health disparities  
18 than -- or health disparities -- I don't know how  
19 you can have any more -- neighborhoods that have  
20 been crumbling historically, infrastructure needs,  
21 cleaning of Brownsville and communities of color  
22 that weren't anywhere else, who represents those  
23 communities matter?

24 Yes. There's growth in -- in upward  
25 mobility as well, but there are still healthcare

1 disparities. There's still holes in things that  
2 need to happen. And so when a member doesn't  
3 understand in totality that population, the funding  
4 requests that have been put forward over the years  
5 disappear. The blend of everyone takes the focus  
6 off of some of those who are the neediest of  
7 particularly healthcare and improvement in their  
8 neighborhoods, education, those kinds of things.

9           While it's getting better, it's been behind  
10 for so many years that catching up becomes difficult  
11 without a representative that doesn't understand  
12 exactly all of the people they are representing.  
13 And I think every individual in any district is just  
14 as important as the -- as the neighbor next door or  
15 across the street. Everyone is, and that's the way  
16 I've always done my job. But unfortunately the maps  
17 in front of us, CD 5 is one of them, where there's  
18 such a split unnecessarily, cut the community right  
19 down the middle, the community of color.

20           And so without having to do that and making  
21 sure that all resources are delivered to all parts  
22 of the community, it would be great if we all lived  
23 in health disparity districts, and then we'd all get  
24 the same attention. But we don't. It would be  
25 great if we all lived in low income communities, but

1 we don't. And so those who do need representation  
2 to speak to that issue.

3 And so I just think that the purpose of the  
4 maps was to make two Republican forming -- it has  
5 nothing to do with race -- there are black  
6 Republicans, Hispanic Republicans -- but has  
7 everything to do with party as well. So there's a  
8 double whammy in Duval. We have a separation of  
9 culture, and then we also have two seats that no --  
10 that will perform for Republican members of  
11 Congress.

12 And I don't -- I don't know if -- I don't  
13 know if we can even sit here and -- and call that  
14 the right thing to do. And also in CD 10 as well.  
15 So what seems to be -- what -- what wants to be put  
16 forward to us as innocence is -- is not there, and I  
17 hope that people will remember that this is not for  
18 tomorrow or next week. It's not -- it doesn't  
19 change for 10 more years.

20 And I refuse to believe that the people of  
21 color population in Duval shrunk in the past census,  
22 or if it didn't shrink, people are now living all on  
23 top of each other. That is definitely not the case.  
24 And so I -- I'm done, Mr. Chair. Thank you.

25 CHAIRMAN RODRIGUES: Senator Bracy.

1           SENATOR BRACY: Thank you, Mr. Chairman.  
2           You know, this clearly violates Fair  
3           Districts. It clearly violates the federal law, the  
4           federal Voting Rights Act, and I don't even think  
5           it's worth debating. I mean, I think that's clear,  
6           and the fact that Alex Kelly would get in front of  
7           us and say he had no idea that he was taking a swath  
8           of black folks and putting -- putting them in the  
9           same district with -- with the villages and not --  
10          and saying he didn't know that it would affect their  
11          ability to elect the candidate of their choice is a  
12          joke. It's a joke, and it's insulting. So I'm not  
13          going to even go there.

14                 What I will say to you, members, is that  
15          what the Governor is doing in bullying you all, in  
16          dictating what you're going to do, you are  
17          essentially losing the power and the independence of  
18          the Senate. And you are making the Governor the de  
19          facto President from now on, because with a bully,  
20          once you give in, it doesn't stop. He's going to  
21          continue this, and you will not be able to defy him  
22          again.

23                 He's threatened to -- he's threatened to  
24          primary you all. He's threatened to primary  
25          endorsed candidates from the President, and he's not

1 going to stop. And you laying down, you are setting  
2 the stage for this to happen over and over again.  
3 And if that's what you want, you want him to be the  
4 House Speaker, the Senate President, and the  
5 Governor, so be it.

6 But I just want to lay out what we're  
7 actually doing today, and I love you all. I've  
8 served with you. You all are friends, and so I'm  
9 speaking to you genuinely. And this is how I feel,  
10 and if this is what we're going to do, so be it.  
11 But I at least want to be on record to say I don't  
12 think it's right.

13 And I don't think this is in tradition of  
14 what the Senate stands for. We have been an  
15 independent body, and we made a decision before.  
16 And now we are caving. We are folding, and I think  
17 we're better than that.

18 CHAIRMAN RODRIGUES: Senator Stewart for  
19 two minutes.

20 SENATOR STEWART: Thank you, Chair.

21 Frankly, I never thought we'd be here  
22 today. I know that when we had months and months of  
23 meetings and we came up with a map that was  
24 extremely fair and we gave that map to the Governor,  
25 we didn't expect to have any consequences. But

1 today we see that I was really, really wrong, and  
2 that we sit here today.

3 This map that was produced -- and we were  
4 able to see it a few days ago, and, you know, I  
5 didn't like it. I don't like being here because I  
6 think we did a really good job when we had the  
7 opportunity to do it. But this map has no  
8 connection to Tier 1, and everything stated by the  
9 Governor's map drawer and perhaps some of the  
10 attorneys that helped him, all the paperwork is on  
11 Tier 2. Well, Tier 2 is not nearly as important as  
12 Tier 1.

13 And so when you've got them totally  
14 ignoring Tier 1, for whatever their reasons were  
15 stated, I think we might as well just leave here and  
16 go straight out that door and get our attorneys  
17 because we're going to be going to court anyway.

18 So I just think this is the wrong approach  
19 to what we have signed on to do, and we did a really  
20 good job. And I want to thank everybody here, how  
21 hard they worked, and I -- I don't -- I'm just not  
22 in favor of overturning the nearly perfect map that  
23 we put together. Thank you.

24 CHAIRMAN RODRIGUES: It's now 4:27, time  
25 certain.

1 Dana, please call the roll on Senate Bill  
2 2-C.  
3 THE CLERK: Senator Bean.  
4 SENATOR BEAN: Yes.  
5 THE CLERK: Senator Bracy.  
6 SENATOR BRACY: No.  
7 THE CLERK: Senator Bradley.  
8 Senator Brodeur.  
9 SENATOR BRODEUR: Yes.  
10 THE CLERK: Senator Burgess.  
11 SENATOR BURGESS: Yes.  
12 THE CLERK: Senator Gibson.  
13 SENATOR GIBSON: No.  
14 THE CLERK: Senator Harrell.  
15 SENATOR HARRELL: Yes.  
16 THE CLERK: Senator Rodriguez.  
17 SENATOR RODRIGUEZ: Yes.  
18 THE CLERK: Senator Rouson.  
19 SENATOR ROUSON: No.  
20 THE CLERK: Senator Stargel.  
21 SENATOR STARGEL: Yes.  
22 THE CLERK: Senator Stewart.  
23 SENATOR STEWART: No.  
24 THE CLERK: Vice Chair Broxson.  
25 VICE CHAIR BROXSON: Yes.

1 THE CLERK: Chair Rodrigues.

2 CHAIRMAN RODRIGUES: Yes.

3 By your vote, Senate Bill 2-C is reported  
4 favorably.

5 Is there any other business before the  
6 committee?

7 Seeing none, Senator Rouson moves we  
8 adjourn.

9 Show the motion adopted.

10 (END OF AUDIO RECORDING)

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I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.

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Julie Thompson, CET-1036

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1     APRIL 19, 2022

2             CHAIRMAN SIROIS: The Congressional

3     Redistricting Subcommittee will come to order.

4             DJ, please call the roll.

5             THE CLERK: Chair Sirois.

6             CHAIRMAN SIROIS: Here.

7             THE CLERK: Vice Chair Tuck.

8             VICE CHAIR TUCK: Here.

9             THE CLERK: Ranking Member Skidmore.

10            DEMOCRATIC RANKING MEMBER SKIDMORE: Here.

11            THE CLERK: Representatives Benjamin.

12            REPRESENTATIVE BENJAMIN: Here.

13            THE CLERK: Brown.

14            REPRESENTATIVE BROWN: Here.

15            THE CLERK: Fabricio.

16            REPRESENTATIVE FABRICIO: Here.

17            THE CLERK: Fetterhoff.

18            REPRESENTATIVE FETTERHOFF: Here.

19            THE CLERK: Harding.

20            REPRESENTATIVE HARDING: Here.

21            THE CLERK: Hunschofsky.

22            REPRESENTATIVE HUNSCHOFSKY: Here.

23            THE CLERK: Joseph. Joseph.

24            Latvala.

25            REPRESENTATIVE LATVALA: Here.

1 THE CLERK: Maggard.

2 REPRESENTATIVE MAGGARD: Here.

3 THE CLERK: Massullo. Massullo.

4 McClure.

5 REPRESENTATIVE MCCLURE: I'm here.

6 THE CLERK: Morales.

7 REPRESENTATIVE MORALES: Present.

8 THE CLERK: Perez.

9 REPRESENTATIVE PEREZ: Here.

10 THE CLERK: Plakon.

11 REPRESENTATIVE PLAKON: Here.

12 THE CLERK: Silvers has been excused.

13 Trabulsy.

14 REPRESENTATIVE TRABULSY: Here.

15 THE CLERK: Truenow.

16 REPRESENTATIVE TRUENOW: Here.

17 THE CLERK: Williamson.

18 REPRESENTATIVE WILLIAMSON: Here.

19 THE CLERK: Ex Officio Driskell.

20 REPRESENTATIVE DRISKELL: Here.

21 THE CLERK: Ex Officio Leek.

22 REPRESENTATIVE LEEK: Here.

23 THE CLERK: Quorum is present, Mr. Chair.

24 CHAIRMAN SIROIS: Thank you very much, DJ.

25 Members, a few reminders before we begin.

1 Please silence all electronic devices, and if you're  
2 here today to give public testimony, please take  
3 time now to fill out an appearance form and turn it  
4 into the Sergeant staff.

5 As a reminder for our members and speakers  
6 today, please turn your microphone on when you are  
7 speaking and off when you are finished.

8 Members, welcome back to special session.  
9 We have a lot of work ahead of us today. So let's  
10 jump right in.

11 For those of you who may be tuning in for  
12 the first time and as a refresher for the rest of  
13 it, I'd like to first take a moment to recap. We  
14 began our redistricting process back in September of  
15 2021. Since then, we've debuted a website, a map  
16 drawing application, and held numerous committee  
17 meetings.

18 On March 4th, the House and Senate both  
19 passed Committee Substitute for Senate Bill 102.  
20 Now, from there, unlike what happens in our state  
21 legislative redistricting maps that receive Florida  
22 Supreme Court review, our congressional  
23 redistricting maps do not receive court review and  
24 instead move like a normal bill, which means they  
25 are sent to the Governor for approval or veto.

1           On March 29th, the bill was sent to the  
2 Governor, who vetoed it the same day, citing  
3 concerns with the United States Constitution. That  
4 same day, he issued a proclamation, calling the  
5 Legislature into special session to resolve these  
6 concerns and established Florida's 28 congressional  
7 districts to be used in the upcoming election cycle.

8           Chair Leek and I received a briefing from  
9 the Governor's Office about their proposed map. It  
10 is my understanding that the Senator received a  
11 similar briefing. I'm glad to inform everyone that  
12 the Governor's Office is joining us today to provide  
13 that same briefing to all Committee members and the  
14 public, as well as be available for questions about  
15 the proposed map.

16           As the Speaker, as well as the Senate  
17 President, have stated, our goal during special  
18 session is to pass a new congressional map that will  
19 both earn the Governor's signature and withstand  
20 legal scrutiny, if challenged. This elected body is  
21 responsible to the citizens of Florida to complete  
22 our constitutional obligation to pass a  
23 congressional map.

24           Now, let's talk about the flow and the  
25 roadmap for today's meeting. We have one bill on

1 the agenda for consideration, House Bill 1-C by  
2 Representative Leek. I want to assure members and  
3 the public that I intend to allow for enough time  
4 for members to ask questions, to hear public  
5 testimony, and to allow for debate. I'll be  
6 tracking our time closely this afternoon and will  
7 keep the Committee informed as we move along.

8           Shortly, I will recognize Representative  
9 Leek to explain his bill, which contains the  
10 proposed congressional map, P-000C0109. As you may  
11 be aware, 10 districts of this map are from our  
12 previously passed legislative map, and 18 of the  
13 districts are being newly proposed by the Governor's  
14 Office.

15           Seeing as the House did not have a role in  
16 drawing those districts proposed by the Governor, we  
17 have invited their team to be present today to  
18 explain the map and answer questions from members  
19 afterwards. As is normal, we will move into public  
20 testimony and member debate before taking a vote on  
21 House Bill 1-C.

22           I'd like to take a moment to also address  
23 decorum. There's been a lot of chatter,  
24 speculation, and name calling over the last several  
25 weeks in anticipation of this special session and

1 the new proposed map that we'll be considering  
2 today. I want to be very clear. Today's meeting  
3 with proceed with professionalism, civility, and the  
4 decorum that Floridians expect of this legislative  
5 body. Members of this Committee and the public  
6 alike will keep their emotions and opinions  
7 respectable and thoughtful and not engage in  
8 personal or partisan attacks.

9 As we've talked about since last fall,  
10 there is no single correct redistricting map. There  
11 is no such thing as the best map. We are here to  
12 consider the next map that will govern elections in  
13 Florida for the next decade, and that is no small  
14 feat.

15 The last housekeeping item before we  
16 transition into our bill presentation is that,  
17 members, in front of you is the data packet for map  
18 P-000C0109. Similar to the packet produced for  
19 previous maps we reviewed, this packet contains  
20 information such as county and city splits,  
21 compactness scores, and functional analysis data.  
22 The bill text is also here in front of DJ in this  
23 binder if you would like to review it.

24 Members, up for consideration today is  
25 House Bill 1-C, establishing congressional districts

1 of the state. And as we've done for every other map  
2 presentation, I will ask you to hold questions until  
3 all districts have been explained to ensure we get  
4 through a description of the entire state, and no  
5 one region is rushed.

6 Representative Leek, you are now recognized  
7 to present House Bill 1-C.

8 REPRESENTATIVE LEEK: Thank you,  
9 Chair Sirois.

10 Before I dive into the map itself, I want  
11 to echo Chair Sirois' comments from earlier. We as  
12 legislators should feel a strong sense of  
13 responsibility for passing redistricting maps out of  
14 this body. A narrative has started to proliferate  
15 that the Legislature has somehow ceded its map  
16 drawing responsibility to the Governor. I find that  
17 to be a false narrative and incorrect on its face.

18 We have not ceded any responsibility. In  
19 fact, we have not -- we have done a responsibility  
20 once by passing maps during the regular session, and  
21 we will complete it again during this special  
22 session. The Governor has also fulfilled his  
23 responsibility and chose to veto our maps for  
24 reasons I believe his team will elaborate on today.

25 Both branches of government have a role in

1 this process just like with any other bill. The  
2 only abdication of responsibility would be if we  
3 threw our hands up and sent an impasse to the  
4 courts, allowing them or third parties, all of whom  
5 are unelected, to draw our maps.

6           Instead, we have chosen to stay at the  
7 table, continue the conversation, and hear out the  
8 Governor and work together because that is not only  
9 -- not only our responsibility but what Floridians  
10 expect of us as their legislators.

11           Our goal for special session is to produce  
12 a work product that is legislatively passed and  
13 executively signed. It's through that lens that I  
14 hope we will all move forward with today's meeting.

15           Now, on to the presentation. Today, we  
16 will be presenting map P-000C0109. This is the map  
17 reflected in the data packet in front of you, as  
18 well as being posted on  
19 [www.FloridaRedistricting.gov](http://www.FloridaRedistricting.gov).

20           As Chair Sirois mentioned, 10 of the  
21 districts in this map are exact copies of districts  
22 that the Legislature passed during the regular  
23 session. Those are Congressional Districts 1, 2,  
24 20, 21, 22, 23, 24, 25, 27, and 28. You can see  
25 those here on our screen.

1           The new proposed districts that will be  
2 presented by the Governor's Office today consists of  
3 Congressional Districts 3-19 and 26, as now seen on  
4 the screen. Given the new proposed districts are  
5 the focus of today's meeting, I would like to ask  
6 Chair Sirois to recognize the Governor's Office to  
7 explain these districts.

8           I'm more than happy to take questions on  
9 the Legislature's districts after the presentation  
10 but don't want to use our limited time redescribing  
11 configurations we've all previously heard several  
12 times.

13           CHAIRMAN SIROIS: Thank you very much,  
14 Representative Leek.

15           Representative Skidmore?

16           DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
17 you, Mr. Chair.

18           I'd like to move that the Governor's staff  
19 be put under oath while testifying in the  
20 Subcommittee today.

21           CHAIRMAN SIROIS: Representative Skidmore,  
22 first of all, that procedure would be different from  
23 any of the testimony that we received in our  
24 Committee thus far, and as far as my length of  
25 service in the Legislature, I think that that would

1 be an extraordinary step that I don't feel is  
2 necessary and, frankly, I find absurd to seek to put  
3 a member of another branch of our government under  
4 oath.

5 So that is not well received by me, and as  
6 Chair, I will choose to decline your request.

7 DEMOCRATIC RANKING MEMBER SKIDMORE:  
8 Follow-up?

9 UNIDENTIFIED FEMALE: Mr. Chair, point of  
10 --

11 CHAIRMAN SIROIS: Representative Skidmore.

12 DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
13 you, Mr. Chair.

14 Pursuant to Rule 7.2, we have the ability  
15 to move to have members or guests who are testifying  
16 in Committee to be put under oath, and I feel that  
17 it is a fair motion under the circumstances. And  
18 I'd like us to move through that process with a --  
19 if we could get a second and a vote on it.

20 UNIDENTIFIED FEMALE: I second.

21 CHAIRMAN SIROIS: Thank you.

22 Representative Skidmore, again, I'm going  
23 to voice that I think that that is an extraordinary  
24 and unnecessary step for us to take. But I will put  
25 it to this Committee.

1           But as we move forward, I think it's a good  
2 point to point out the tone for today's Committee  
3 meeting. This is a state house, not a courthouse,  
4 and that's how I intend to proceed with this  
5 Committee today. So in the spirit of working with  
6 you and moving our process forward, I will put that  
7 to the vote of a Committee, and I will ask for a  
8 voice vote.

9           Those in favor of putting the witness  
10 providing testimony today under oath please indicate  
11 so by saying aye.

12           (Multiple yeas).

13           And those opposed, please say no.

14           (Multiple nos)

15           CHAIRMAN SIROIS: In the judgment of the  
16 Chair, the nos have it.

17           We'll now proceed.

18           Representative Driskell.

19           REPRESENTATIVE DRISKELL: (Indiscernible)

20           CHAIRMAN SIROIS: All right. On the motion  
21 that we just voted on, seeing two hands on the  
22 motion that we just had a voice vote on, DJ, I would  
23 ask you to call the roll.

24           THE CLERK: Chair Sirois.

25           CHAIRMAN SIROIS: No.

1 THE CLERK: Representatives Benjamin.  
2 REPRESENTATIVE BENJAMIN: Yes.  
3 THE CLERK: Brown.  
4 REPRESENTATIVE BROWN: Yes.  
5 THE CLERK: Fabricio.  
6 REPRESENTATIVE FABRICIO: No.  
7 THE CLERK: Fetterhoff.  
8 REPRESENTATIVE FETTERHOFF: No.  
9 THE CLERK: Harding.  
10 REPRESENTATIVE HARDING: No.  
11 THE CLERK: Hunschofsky.  
12 REPRESENTATIVE HUNSCHOFSKY: Yes.  
13 THE CLERK: Joseph.  
14 REPRESENTATIVE JOSEPH: Yes for  
15 transparency.  
16 THE CLERK: Latvala.  
17 REPRESENTATIVE LATVALA: No.  
18 THE CLERK: Maggard.  
19 REPRESENTATIVE MAGGARD: No.  
20 THE CLERK: Massullo.  
21 REPRESENTATIVE MASSULLO: No.  
22 THE CLERK: McClure.  
23 REPRESENTATIVE MCCLURE: No.  
24 THE CLERK: Morales. Morales.  
25 UNIDENTIFIED FEMALE: Daisy, you have to

1 vote.

2 THE CLERK: Perez.

3 REPRESENTATIVE PEREZ: No.

4 THE CLERK: Plakon.

5 Silvers has been excused.

6 Skidmore.

7 DEMOCRATIC RANKING MEMBER SKIDMORE: Yes.

8 THE CLERK: Trabulsy.

9 REPRESENTATIVE TRABULSY: No.

10 THE CLERK: Truenow.

11 REPRESENTATIVE TRUENOW: No.

12 THE CLERK: Tuck.

13 VICE CHAIR TUCK: No.

14 THE CLERK: Williamson.

15 REPRESENTATIVE WILLIAMSON: No.

16 THE CLERK: Ex Officio Driskell.

17 REPRESENTATIVE DRISKELL: Yes.

18 THE CLERK: Ex Officio Leek.

19 REPRESENTATIVE LEEK: No.

20 THE CLERK: Six yeas, fifteen nays,

21 Mr. Chair.

22 CHAIRMAN SIROIS: Thank you, DJ.

23 Members, the motion fails.

24 The Governor's Office is recognized, and if

25 you would please identify yourself, sir, for the

1 Committee and the record that would be appreciated.

2 ALEX KELLY: Thank you, Mr. Chair.

3 I'm Alex Kelly with the Executive Office of  
4 the Governor, and I'm a deputy chief of staff for  
5 the Governor. And I should say apologies for the  
6 PowerPoint. Obviously, I made the PowerPoint before  
7 House Bill 1-C was filed. So obviously, I'll be  
8 speaking to House Bill 1-C and I guess obviously the  
9 identical content of Senate Bill 2-C today. But  
10 that's it again. Thank --

11 CHAIRMAN SIROIS: Mr. Kelly, I'm sorry to  
12 interrupt you. If you could pull that microphone a  
13 little bit closer and just speak up a little bit.

14 ALEX KELLY: Thank you, my apology.

15 Again, thank you, member -- thank you --  
16 thank you, Mr. Chair, members, and thank you for  
17 this opportunity to present the views of the  
18 Executive Office of the Governor on the -- the  
19 proposed congressional reapportionment plan and to  
20 discuss our work and our contributions to this  
21 compromise plan.

22 Just to give you a very brief introduction,  
23 you know. Frequently today, I'll refer to  
24 improvements in the plan, and I think obviously the  
25 Chair and the -- and the sponsor gave a great

1 introduction to the plan. I'll be really speaking  
2 to just the 18 districts that are different,  
3 although sometimes I'll very generically refer to  
4 the plan as a whole. But I really am really  
5 referring to our specific and my specific  
6 contributions to those 18 districts.

7           And oftentimes throughout the presentation,  
8 I will compare very specifically this plan, Plan  
9 0109, to the primary plan the Legislature passed,  
10 Plan 8019. Although there are some instances where  
11 I'll refer to both, and I'll try to remember to  
12 identify both when I'm making a comment that  
13 definitely refers to both.

14           So for the purpose of my introduction, so I  
15 am the map drawer of the 18 districts in this plan.  
16 Obviously, I assumed that context would be helpful.  
17 So I am the map drawer of these districts, and to  
18 give you just a little bit of background of myself,  
19 10 years ago, I was the staff director of the House  
20 Redistricting Committee here in the Florida House of  
21 Representatives.

22           Starting in January this year, I initially  
23 served for our office in a role of just providing  
24 guidance and oversight to our in-house counsel and  
25 our contract counsel and also a contract map drawer

1 that we brought on board to help initially start our  
2 engagement in this process.

3 For reference, that contract map drawer  
4 that we brought on board -- his name is Adam Foltz  
5 -- the initial map that we submitted on behalf of  
6 our office, map 0079, was drawn by -- was authored  
7 by Mr. Foltz. For just a little context for his  
8 background, he has been a map drawer for state  
9 Legislatures in Wisconsin and Texas, and actually  
10 currently he's drawing maps for the state of Texas  
11 at this present time.

12 Much like your professional staff, myself,  
13 our map drawer who drew our original map, map 0079,  
14 we've only drawn maps on behalf of state government.  
15 Adam Foltz and I collaborated on our office's second  
16 contribution, map 0094, and, again, I alone authored  
17 the 18 changes -- the 18 districts that are changed  
18 in the map before you today and as to how they  
19 compare to map 8019.

20 Some additional notes I'll point out at the  
21 outset that will be helpful for today, one, no one  
22 directed me to favor or disfavor a political party  
23 or incumbent throughout this process, and I did not  
24 draw any districts or make any districts or make any  
25 contributions with the intent of favoring or

1 disfavoring a political party or an incumbent.

2 Two, in drawing any of the districts  
3 submitted by our office, I did not consider or even  
4 look at political data, including party  
5 registration, voter data. In other words, I do not  
6 know the voting history or party registration  
7 numbers for any of the districts that I have drawn.

8 With that said, the only time I did  
9 reference political data in my work was early in the  
10 process. I did -- I did reference political data  
11 early in the process when we were observing the work  
12 of the Legislature and we were identifying whether  
13 or not it was possible to draw a compact African  
14 American performing district in Northeast -- in  
15 Northeast Florida to both try to comply with the  
16 U.S. Constitution and the State Constitution and  
17 apply -- comply with the State Constitution in the  
18 way that the Florida Supreme Court has interpreted  
19 it and the way this Legislature has implemented it.

20 So essentially, I took a look at whether or  
21 not it was possible to sort of check all the boxes,  
22 so to speak, with complying with the U.S.  
23 Constitution and the State Constitution in drawing a  
24 more compact minority performing district.  
25 Ultimately, I determined it was not possible to do

1 so.

2 Three, in drawing the compromised plan that  
3 you -- that you have before you here today in this  
4 legislation and contributing to office's two prior  
5 proposals and in the totality of our office's  
6 engagement in this process, I have not in any way  
7 consulted with anyone outside the Executive Office  
8 of the Governor, our contract counsel, our contract  
9 map drawer, the Legislature, and its counsel. So  
10 I've only worked within the parties here in the  
11 House, Senate, and our office and our contract  
12 counsel.

13 In other words, I can confirm -- said  
14 differently, I can confirm that I've had no  
15 discussions with any political consultant, no  
16 partisan operative, no political party official  
17 concerning any plans proposed by our office and  
18 plans considered by the Legislature. In effect, I  
19 have engaged in this process, including authoring  
20 this proposed compromise plan, in a manner that  
21 meets the same high standards that you set forth for  
22 your professional staff.

23 And this plan that you're considering today  
24 in House Bill 1-C, Plan 0109, is indeed a  
25 compromise. It is the product of consultation and

1 collaboration between our office and House and  
2 Senate leadership, and it incorporates portions of  
3 the plan passed by the Legislature.

4 As Chair Leek noted, Senate Bill 102,  
5 Primary Plan 8019, concepts, of course, from 10  
6 districts are included block for block in their  
7 entirety in this map. This compromise plan also  
8 includes concepts from our two prior office's  
9 submissions, Plan 0079 and 0094.

10 It also includes concepts from the map that  
11 was actually referred out of this Subcommittee, map  
12 -- or Plan 8011 prior to -- or I guess out of this  
13 Subcommittee on its way to the full committee and  
14 aligns in several other ways that I'll describe with  
15 plans considered and the style of the House and  
16 Senate's map drawing.

17 As we noted -- in fact, I think, Chair  
18 Leek, you did a great job of really summarizing this  
19 slide. So I can probably just -- probably just skip  
20 this. But, you know, again, in general, the main  
21 crux of it is that I'm going to really focus my  
22 comments today on the 18 districts that did change.

23 First, in an effort to create a  
24 collaborative product, I worked off the  
25 Legislature's primary plan 8019. So while I was

1 seeking to remedy the Governor's veto message and  
2 make improvements throughout the map, I began my  
3 work downloading Plan 8019 and subsequently making  
4 changes.

5           Regarding the proposed plan before you  
6 today, it maintains the same number of performing  
7 majority-minority seats. It retains the  
8 Legislature's exact configuration as was shown in  
9 the map of the Panhandle districts and also  
10 Southeast Florida, essentially St. Lucie through  
11 Monroe Counties.

12           For reasons set forth in the detailed  
13 memorandum that -- I think it may have been  
14 distributed to the members prior to the meeting --  
15 the detailed memorandum that our general counsel  
16 wrote to accompany the Governor's veto message, the  
17 compromise proposal eliminates the racially  
18 gerrymandered versions of Congressional District 5,  
19 which were included in Senate Bill 102, both the  
20 primary plan and the secondary plan. Members, that  
21 legal memorandum is included -- again, I think  
22 hopefully it's been distributed. That legal  
23 memorandum is available.

24           In summary, Congressional District 5 in  
25 both the primary and secondary maps enacted by the

1 Legislature violates the Equal Protection Clause of  
2 the United States Constitution because it assigns  
3 voters primarily on the basis of race but is not  
4 narrowly tailored to achieving -- to achieve a  
5 compelling state interest.

6 Again, that memorandum otherwise fully  
7 explains the Governor's legal objections to both  
8 versions of that district in the primary and  
9 secondary maps as it passed the Legislature.

10 I will say because I am the map drawer, I  
11 am not legal counsel to the Governor. I'm going to  
12 be careful to really focus my comments today on the  
13 drawing of the map and not venture into that legal  
14 world. It's a little beyond -- it's probably a  
15 little beyond my training. So I'm really going to  
16 -- going to focus on the map itself and those 18  
17 districts.

18 Plan 0109 creates two new districts,  
19 Districts 4 and 5, in Northeast Florida consistent  
20 with maps previously proposed by our office with  
21 some minor improvements. These two districts are  
22 race neutral and overall more compacts than  
23 Districts 4 or 5 in the maps passed by the  
24 Legislature.

25 In addition to resolving federal

1 constitutional objections raised by the Governor,  
2 the proposed compromise plan makes overall  
3 improvements with respect to Tier 2 redistricting  
4 criteria relative to the maps passed by the  
5 Legislature by bringing together some of the best  
6 concepts from the Legislature's prior maps and our  
7 office's maps.

8           Plan 0109 adjusts the congressional  
9 districts in Tampa, for example, the Tampa Bay area  
10 and the larger Gulf Region, stretching from Citrus  
11 down to Lee Counties and impacting some inland  
12 counties to create a hybrid compromise of the  
13 Legislature's and our office's maps.

14           These changes improve overall visual  
15 compactness, have a net effect of reducing a county  
16 split, and significantly increase the usage of Tier  
17 2 political and geographical boundary lines.

18           In the Central Florida region, Plan 0109  
19 aligns more closely with the map that was referred  
20 out of this Subcommittee, Plan 8011, with one  
21 distinction that aligns with Senate Plan 8060 as it  
22 passed the Senate.

23           With respect to the similarities with the  
24 House's Plan 8011, specifically with respect to  
25 Congressional District 10, we accept the position

1 articulated by the House's professional staff in  
2 this Subcommittee in that meeting, that this  
3 district is not subject to the Florida  
4 Constitution's non-diminishment standard because the  
5 benchmark district does not contain an African  
6 American population sufficient enough, large enough  
7 to reliably elect a candidate of their choice.

8           We understand that the House and Senate  
9 disagree on this point. However, because districts  
10 cannot be drawn on the basis of race unless there is  
11 a compelling reason to do so, the absence of  
12 agreement between the House and Senate on the need  
13 to treat District 10 as a minority protected  
14 district under the State Constitution indicates that  
15 a compelling basis for using race is lacking.  
16 Essentially, the disagreement between the two  
17 chambers, as articulated in the testimony, is a  
18 reason for a lack of evidence.

19           Accordingly, the proposed plan defers to  
20 the House's stated testimony in that Committee  
21 meeting or Subcommittee meeting, and my changes to  
22 the districts in Central Florida region, including  
23 District 10, are drawn on race -- on race neutral  
24 principles.

25           Again, these changes in Central Florida

1 result in Tier 2 improvements for the Central  
2 Florida region. And the combination of these  
3 changes in Central Florida and the Gulf Coast  
4 counties result in some additional Tier 2  
5 improvements for other impacted districts like  
6 Districts 3, 6, and 11.

7           Lastly, in-between the submission of our  
8 office's second map, Plan 0094, and my drawing of  
9 this plan, 0109, I received feedback from House and  
10 Senate staff regarding our second maps overreliance  
11 on the boundaries of census-designated places. I  
12 was encouraged to follow the House and Senate's  
13 preferred methodology of boundary usage to increase  
14 our usage of major roadways, waterways, and railways  
15 for Tier 2 compliance.

16           Our second map closely adhered to county  
17 and city lines. So that was not a concern, although  
18 less frequently to the other Tier 2 recognized  
19 boundaries. Therefore, throughout these 18 revised  
20 districts, I adopted the Legislature's -- the House  
21 and Senate's preferred and clear articulation of  
22 Tier 2 compliance. So even where I was trying to  
23 articulate a general concept from one of our  
24 office's prior maps, I made such revisions using the  
25 Legislature's preferred approach to Tier 2

1 compliance.

2           In the next few slides, I'll just walk you  
3 through some key points regarding those Tier 2  
4 improvements. First, the proposed plan reduces by  
5 one the number of county splits from 18 to 17 by  
6 keeping Citrus and Sarasota Counties whole in lieu  
7 of Polk, effectively a two-for-one swap.

8           Furthermore, where there are county splits,  
9 the number of ways in which those counties are split  
10 is reduced. For example, probably the most visible  
11 of those changes in a larger county is reducing the  
12 number of districts within a portion of Hillsborough  
13 County from four to three.

14           Second, the proposed plan reduced reliance  
15 on nongeographic and nonpolitical boundaries from  
16 12.5 percent to 11.5 percent, not a significant  
17 difference but nonetheless showing that effort to  
18 again utilize more frequently, well-recognized  
19 political and geographical boundary lines in that  
20 Tier 2 manner. In other words, when I mentioned  
21 previously that I adopted the House and Senate's  
22 preferred way to articulate compliance, this is the  
23 result of that.

24           Third, although the mean compactness scores  
25 are largely equivalent to each other when comparing

1 my efforts in map 0109 and Plan 8019 as passed by  
2 the Legislature, the proposed plan improves the  
3 compactness score of the least compact district such  
4 that Plan 0109 would be, I believe, the first map  
5 considered by the Legislature where every district  
6 has a Reock and Polsby-Popper score greater than  
7 0.2.

8 I should say, moreover, visually we'll see  
9 in a few moments many of the districts are plainly  
10 just more circular, squared, more visually compact  
11 shapes that are more easily understandable.

12 Lastly, my changes to Plan 0109 stayed  
13 equal to the Legislature's achievement of only  
14 splitting 16 cities in primary plan 8019. There are  
15 some differences about which cities are split when  
16 comparing my revisions to the map passed by the  
17 Legislature, specifically I keep Cape Coral, Plant  
18 City, and Port Orange whole, whereas the Legislature  
19 kept Lakeland, St. Pete, and Longboat Key whole.

20 What I did take care to do in each of those  
21 cases was first to make sure that if there was a  
22 city split in that sort of three cities for three  
23 cities swap, to make sure that those cities  
24 nonetheless were still only contained within two  
25 districts, as the way the Legislature did, as the

1 way you did.

2           And additional -- and additionally, I tried  
3 to make sure that those city splits still made  
4 meaningful use of other Tier 2 metrics. For  
5 example, as you know, Longboat Key is one of four  
6 cities in the state that is itself split across two  
7 different county lines. When I made the effort to  
8 keep Sarasota County whole, that resulted in  
9 splitting Longboat Key because both Manatee and  
10 Sarasota were kept whole but kept whole in two  
11 different districts, although certainly that was an  
12 exchange of Tier 2 compliance that was well worth it  
13 in order to keep an entire county whole.

14           I should say just as a disclaimer in saying  
15 all of this, I don't mean to ever suggest -- and I  
16 think, Chair Sirois, you got at this point -- I  
17 don't ever mean to suggest there is a statistical  
18 line in the sand for what Tier 2 -- Tier 2 compliant  
19 compactness or county splits or city splits looks  
20 like.

21           But at the same time, in authoring a  
22 compromise plan, I recognized that I should author a  
23 plan that recommends improvements and builds upon  
24 the work of the Legislature, at the very least give  
25 you a plan that never goes backwards and at least



1 you just looked at something similar. One of the  
2 key facets of my work in the proposed plan was to  
3 make sure that there was no collateral, unintended  
4 consequences to my changes without making some sort  
5 of equal or better Tier 2 change.

6 So as I changed one part of the map -- for  
7 example, as you see, I split Polk County as part of  
8 the swap for keeping Citrus and Sarasota Counties  
9 whole. I get a little more in-depth as to exactly  
10 how that worked in a little bit. In doing so, I  
11 incorporated several Tier 2 changes to Polk County  
12 to make sure the new lines were still very  
13 meaningful.

14 And in saying that, two-thirds of the  
15 residents in proposed District 18 on the right are  
16 still coming from Polk County. Clearly, the  
17 Legislature was articulating options that centered a  
18 district largely around Polk County. And so even  
19 though I've split the county in order to pick up  
20 Sarasota and Citrus kept whole, I've done so in a  
21 way where Polk County is still the predominant two-  
22 thirds of the population of a district.

23 Shifting to Districts 4 and 5 on these next  
24 couple slides, I already provided some context  
25 previously about the newly proposed composition of

1 these two districts. Just some other general points  
2 that I didn't say earlier. The boundary lines  
3 between the two are mostly the St. Johns River.

4 As you know, Jacksonville is the one city  
5 in the state that is larger than a congressional  
6 district. So you must split it, and the river,  
7 which nearly equally divides the city, stands out as  
8 a logical, recognizable Tier 2 boundary. If you  
9 have to split the city somewhere, it stands out as  
10 maybe the most recognizable boundary to do so.

11 And in doing so, the maps on the right in  
12 Plan 0109 were overall the combined -- when you  
13 compare the compactness of the Districts 4 and 5  
14 there compared to Districts 4 and 5 on the left,  
15 combined, they still improve the overall compactness  
16 of the two, even making the split through the river.

17 The southern boundaries of District 4 and 5  
18 -- I should -- let me go back. The southern  
19 boundaries of Districts 4 and 5 are still exactly as  
20 the Legislature proposed them. So the use of the  
21 Clay-Putnam line is the same as the Legislature  
22 proposed it, and where the split occurs in St. Johns  
23 County is exactly as the Legislature proposed it.  
24 So we didn't change the southern boundary. I didn't  
25 change the southern boundary of Districts 4 and 5.

1           The last point about these two districts I  
2     want to make sure and show you, make sure you see,  
3     is that District 4 does need to cross the river at  
4     some point for the purposes of equal population, and  
5     that population difference was about 1500, 2000  
6     residents. So knowing the district has to cross at  
7     some point, cross the St. Johns River, I tried to  
8     make that a meaningful crossing of the river.

9           Our original iteration of this crossing, I  
10    think, was less deliberate. In this improvement  
11    configuration, I used the bridges of the Arlington  
12    Expressway and Interstate 295 to literally allow a  
13    resident to not have to leave District 4 in order to  
14    traverse District 4. So again, just trying to use,  
15    even in the zero population work on a district,  
16    trying to use those boundaries in some kind of  
17    meaningful way.

18           The next few slides, slides 14 through 21,  
19    visualize my changes to the Gulf Counties from  
20    Citrus down to Lee and how those districts impact  
21    the counties inland to the east, north, and south.  
22    And I'm showing this in a way that I thought about  
23    it, trying to make Tier 2 improvements, how I  
24    thought and went through the map to make those  
25    changes. And essentially this is again a hybrid of

1 the Legislature's maps and our office's prior plans  
2 in this region.

3 In order to achieve worthwhile Tier 2  
4 improvements to this region, I did have to revisit  
5 how the entire region was drawn. Slide 15, as this  
6 slide illustrates, the Legislature's decision to  
7 keep Broward, Osceola, and Polk Counties whole --  
8 nothing wrong with that decision. Obviously keeping  
9 counties whole is a great decision -- but the  
10 Legislature's decision to keep Broward, Osceola, and  
11 counties (sic) whole places limitations on what  
12 could be done in the Tampa Bay region and the  
13 counties to the north and south of Tampa Bay.

14 Keeping Broward -- I'm sorry -- Broward,  
15 Osceola, and Polk Counties whole creates effect --  
16 in effect -- I'm sorry. Go ahead -- in effect,  
17 creates a wall across three-quarters of the state.  
18 Breaking that wall in Polk County essentially gives  
19 the map drawer more flexibility in considering  
20 different options for drawing more compact districts  
21 and more adherence to political and geographical  
22 boundary lines in those Western Gulf Counties in the  
23 state of Florida.

24 So in effect, Polk County -- freeing Polk  
25 County up then allowed additional considerations.

1 Otherwise, if it's kept whole, it limits what the  
2 map drawer can do in along Tampa Bay and north and  
3 south of Tampa Bay.

4 Slide 16, for example, this Congressional  
5 District 12 now includes all of Citrus County. In  
6 the Legislature's configuration, Citrus County was  
7 split. So now, Citrus County is kept whole in this  
8 district. Of course, obviously, now District 12  
9 takes a much more squared-up, linear shape.

10 Just a few details about the district and  
11 the district just to the south of it, that pink  
12 district, District 15, District 12 is actually still  
13 a majority Pasco County seat, yielding about 141,000  
14 Pasco County residents to District 15. The  
15 boundaries between 12 and 15 are almost entirely  
16 defined by state roads and municipal boundary lines.  
17 Zephyrhills is entirely included in District 15.  
18 Saint Leo, San Antonio, and Dade City are entirely  
19 included in District 12.

20 Taking a look then south of the Tampa Bay  
21 region, going down to Sarasota County, the changes I  
22 began in Polk also allowed keeping Sarasota County  
23 whole in District 17, which, like District 12, now  
24 includes two whole counties and portions of a third  
25 to get equal population.

1           The southern portions of District 17 that  
2 extend into Lee County only take unincorporated  
3 communities, leaving all municipalities from Lee  
4 County whole in District 19. This is how I was able  
5 to keep Cape Coral whole in District 19. And the  
6 boundaries are almost entirely city lines or  
7 significant roadways, again, leaning on these Tier 2  
8 principles.

9           Taking this approach to the north and south  
10 of Tampa Bay then gave me a better chance to draw  
11 visually compact districts in Tampa Bay and make  
12 improved usage of Tier 2 political and geographical  
13 boundaries.

14           Zooming in a little further on Pinellas  
15 County in the bay, it's seen from the Legislature's  
16 process that having a seat wholly in Pinellas County  
17 was an important goal. So I quite literally worked  
18 my way west to east, starting with District 13,  
19 while I also built my way south to north with  
20 District 16, coming from Manatee County, which is  
21 still kept whole in this plan.

22           Really leaning in heavily on Tier 2  
23 standards of compactness and use of Tier 2  
24 boundaries, I split Districts 13 and 14 in the north  
25 with the use of the Pinellas-Hillsborough County

1 line, as the Legislature did, and I largely utilized  
2 U.S. 19 as the southern divider. I get my equal  
3 population in that middle section of District 13, in  
4 the unincorporated Feather Sound area just north of  
5 St. Pete.

6 So while I split St. Pete, I'm doing so  
7 making a clear use of Tier 2 boundaries. As -- and  
8 as I built District 14 eastward and northward in  
9 Tampa Bay, again, I sought to ensure that the  
10 boundaries of the district were defined by clear,  
11 recognizable, Tier 2 boundaries like major roadways  
12 and as I was trying to maintain something of a  
13 square or rectangular shape to District 14 to keep  
14 it compact.

15 You'll see in these next few slides where  
16 some of the linkage along predominantly roadways  
17 occurs between these districts, in this particular  
18 case, between the northern portion of Districts 14  
19 and 15 and even District 12 in Pasco County. That's  
20 largely the Suncoast Parkway -- that's -- I'm sorry.  
21 It's largely the Suncoast Parkway squared off at a  
22 county road, as it essentially takes Suncoast  
23 Parkway south.

24 You meet up with a county road, and then  
25 make a -- I guess if you were traveling south, you

1 make a left at Busch Boulevard, over to the  
2 municipality of Temple Terrace. And I have Temple  
3 Terrace highlighted on the map. The Legislature had  
4 a very similar configuration around Temple Terrace  
5 to accommodate the municipal boundaries wholly in a  
6 district.

7 And you'll see that I continued on the  
8 Suncoast Parkway into Pasco County, so if you take  
9 Suncoast Parkway north into Pasco County and then  
10 turn on State Road 54, which is a little curvy but  
11 nonetheless a state road to divide Districts 12 and  
12 13.

13 What you see here in the unincorporated  
14 Brandon area is also a point of emphasis that I  
15 achieved a few times when three districts would meet  
16 at a point. I essentially tried to make use of a  
17 clear -- of clearly recognizable roadways in a Tier  
18 2 manner to be distinguishable dividers between  
19 districts. So in this case, that juncture of U.S.  
20 301 North and South and State Road 60 East and West  
21 makes a clear boundary when these three districts  
22 meet.

23 And as I was drawing District 16 from  
24 Manatee County north into Hillsborough County, I  
25 really wanted to hold State Road 60 as a clear

1 divider that could later be utilized in Polk County,  
2 where Districts 15 and 18 would eventually meet.  
3 The resulting District 15 also keeps Plant City  
4 whole, and despite going into Pasco and Polk  
5 Counties, is still approximately two-thirds  
6 populated by Hillsborough County residents.

7 The next five slides visualize my changes  
8 to the Central Florida region, again, largely  
9 returning to the concepts that this Subcommittee  
10 passed in Plan 8011 with one exception.

11 That one exception -- we'll start there.  
12 That one exception being that I followed more  
13 closely to the Senate's concept for Congressional  
14 District 8 in that rather than taking the district  
15 into southern Volusia to get the last bit of equal  
16 population necessary, I turned the district into  
17 eastern Orange. That means this proposed plan only  
18 splits Volusia County two ways rather than into  
19 three different districts, bringing District 7 down  
20 to the Volusia-Broward County line without  
21 increasing the number of districts in Orange County.

22 Essentially, there as a turning of the  
23 wheel, if you will, as to where these districts'  
24 boundaries were to square them up, make them more  
25 compact, but not actually have any negative impact

1 on the boundary usage of Orange County but have a  
2 positive on the boundary usage in Volusia County.

3 Again, as I mentioned in my opening, I  
4 authored District 10 in the House's plan to look  
5 more -- I'm sorry -- this plan to look more like the  
6 House's plan, Plan 8011, as it passed the  
7 Subcommittee, very compactly keeping several cities  
8 whole in either Districts 9, 10, or 11.

9 And as you zoom in, I highlighted the  
10 municipality -- as you zoom in, I highlighted the  
11 municipality of Edgewood, and right next to that is  
12 Belle Isle, and both are kept whole in District 9.  
13 That explains how District 9 extends upward just  
14 slightly, again, utilizing predominantly major  
15 roadways, but it's to accommodate these two  
16 municipalities and either put them wholly in one  
17 district or the other. In this case, puts them  
18 wholly in District 9. Winter Park and Maitland are  
19 kept whole in District 10, and Ocoee, Apopka, and  
20 Winter Garden are kept whole in District 11.

21 The boundaries between these districts are  
22 almost -- are also very much defined by Tier 2,  
23 either keeping the aforementioned cities whole,  
24 utilizing county boundaries -- like you look at  
25 District 10. That boundary is the Orange-Seminole

1 boundary line -- or utilizing major, well-recognized  
2 roadways and waterways, except where necessary to  
3 get equal population.

4 That western boundary, for example, between  
5 Districts 10 and 11 is largely the Apopka-Vineland  
6 Road, except where the road briefly discontinues  
7 about halfway down the western border of the  
8 district.

9 And then the southwestern border of  
10 District 10 is another clear -- really clear usage  
11 of significant roadways to separate Districts 9, 10,  
12 and 11 using Interstate 4 and State Road 528, where  
13 they all come together. Again, that achieves really  
14 giving those districts a clearly recognizable  
15 boundary.

16 The combination of moving District 10 back  
17 very compactly towards the middle of Orange County  
18 along with keeping Citrus County whole in District  
19 12 creates a visually improved, more compact  
20 District 11, again, essentially turning the wheel,  
21 if you will, of District 11, shifting from the  
22 angled shape in Plan 8019 to a more circular shape  
23 in Plan 0109 and still includes all of Sumpter  
24 County.

25 The combination of reshaping District 7,

1 10, 11, and 12 then allowed me to reduce the number  
2 of districts in Marion County from three to two.  
3 The result is that both Districts 3 and 6's  
4 boundaries follow State Road 301 north to south,  
5 similar to the way the Legislature defined the  
6 boundaries just a little further east -- the  
7 Legislature just used different roadways -- 301  
8 north to south, loop around the boundaries of Ocala,  
9 and then -- which is wholly in District 3, and then  
10 continue down Interstate 75, so again just using  
11 very clear, Tier 2 boundaries.

12 The borders between Districts 6 and 11,  
13 just for your reference, in the Lake County area is  
14 mostly defined by city boundaries and waterways with  
15 Lady Lake, Eustis, and Mount Dora entirely in  
16 District 6, while Fruitland Park, Leesburg, and  
17 Tavares are entirely in District 11.

18 The work to get equal population -- I  
19 referenced that little piece that's in Lake County  
20 of that eastern, northeastern piece of District 11  
21 that's in Lake County, the work to get equal  
22 population is largely done tracking right there  
23 along State Road 46 as it exits Lake County, and  
24 that work is largely in the unincorporated Sorrento  
25 area.

1           The totality of this and other changes that  
2 brought, for example, District 7 down to Volusia and  
3 Broward, resulted in District 6 taking a more  
4 compact, overall circular shape. When you pull back  
5 on the map, it has a much more circular shape.

6           Of course, several of these changes had  
7 impacts on Polk County, and I wanted to make this --  
8 those impacts beneficial in a -- in a Tier 2  
9 context. So I factored in how Districts 9, 11, and  
10 15 share boundaries with District 18, which, again,  
11 District 18 is actually about two-thirds of the  
12 residents are from Polk County, one-third from six  
13 whole rural counties.

14           First, regarding District 9, I did a couple  
15 things that were both helpful in filling out and  
16 smoothing this visual and statistical compactness as  
17 well for District 9, including also picking up a  
18 portion of incorporated Poinciana and the lake that  
19 essentially represents that piece of Polk County  
20 that otherwise sticks into Osceola County. I also  
21 extended District 9 out slightly at the northwest  
22 Osceola border, utilizing Highway 27 and the Ronald  
23 Reagan Parkway.

24           So the overall idea here was threefold. It  
25 creates -- as you pull back from the map, it creates

1 a visual smoothing of the line, about as smooth as  
2 the Polk County-Osceola border will give you a  
3 chance to do, but it creates a visual smoothing of  
4 the line, which does help with statistical and  
5 visual compactness. It eliminates the visual and  
6 noncompact effects of that inlet between Polk and  
7 Osceola, which, again, contributes to the overall  
8 compactness.

9           And I was trying to get the population just  
10 right in Districts 9 and 18 so that District 11  
11 could have that essentially sort of nearly flat,  
12 very roadway-bounded eastern wall abutting up to  
13 District 10 in Orange County. So the visual effect  
14 of what was achieved in Orange County and how the  
15 Districts 9 and 18 interacted in Polk County all had  
16 a -- all had a significant effect on each other, and  
17 there was a lot of give and take to make that effect  
18 work.

19           As I referenced the boundaries between  
20 Districts 11 and 15 -- I'm sorry -- 11 and 18,  
21 generally speaking, those boundaries focus around  
22 Interstate 4. However, you do see some extensions  
23 on either side of Interstate 4 between Districts 11  
24 and 18.

25           Polk City is entirely included in District

1 11, but there are a couple of pieces of Polk City  
2 that go across Interstate 4. Auburndale is included  
3 entirely in District 18, but there are a couple  
4 pieces of the city that go across the Interstate.  
5 And I mentioned earlier, while Lakeland is split in  
6 this map, I wanted to make sure it wasn't split in  
7 more than two districts.

8           So as you get close to District 15 there,  
9 where you see, again, another jumping across I-4,  
10 those are just boundaries of the city of Lakeland  
11 and then some of the zero-population work that I did  
12 as well.

13           And then when you look at the boundaries of  
14 District 11, 15, then back down to 18, U.S. Highway  
15 98 is largely the vast majority of that boundary,  
16 really extending out of Pasco County into Polk  
17 County through Lakeland, utilizing U.S. Highway 98  
18 for most of that.

19           The southern boundary, which I made  
20 reference to before when looking at the Hillsborough  
21 region, is State Road 60. As I mentioned  
22 previously, I wanted to hold that boundary line in  
23 Hillsborough County with 15 north of that boundary,  
24 16 south of it, taking that boundary out -- boundary  
25 out of the county so that that southern connection

1 between 15 and 18 would still utilize State Road 60.  
2 And then zero population work there was done just  
3 north of the city boundaries of Mulberry in Polk  
4 County.

5           Again, as I mentioned earlier in my  
6 presentation, overall, this map equals the city  
7 splits, 16, of the Legislature's primary plan, but,  
8 of course, some of the splits are different. And,  
9 you know, and I referenced earlier that I made sure  
10 that where there was a split, a city was only split  
11 two days.

12           Furthermore, the resulting District 18 is  
13 again still a two-thirds Polk County district. I  
14 could clearly see that the Legislature was  
15 attempting to create in pretty much any map that was  
16 considered a majority Polk district. While this is  
17 a different configuration, I've still achieved the  
18 same overall goal of creating a majority Polk County  
19 district in District 18 with numerous Tier 2  
20 considerations and improvements around it.

21           Just moving on to the last couple slides,  
22 looking at Southwest Florida, I had to make some  
23 decisions as a result of those decisions I discussed  
24 previously, largely in part due to the Tier 2  
25 efforts to keep Sarasota whole and creating District

1 17 with all of Sarasota, all of Charlotte, and  
2 incorporated portions of Lee Counties.

3 My newly composed District 17 required me  
4 to equal -- equalize population for District 18  
5 through the entirety of Hendry County and then  
6 finding approximately another 4500 residents  
7 elsewhere.

8 In our office's prior plan, I found those  
9 residents in western Palm Beach County, in the  
10 cities and around the cities around Belle Isle,  
11 Pahokee, and that area. However, in this compromise  
12 plan, as we discussed earlier, as the Chair  
13 discussed, we were not affecting some of the  
14 Southeast Florida districts. So I wanted to hold  
15 the Palm Beach County line as the Legislature did in  
16 its plan.

17 So zooming in a little more closely, as  
18 you'll see on this last slide, I equalized the  
19 population in Collier County, which was already  
20 split once, extending District 18 along State Road  
21 -- kind of that angle along State Road 82, down  
22 State Road 29 North, and then east along County Road  
23 846 to get those additional 4500 residents for  
24 District 18 and balance the population.

25 And for District 26, I had to further

1 extend District 26's western boundaries closer  
2 towards unincorporated East Naples, utilizing  
3 roadways and waterways as boundaries between 26 and  
4 19, except where necessary to equalize population.  
5 The resulting District 26 still has a Hispanic  
6 voting age population of 73.22 percent.

7 And with that said, Mr. Chair, that is my  
8 explanation of the changes in House Bill 1-C.

9 REPRESENTATIVE LEEK: Thank you, Mr. Kelly,  
10 for that presentation. Additionally, members, this  
11 bill appropriates \$1 million to the Department of  
12 State for expenses related to the litigation of the  
13 congressional map. The bill also includes language  
14 related to state courts. It requires any state  
15 court challenge to the congressional map to be filed  
16 in Leon County.

17 All changes based on state law -- or excuse  
18 me -- all challenges based on state law to be filed  
19 in state court, rather than federal court, permits  
20 any state court challenge to raise both state law  
21 claims and, to the extent the circuit court has  
22 jurisdiction, federal law claims, and finally makes  
23 explicit that nothing in the bill precludes federal  
24 courts from deciding challenges based on the federal  
25 law.

1 Mr. Chairman, that is the bill.

2 CHAIRMAN SIROIS: Thank you very much,  
3 Chair Leek.

4 For the members of the audience, I noticed  
5 several more folks have joined us. Just as a matter  
6 of housekeeping, if you would like to provide public  
7 testimony today, please fill out a speaker form with  
8 the Sergeant at Arms. They have those available.

9 Members, we're now going to move into  
10 questions on the bill. I would ask that all  
11 questions go through the Chair, and I want to offer  
12 my reminder once again about my expectation for  
13 decorum and civility in this Committee.

14 Members, again, just kind of looking at the  
15 clock, we can remain in questions -- maybe we'll  
16 give it to about 5:05, 5:10, see where we're at. I  
17 want to make sure that we have plenty of time  
18 remaining to receive that public testimony.

19 Ladies and gentlemen, we appreciate you  
20 being here today with us.

21 And with that, we will move into questions.

22 Representative Hunschofsky.

23 And, members, just kind of to roadmap  
24 things out, what I'd like to do is give members a  
25 couple of bites at the apple, perhaps a couple of

1 questions and a follow-up. And then to make sure  
2 everybody has had an opportunity, we'll rotate  
3 through and then entertain a second round of  
4 questions, time permitting.

5 Representative Hunschofsky, you are  
6 recognized.

7 REPRESENTATIVE HUNSCHOFSKY: Thank you,  
8 Chair Sirois. And how many questions is that, that  
9 we're allowed in our first round? Just out of  
10 curiosity.

11 CHAIRMAN SIROIS: Go for it.

12 REPRESENTATIVE HUNSCHOFSKY: Okay. I'll go  
13 for it.

14 Thank you very much for presenting the map  
15 that you drew. You mentioned that this was a  
16 compromise map. Yet when we voted on the maps that  
17 we passed, we had a map, and we had a secondary map,  
18 one map, not -- so I'm not understanding how this is  
19 a compromise. Could you explain what you mean by  
20 that? Because I thought the secondary map was the  
21 compromise and even the first map.

22 ALEX KELLY: Chair?

23 CHAIRMAN SIROIS: Sir, you're recognized.

24 ALEX KELLY: Thank you.

25 At that time, our office had not agreed on

1 either of those two maps. There were obviously  
2 pieces of those two maps that we've incorporated  
3 here, of course, 10 of those districts exactly from  
4 8019, and there are concepts from those two maps  
5 that we've sort of hybridized (sic) with concepts from  
6 the maps that our office previously published. But  
7 we didn't come out and support either of those two  
8 maps.

9 CHAIRMAN SIROIS: And to offer further  
10 clarification, the map that is being presented today  
11 by Chair Leek and the Governor's Office has provided  
12 us with commentary on includes many portions of what  
13 the Legislature passed.

14 Representative Hunschofsky, you're  
15 recognized.

16 REPRESENTATIVE HUNSCHOFSKY: Thank you,  
17 Chair Sirois.

18 So we had a whole bunch of meetings during  
19 committee weeks about all the Tiers, and it was  
20 drilled into us the Tier 1 and the Tier 2. I  
21 noticed in your presentation there was a strong  
22 concentration on Tier 2, which we were all told in  
23 every single committee meeting we've been in, that  
24 those are only to be looked at after the Tier 1  
25 standards have been satisfied.

1           And one of the Tier 1 standards that came  
2 up when we had Mr. Popper (phonetic) was the fact  
3 that districts shall not be drawn -- and I'm reading  
4 this from what was presented to us from the House  
5 staff as backup -- districts shall not be drawn with  
6 the intent or result of denying or abridging the  
7 equal opportunity of racial or language minorities  
8 to participate in the political process or to  
9 diminish their ability to elect representatives of  
10 their choice. A Tier 2 standard is districts shall,  
11 where feasible, utilize existing political and  
12 geographical boundaries.

13           So with that, I ask, why were the changes  
14 made to Districts 4 and 5 looking solely at Tier 2  
15 standard, even though a Tier 2 standard is after a  
16 Tier 1 standard has been met, and yet the Tier 1  
17 standard that I talked about doesn't seem to be met  
18 with the line that you drew? So what was -- why was  
19 a Tier 2 standard given priority over a Tier 1  
20 standard in that case?

21           CHAIRMAN SIROIS: Mr. Kelly, you're  
22 recognized.

23           ALEX KELLY: Thank you.

24           And first and foremost, I did note in my  
25 testimony that we didn't draw any districts with the

1 intent of favoring or disfavoring an incumbent or  
2 political party, and that is a Tier 1 standard. In  
3 addition, all the districts that we've drawn are  
4 contiguous, and that is a Tier 1 standard.

5 The other Tier 1 standard regarding  
6 diminishment, of course, was the major focus of the  
7 Governor's veto message and really the major focus  
8 of discussion. And after reviewing your work, the  
9 work of the Legislature overall, it was clear that a  
10 district couldn't be drawn to both satisfy the U.S.  
11 Constitution and the court's and the Legislature's  
12 understanding of the State Constitution. In such a  
13 situation, the federal Constitution has to prevail.

14 A plain language -- as I'm not -- as I'm  
15 not an attorney, a sort of plain language way of  
16 saying that is there was no obligation to redraw  
17 District 5 as it was -- as it was drawn in the  
18 benchmark. There was no obligation. There was no  
19 lawfully drawn district to not diminish from.

20 REPRESENTATIVE HUNSCHOFSKY: Chair?

21 CHAIRMAN SIROIS: Representative  
22 Hunschofsky, one final question, and then I'd like  
23 to move on to make sure we have adequate time for  
24 all members.

25 REPRESENTATIVE HUNSCHOFSKY: All right.

1 One final question --

2 CHAIRMAN SIROIS: We'll come back.

3 REPRESENTATIVE HUNSCHOFSKY: -- for this  
4 round. I have a whole other round --

5 CHAIRMAN SIROIS: Yes, ma'am.

6 REPRESENTATIVE HUNSCHOFSKY: -- a whole  
7 other section of the state.

8 CHAIRMAN SIROIS: We'll get there.

9 REPRESENTATIVE HUNSCHOFSKY: Why was the  
10 decision made then not to put District 5 on top of  
11 District 4, as opposed to go kind of meander around  
12 it? It would seem it would be more compact to have  
13 one on top of the other than to meander around the  
14 other.

15 And it doesn't seem like when compactness  
16 is the argument, even though it is a Tier 2 argument  
17 and still does not follow along the Tier 1 standard  
18 -- not the one that you mentioned, but the one that  
19 I mentioned -- I wondered why you wouldn't look to  
20 keep it, if compactness is so important, compact in  
21 that way so that you could not only meet your sub-  
22 Tier 2 standard but also the Tier 1 standard that I  
23 mentioned.

24 CHAIRMAN SIROIS: You're recognized.

25 ALEX KELLY: Thank you -- thank you,

1 Mr. Chair.

2 And obviously, you know, in terms of  
3 compactness, as the Chair noted in the beginning,  
4 there's no -- there's no one right redistricting  
5 map. That said, the districts that you're  
6 referencing are significantly more compact,  
7 significantly more compact in the benchmark.  
8 Visually, statistically, they are more compact than  
9 the maps that passed this Legislature. So they are  
10 more compact districts, and there was a rational  
11 choice to be made.

12 As I noted in my comments about those  
13 districts, Jacksonville is the lone city in the  
14 entire state that is larger than a congressional  
15 district. So it's a city you're going to divide,  
16 and a logical division to consider is the St. Johns  
17 River, which happens to almost divide the city in  
18 half on its own naturally. So it's a very logical  
19 dividing line.

20 It's clearly well-recognized in the  
21 community. So clearly, a constituent would have no  
22 question -- are they a voter in District 4? Are  
23 they a voter in District 5? -- which is the point of  
24 drawing a clear boundary line that follows a major  
25 roadway, a highway, or so -- or a waterway and so

1     forth. So it was a very logical and compact choice  
2     to make, and we had already satisfied Tier 1  
3     concerns.

4             CHAIRMAN SIROIS: Thank you, sir.

5             Ranking Member Skidmore, you are recognized  
6     in questions.

7             DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
8     you, Chair Sirois.

9             Thank you, Mr. Kelly, for being here today.  
10    This is -- I'm going to go a little slow because  
11    it's a lot to digest. It was a lot of -- a lot of  
12    changes. So does 109 split as many counties as 8019  
13    or more or less?

14            CHAIRMAN SIROIS: Mr. Kelly, you're  
15    recognized.

16            ALEX KELLY: Thank you, Mr. Chair.

17            It splits one less county, and also in  
18    addition to that, for those counties that are --  
19    that are split, it splits those counties fewer  
20    times. So it makes a couple types of county  
21    improvements. It keeps Sarasota and Citrus whole in  
22    exchange for splitting Polk. So it picks up a  
23    single county split -- or, I'm sorry, a single  
24    county whole. Sorry.

25            CHAIRMAN SIROIS: Representative Skidmore,

1 you're recognized.

2 DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
3 you, Mr. Chair.

4 Thank you for the answer. And does 109  
5 reduce the city splits from 8019 or increase city  
6 splits?

7 CHAIRMAN SIROIS: Mr. Kelly?

8 ALEX KELLY: Thank you, Mr. Chair.

9 It's equal.

10 DEMOCRATIC RANKING MEMBER SKIDMORE: Equal.

11 CHAIRMAN SIROIS: Ranking member.

12 DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
13 you, Mr. Chair.

14 Thank you for the answer. So if the -- if  
15 the Governor's veto was based on CD 5 and CD 4 and  
16 the number of city splits did not change and the  
17 number of county splits was reduced by one split,  
18 why did you redraw 18 districts instead of just the  
19 district that the Governor objected to?

20 CHAIRMAN SIROIS: Mr. Kelly.

21 ALEX KELLY: Thank you, Mr. Chair.

22 Of course, our office had previously  
23 submitted two entirely different state maps for the  
24 Legislature's consideration. So it's no secret that  
25 there were other preferences in the rest of the map.

1 There were other opportunities for Tier 2  
2 improvements throughout the rest of the map.

3 And so a veto message, of course, the veto  
4 message spoke to the Governor's most significant  
5 concern throughout the map, but it wasn't a secret  
6 that we had already published two complete maps  
7 before and made other recommendations throughout the  
8 rest of the map.

9 So with the opportunity to take a look at  
10 the rest of the map, obviously we deferred to the  
11 Legislature exactly block for block in 10 of those  
12 seats, but as I articulated, there were a number of  
13 opportunities, keeping counties whole -- sorry --  
14 keeping counties whole, the visual compactness of  
15 the map as well, and just overall a more clear  
16 usage, a more consistent usage of political and  
17 geographical boundary lines. So there were a number  
18 of improvements throughout the map.

19 CHAIRMAN SIROIS: Thank you, Representative  
20 Skidmore. Let's do a follow-up.

21 And then we have Representative Benjamin  
22 next on my list, and we'll come back to you in the  
23 next round.

24 DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
25 you, Mr. Chair.

1           Thank you -- thank you for the response.  
2    I'm going to pick -- I have to pick which question  
3    I'm going to ask. So the Governor's position is  
4    that there was no compelling reason to keep CD 5,  
5    but wasn't CD 5 actually drawn by the court? And is  
6    that not a compelling interest?

7           Thank you, Mr. Chair.

8           CHAIRMAN SIROIS: Mr. Kelly.

9           ALEX KELLY: Thank you, Mr. Chair.

10          The court got it wrong.

11          CHAIRMAN SIROIS: Representative Benjamin.

12          REPRESENTATIVE BENJAMIN: Thank you,  
13    Mr. Chair.

14          CHAIRMAN SIROIS: Representative Benjamin,  
15    I apologize.

16          Ladies and gentlemen, there are many new  
17    members of the audience that have joined us. I just  
18    want to offer a reminder again about the decorum  
19    that we have in this Committee. We don't have loud  
20    reactions in this Committee. We have business to  
21    conduct. We are pressed for time.

22          Representative Benjamin, you are  
23    recognized.

24          REPRESENTATIVE BENJAMIN: Thank you,  
25    Mr. Chair.

1           You represented earlier that the law and  
2 constitutional arguments are somewhat outside of  
3 your purview, but yet you've told us now that the  
4 court got it -- got it wrong. And -- but in that  
5 decision, the court was attempting to reconcile the  
6 federal Constitution and the State Constitution.  
7 Would that be a fair statement?

8           CHAIRMAN SIROIS: Sir.

9           ALEX KELLY: Mr. Chair.

10           I'm not aware, although I'm happy to defer  
11 to counsel to fill out this answer, but I'm not  
12 aware of where the state court -- the state Supreme  
13 Court was attempting to reconcile something between  
14 federal and state law. But I'm happy to defer to  
15 counsel if there is something I'm unaware of.

16           REPRESENTATIVE BENJAMIN: Mr. Chair?

17           CHAIRMAN SIROIS: Representative Benjamin.

18           REPRESENTATIVE BENJAMIN: Thank you.

19           Can you then tell me how did the court get  
20 it wrong?

21           ALEX KELLY: Thank you, Mr. Chair.

22           CHAIRMAN SIROIS: Mr. Kelly.

23           ALEX KELLY: And I'll -- and I'll offer  
24 sort of, you know, I think a two-part answer here.  
25 One, I walked through in my testimony that that was

1 a seat drawn predominantly based on one criteria,  
2 based on race. It is a racial gerrymander, and  
3 there was a failing to demonstrate that compelling  
4 state interest in doing so.

5 The other side of this, I can speak to from  
6 my time at that time working in the Legislature from  
7 2009 to 2012. The driving question behind Fair  
8 Districts was a district -- the poster child  
9 district was a district that sprawled from  
10 Jacksonville to Orlando. And in the end resolution  
11 a few years later, the court drew a district that  
12 sprawls from Jacksonville to Gadsden County. It  
13 didn't remedy the issue. It just replaced one  
14 gerrymandered district with another.

15 REPRESENTATIVE BENJAMIN: Mr. Chair?

16 CHAIRMAN SIROIS: (Indiscernible)

17 REPRESENTATIVE BENJAMIN: Thank you.

18 CHAIRMAN SIROIS: Representative Benjamin,  
19 you're recognized.

20 REPRESENTATIVE BENJAMIN: Thank you.

21 Are you aware that compliance with the  
22 Voting Rights Act by the courts has been considered  
23 a compelling state interest?

24 CHAIRMAN SIROIS: Mr. Kelly.

25 ALEX KELLY: Thank you, Mr. Chair.

1           That's a great question, and, again, you  
2 know, I'm not counsel for the Governor. But I'll  
3 speak to the extent of my knowledge of the Voting  
4 Rights Act. The Voting Rights Act speaks to  
5 districts where the minority community is 50 percent  
6 or more of the total community in the district, so  
7 in other words, if the African American or Hispanic  
8 voting age population of the district is 50 percent  
9 or more of the voting age population in the  
10 district.

11           That's not the end of that analysis, but  
12 that is a sort of introduction to that analysis.  
13 The district in question does not meet that  
14 threshold. So I don't see any scenario in which the  
15 Voting Rights Act is implicated by Congressional  
16 District 5.

17           CHAIRMAN SIROIS: Representative Benjamin,  
18 let's have one follow-up in this round, and then  
19 we're going to move to Representative Joseph. Thank  
20 you, sir.

21           REPRESENTATIVE BENJAMIN: Okay. Thank you,  
22 Mr. Chair.

23           In determining that it's not -- it was not  
24 narrowly tailored to be a compelling state interest,  
25 was it that it wasn't narrowly tailored or was it

1 that it wasn't a compelling state interest? Which  
2 14th Amendment or strict scrutiny analysis are we  
3 looking at?

4 CHAIRMAN SIROIS: Mr. Kelly.

5 ALEX KELLY: Mr. Chair.

6 I'm not sure I could answer that question  
7 directly. I can just say, in general, the  
8 obligation to define that compelling state interest  
9 is an obligation the map drawer has. So I, as  
10 someone who am saying that that district didn't  
11 define that, whoever drew that district has to meet  
12 that obligation, not me.

13 Counsel could probably elaborate a little  
14 bit further on the question if you want.

15 REPRESENTATIVE BENJAMIN: I would want.

16 CHAIRMAN SIROIS: If you have -- if your  
17 counsel is present --

18 ALEX KELLY: Yeah.

19 CHAIRMAN SIROIS: -- they can speak to the  
20 remaining portion of Representative Benjamin's  
21 question, and then we'll move on to Representative  
22 Joseph.

23 ALEX KELLY: Ryan Newman, the Governor's  
24 general counsel will hopefully help answer the  
25 remainder of the question.

1 CHAIRMAN SIROIS: Mr. Newman, you're  
2 recognized.

3 RYAN NEWMAN: Great. Thank you.  
4 Sure, I'd be happy to answer that.

5 CHAIRMAN SIROIS: Forgive me.  
6 Representative Benjamin.

7 REPRESENTATIVE BENJAMIN: Mr. Chair, can  
8 you have him go over the how the court got it wrong  
9 more specifically (Indiscernible)

10 CHAIRMAN SIROIS: If you would speak into  
11 the microphone and offer that -- offer that question  
12 please.

13 REPRESENTATIVE BENJAMIN: Can you give us  
14 more of a legal analysis as to the Governor's  
15 constitutional challenge to the -- to the map?

16 RYAN NEWMAN: Sure. So --

17 CHAIRMAN SIROIS: Mr. Newman, you're  
18 recognized.

19 RYAN NEWMAN: Thank you.

20 Sure. On the issue of the federal  
21 constitutionality of District 5 as it was originally  
22 configured, the Florida Supreme Court never actually  
23 addressed that question. That question has never  
24 been resolved by the federal -- by the -- by the  
25 Florida Supreme Court as to whether or not District

1 5, as it was configured, complied or not with the  
2 federal Constitution.

3 And so the -- so what we did in the memo  
4 that we submitted -- and it lays out, I hope, in  
5 sufficient detail the legal argument for why  
6 compliance with the Florida Constitution in Northern  
7 Florida -- and that's complying with the non-  
8 diminishment standard of the Florida Constitution --  
9 can't square with the Equal Protection Clause of the  
10 United States Constitution.

11 And so just a step back to sort of walk  
12 through the analysis, all right. The Supreme Court  
13 has made very clear that you cannot draw voting  
14 districts based on race unless the state can satisfy  
15 strict scrutiny. So there must be a compelling  
16 interest, and the district must be narrowly tailored  
17 to achieve that compelling interest.

18 Now, the only time that the United States  
19 Supreme Court has been willing to even countenance a  
20 compelling interest in this context is when there is  
21 good reason to believe that the district is  
22 necessary to comply with either Section 2 or Section  
23 5 of the Voting Rights Act.

24 And I need to point out, even on this  
25 point, that is still an open question. The U.S.

1 Supreme Court has only assumed that compliance with  
2 the Voting Rights Act is a sufficient compelling  
3 interest to justify a race-based district. That's  
4 very narrow, and the Supreme Court has only been  
5 willing to assume that much. It's never actually  
6 definitively held that.

7           So with respect to compliance with the  
8 Voting Rights Act, okay, there's two components to  
9 the Voting Rights Act. There's Section 2 of the  
10 Voting Rights Act, and there's Section 5 of the  
11 Voting Rights Act. Section 5 of the Voting Rights  
12 Act no longer applies in this context because of the  
13 Shelby County case, right, which wiped out Section  
14 4.

15           So Section 5 is no longer operative, but I  
16 do want to make an important point here. Section 5  
17 never applied to the state of Florida as a whole.  
18 It never has. So there was never -- even back, you  
19 know, in 1968 or whatever, you know, back when the,  
20 you know, the evidentiary basis for the Voting  
21 Rights Act of 1965 was being assembled, there was  
22 never sufficient evidence to determine that the  
23 entire state of Florida should be subject to the  
24 Voting Rights Act. It was only determined that five  
25 counties, none of which are in Northern Florida,

1 were subject to the Voting Rights Act for Section 5.

2 So Section 5 of the Voting Rights Act, I  
3 guess my point is, that's just out of the picture,  
4 all right. So that just leaves us then with Section  
5 2, okay. So does Section 2 of the Voting Rights Act  
6 require that District 5 in Northern Florida be  
7 drawn? And the answer has to be no. Why? Because  
8 of the Gingles preconditions that are required for  
9 making out a Section 2 claim.

10 You can't even make out a Section 2 claim  
11 unless you satisfy the Gingles precondition. The  
12 first precondition -- and this is what Alex was  
13 trying to get to. The first precondition is, is  
14 there a minority population that's reasonably  
15 compact, in a reasonably compact geographic location  
16 that constitutes a majority of the district?

17 And District 5, notwithstanding the fact  
18 that it's gerrymandered. I mean, the district was  
19 drawn for the specific purpose of connecting African  
20 American populations in Jacksonville with the  
21 African American population in Tallahassee and  
22 Gadsden Counties.

23 And even then that district is not a  
24 majority-minority district. It only got up to 44  
25 percent or so, 44, 45 percent if my -- if my memory

1 serves. And that's even without respecting  
2 traditional districting criteria.

3 So that district cannot be -- is not  
4 required by the Voting Rights Act, and because it's  
5 not required by the Voting Rights Act, it doesn't --  
6 cannot serve as a compelling interest to justify the  
7 drawing of a district in Northern Florida based on  
8 race, okay.

9 So the only -- the only question then is  
10 whether or not mere compliance with the Florida  
11 Constitution alone by itself is a compelling  
12 interest to justify a race-based district.

13 And in this context, where you're having to  
14 ignore all traditional districting criteria, which  
15 is what the federal courts look at to determine  
16 whether or not, you know, the district is necessary,  
17 it cannot be a compelling interest, for the same  
18 reason that we would never say that, if Florida had  
19 a law segregating the schools, that that would  
20 somehow trump the Equal Protection Clause. Why?  
21 Because, you know, the Florida Constitution says so.

22 The only point -- my only point is mere  
23 reliance on the Florida Constitution cannot by  
24 itself be enough. Now, don't get me wrong. That's  
25 not to say that there are other applications of the

1 Florida Constitution's non-diminishment standard  
2 that could be or that could survive strict scrutiny.

3 One example would be if you had a  
4 sufficiently compact African American community,  
5 right, in a district. You can't necessarily just  
6 carve up that district. That perhaps -- that  
7 perhaps could satisfy strict scrutiny.

8 But what does not and cannot satisfy strict  
9 scrutiny is trying to cobble together disparate  
10 minority communities from across Northern Florida to  
11 cobble together a district that might perform for  
12 the minority community.

13 And I think that -- that's where District 5  
14 goes wrong because it's clearly cobbled together.  
15 It's clearly a gerrymander, not unlike the preceding  
16 district that went from Jacksonville down to  
17 Orlando, you know, as a salamander-type district  
18 that went from Jacksonville down to Orlando.

19 But that's the -- that's the fundamental  
20 problem. There's no compelling interest here  
21 because the Voting Rights Act does not require this  
22 district to be drawn in Northern Florida, and mere  
23 compliance alone without more of the non-  
24 diminishment standard in the Florida Constitution  
25 cannot satisfy strict scrutiny, at least as the

1 Supreme Court has explained it.

2 And just to put a bell on all of this, I  
3 mean, the Supreme Court just spoke again just a  
4 matter of weeks ago and slapped down a Wisconsin map  
5 for containing, you know, improperly racially drawn  
6 districts because the --

7 CHAIRMAN SIROIS: Sir, if you'd -- if you'd  
8 bring it in for a landing for us, we have members  
9 with other questions.

10 RYAN NEWMAN: Thank you. I could go on and  
11 on. To -- yeah. So the Wisconsin -- the Supreme  
12 Court came in, sort of struck down the Wisconsin --  
13 you know, a summary reversal of the Wisconsin maps  
14 for not satisfying strict scrutiny.

15 So strict scrutiny is a very, very high --  
16 very high standard, and it just wouldn't satisfy it  
17 in this context.

18 CHAIRMAN SIROIS: Thank you.

19 Representative Benjamin, I've put you on  
20 the list for our second --

21 REPRESENTATIVE BENJAMIN: Well --

22 CHAIRMAN SIROIS: -- round of questions.

23 REPRESENTATIVE BENJAMIN: -- I don't -- I  
24 don't have -- well --

25 CHAIRMAN SIROIS: Let me --

1           REPRESENTATIVE BENJAMIN: -- just thank  
2 you, Mr. Chair, because that's the heart and the  
3 crux of the changes that were made, and I think that  
4 analysis was much needed. Thank you.

5           CHAIRMAN SIROIS: Thank you, Representative  
6 Benjamin.

7           Representative Joseph, you're recognized.

8           REPRESENTATIVE JOSEPH: Thank you,  
9 Mr. Chair.

10          Wow, so many questions. Earlier, you were  
11 asked in the Senate to define race neutral in your  
12 approach in drawing these maps. Can you define that  
13 for us please?

14          CHAIRMAN SIROIS: Mr. Kelly.

15          ALEX KELLY: Thank you, Mr. Chair.

16          Essentially not factoring in race as I'm  
17 drawing a district.

18          CHAIRMAN SIROIS: Representative Joseph.

19          REPRESENTATIVE JOSEPH: What, if any,  
20 analysis did you do regarding retrogression in  
21 creating these maps to analyze both black  
22 representation and Hispanic representation or Latino  
23 representation?

24          CHAIRMAN SIROIS: Mr. Kelly.

25          ALEX KELLY: Thank you, Mr. Chair.

1           Great question. And I didn't have a need  
2 to with the districts that I was drawing. So I  
3 didn't do any kind of analysis like that. Like I  
4 didn't do any kind of functional analysis.

5           CHAIRMAN SIROIS: Representative Joseph.

6           REPRESENTATIVE JOSEPH: Thank you,  
7 Mr. Chair.

8           Looking at your version of, I guess, CD 26,  
9 which spans from the Everglades to Collier County in  
10 Miami all the way to Hialeah, talk to us about your  
11 premise in drawing that particular map in crossing  
12 over the way you did.

13          CHAIRMAN SIROIS: Mr. Kelly.

14          ALEX KELLY: Sure. Thank you, Mr. Chair.

15          So that district -- if you -- and if you  
16 think about it in the context of the district that  
17 the Legislature drew and where I made changes, the  
18 eastern boundaries of the district in Miami-Dade  
19 County are identical to the boundaries that the  
20 Legislature drew. The western half of the county is  
21 the portions of the -- portions of the district, I  
22 should say, that I drew.

23          So as I was approaching that area with  
24 District 18, I described earlier that I was in need  
25 of population to complete District 18, and I

1 assigned Hendry County, the totality of Hendry  
2 County as a whole county, to district 18. And using  
3 some major roadways in the unincorporated Immokalee  
4 area of northern Collier, I then moved a little bit  
5 of Collier County into District 18 as well, again  
6 though using those major roadways, not splitting any  
7 cities in the process.

8           The result of that, I made changes to  
9 District 26 exclusively in the -- in the Hendry  
10 County side, pulling that district out of Hendry  
11 County in its entirety and moving that district,  
12 District 26 then, further east into unincorporated  
13 East Naples basically and utilizing the major  
14 roadways there. There's a few waterways as well, so  
15 trying to utilize some clear, natural boundaries.

16           Overall, as I mentioned earlier in my  
17 testimony, the Hispanic voting age population of the  
18 district is still quite high. It's a little more  
19 than 73 percent Hispanic voting age population. So  
20 again, I didn't change any of the boundaries in the  
21 Miami-Dade County side of the district, just  
22 exclusively in the Collier and Hendry side of the  
23 district.

24           CHAIRMAN SIROIS: Representative Joseph.

25           REPRESENTATIVE JOSEPH: Thank you,

1 Mr. Chair.

2 So when you say you were in need of  
3 population, you were specifically referring to the  
4 Latino population to create this district.

5 CHAIRMAN SIROIS: Mr. Kelly.

6 ALEX KELLY: Thank you, Mr. Chair.

7 Really both. I was in need of population  
8 initially just because I was taking the district out  
9 of Hendry County and then also out of part of the  
10 Immokalee -- unincorporated Immokalee area. The  
11 total population shift there was roughly -- my math  
12 may be a little bit off -- but about 45,000 people.

13 So, in effect, I needed people for equal  
14 population, first and foremost, to complete the  
15 district, which meant that I had to push a little  
16 further, draw a little further into -- into sort of  
17 the coastal side of Collier County but obviously not  
18 that far.

19 That said, knowing that this is a  
20 historically performing majority-minority Hispanic  
21 seat, I was watching those numbers carefully to make  
22 sure that in terms of the overall Hispanic voting  
23 age population, I was staying very close to the  
24 benchmark seat, which I think is maybe a little bit  
25 more than 74 percent.

1           So the seat that I drew, the percentage is  
2 around 73, still very high, still at a threshold  
3 that should perform for Hispanic -- a majority  
4 Hispanic voting age population seat.

5           CHAIRMAN SIROIS: Representative Joseph,  
6 let's do a follow-up, and then I'm going to move to  
7 Representative Brown, and we'll try to come back.

8           REPRESENTATIVE JOSEPH: Thank you.

9           So your analysis basically presumes that  
10 the Latino voters vote cohesively. And you may or  
11 may not be aware of this, but in that area, you have  
12 lots of different kind of Latino groups, and I don't  
13 know if your analysis, based on what you're telling  
14 me, you did not take that into account.

15           So my question for you is this map  
16 basically takes the same approach as the House and  
17 Legislature's previous maps for District 21, but  
18 these two Latino electorates are separate in terms  
19 of how they tend to perform.

20           So I guess what I'm asking is, is that  
21 thinking correct, that this map basically takes the  
22 same approach as the House and Legislature's  
23 previous maps for District 21 and District 28. And  
24 in terms of CD 26 that I'm specifically asking  
25 about, it's motivated by that same idea of Latino

1 cohesion in terms of how they perform?

2 CHAIRMAN SIROIS: Mr. Kelly.

3 ALEX KELLY: Thank you, Mr. Chair.

4 And I think I can answer the question,  
5 although I will concede -- in terms of your  
6 reference to the prior district numbers, I'm not  
7 totally clear which maps you're referring to.

8 But in -- but in general, I was fairly  
9 confident that a Hispanic voting age population  
10 that's higher than 73 percent is still going to  
11 maintain that historical performance for this  
12 district that has performed Hispanic for, to my  
13 knowledge, at least a couple decades. So I was  
14 fairly confident that with such a high Hispanic  
15 voting age population, even though it was a slight  
16 drop, that overall, it wouldn't -- it wouldn't  
17 warrant any concerns.

18 And obviously I had to -- I had to get  
19 equal population as well, and no matter what I did,  
20 I was also wanting to make sure that if I was  
21 assigning Hendry County to a different district, I  
22 wanted to make sure that, one way or another, I kept  
23 Hendry County whole.

24 CHAIRMAN SIROIS: Thank you.

25 Representative Brown.

1 REPRESENTATIVE BROWN: Thank you, Mr. --

2 CHAIRMAN SIROIS: Questions.

3 REPRESENTATIVE BROWN: Thank you,  
4 Mr. Chair.

5 As it relates to -- I know there was -- in  
6 your presentation, you talked about improving the  
7 maps. And so specifically to district 10 here, the  
8 little barbell-shaped lob, I wanted to know -- can  
9 you explain sort of the Orange County configuration  
10 and whether or not -- or how it's more Tier 2  
11 compliant than the other vetted alternatives that we  
12 have done or developed or even debated?

13 And specifically recognizing the political  
14 and geographical boundaries for its perimeter. I  
15 believe right now it's 63 percent, and I know for  
16 the 8019 for CD 10, I believe it was 82 percent. So  
17 we're talking about improving. It seems as though  
18 it's going backwards. When we look at even the 8060  
19 map that we've also kind of reviewed, it also used  
20 those boundaries, but it recognized it as a 92  
21 percent, so I mean, stellar boundaries. How is this  
22 particular configuration compliant and an  
23 improvement?

24 CHAIRMAN SIROIS: Mr. Kelly.

25 ALEX KELLY: Sure. Thank you.

1           And would it help if we went to look at the  
2 district? Because there's some aspects that I think  
3 the visual helps the explanation if that's okay.

4           CHAIRMAN SIROIS: Yes.

5           ALEX KELLY: Okay. Thank you. Actually, I  
6 think I'm going to mess this up. Is it okay if I  
7 take control of the --

8           CHAIRMAN SIROIS: Certainly.

9           ALEX KELLY: So one of the things that I  
10 did find out -- by the way, Representative, to your  
11 roadway question, one of the things that I did  
12 discover in the process is that that western  
13 boundary of District 10, Apopka-Vineland Road,  
14 essentially we don't get -- I don't think we get  
15 credit for it.

16           It is predominantly one roadway, but I  
17 think, as I understand, the roadways you get credit  
18 for in terms of the statistics in the Legislature's  
19 redistricting application, it picks up the roadways  
20 that the Census Bureau recognizes. But as you zoom  
21 in on that district, you find out that it is  
22 actually for the most part one solid roadway.

23           Really, the boundaries of that district,  
24 you have the Seminole County-Orange County line to  
25 the north. You have where that part of District 9

1 comes up into District 10, and it's -- the wall of  
2 that is a significant roadway. And on this side and  
3 on this side, in-between are two municipal  
4 boundaries. Some of the zero-population work is  
5 done just to the north of that.

6 As you go east of those two municipalities,  
7 it's just following one nice, clear roadway. It  
8 then follows -- I think it's actually the eastern  
9 end of that Orange County section of leading out of  
10 10, still follows major roadways and waterways as  
11 well, but the eastern boundary between 10 and 8 is  
12 predominantly roadways and waterways.

13 Most of these boundaries are defined in  
14 Tier 2. I don't know if the application picks up  
15 all of them and gives us credit for the statistics  
16 on all of them, but the boundaries of this district,  
17 outside of equal population, are exclusively Tier 2  
18 boundaries. The district is very compact, and it  
19 overall allowed some other districts around it to  
20 become more compact.

21 One of the things that I did was the  
22 portions of District 9 -- and obviously, you know,  
23 you always have to look at any district, you know,  
24 in respect to what it also causes around it. The  
25 portions of District 9 as the Legislature passed

1 them were more on the eastern side of that Orange  
2 County.

3           Going north, I pulled those portions more  
4 flat and spread across, which helps with your  
5 circular test, so like a Reock test or a Polsby-  
6 Popper. It's not a massive difference, but it is a  
7 little bit of a difference the way that it's drawn.  
8 And again those are just predominantly absent some  
9 of the zero population work, just major roadways  
10 defining those boundaries.

11           The other visual effect here that I really  
12 like is how District 11 now -- you know, District  
13 11, when it comes from sort of the Lake-Seminole  
14 area, it just follows along the Seimone County  
15 border. It then goes under the city boundaries of  
16 Apopka. Obviously, I didn't want to break the city  
17 of Apopka. It goes under the city of Apopka,  
18 follows predominantly one roadway. I did note in my  
19 testimony that that roadway actually has a break in  
20 it. So you couldn't follow that roadway the  
21 entirety of the western wall of District 10.

22           But, in effect, District 11 in the  
23 configuration -- in fact, I'll take one step back.  
24 In the configuration considered by the Legislature,  
25 District 11, because 10 is centered really around

1 Apopka, I believe Ocoee, Winter Garden, that area,  
2 District 11 has to then have this arm underneath  
3 District 10.

4 Because I was able to create that more, you  
5 know, flat use of boundary space between 7-11, 10-  
6 11, 9-11, in effect, there's no arm then anymore to  
7 District 11, and that contributed, along with what I  
8 did in Citrus County, to being able to square up  
9 District 11 as well.

10 So the changes that I made were never in  
11 respect to just one district, although I did use  
12 district -- I did use clear roadway boundaries and  
13 municipal boundaries almost exclusively and county  
14 boundaries with District 10, but the changes were  
15 made in respect to all the districts so that all of  
16 the districts took on a little more of a  
17 statistical, aesthetic compactness and again overall  
18 just tried to use those clear boundary lines between  
19 them.

20 CHAIRMAN SIROIS: Representative Brown,  
21 before you continue, thank you, sir.

22 Members, just to kind of give you a sense  
23 of where we're at. We're coming up on a period  
24 where we need to wrap up questions. We have  
25 significant public testimony, our citizens here with

1 us today at the capital. We also have an amendment.  
2 We have debate and want to give Chair Leek and  
3 opportunity for final comments as well.

4 So Representative Brown, you are recognized  
5 to continue in questions, but, members, please be  
6 mindful of our time.

7 REPRESENTATIVE BROWN: Thank you, Mr.  
8 Chair.

9 And I definitely will keep that in mind  
10 because I actually do have questions surrounding  
11 when we're speaking of those surrounding districts.  
12 I have quite a few questions based off of the  
13 percentages and points there compared to 8060. But  
14 I'll just ask this question so that my other  
15 colleagues can have an opportunity at this apple.

16 I know the Governor stated written  
17 objection to 8019, and in that written statement, he  
18 focused on 4 and 5. And so why are we here messing  
19 with the Orlando area, particularly District 10, in  
20 ways that clearly worsen the compliance to the  
21 constitutional criteria?

22 CHAIRMAN SIROIS: Mr. Kelly, you're  
23 recognized.

24 CHAIRMAN SIROIS: Thank you, Mr. Chair.

25 And I should start maybe in reverse order

1 of the question. I would disagree with the last  
2 point that was made. I do believe this composition  
3 -- and this composition is very similar to what this  
4 Subcommittee passed in Plan 8011. I believe really  
5 demonstrates strong compliance with the law, and I  
6 believe actually this composition, again, similar to  
7 the product passed out of this Subcommittee, I think  
8 was actually better than the final product passed  
9 out of the Legislature overall.

10 So going back to this Subcommittee work and  
11 this Subcommittee's work was similar to the earlier  
12 plans that we submitted out of our office. Your  
13 question is similar to that of which Representative  
14 Skidmore asked earlier. And while the Governor's  
15 veto message was driven largely by what was  
16 happening in Northeast Florida, we were never secret  
17 about submitting maps.

18 We submitted public maps before out of our  
19 office. Those maps articulated thoughts and ideas  
20 for consideration by the Legislature all around the  
21 state. And so obviously the major significant  
22 constitutional concern centered around Districts 4  
23 and 5 in Northeast Florida.

24 As though we looked at the Legislature's  
25 final composition ideas that we had prior to that,

1 it was clear that I could go into the map and make  
2 improvements and really in many cases taking some  
3 hybrids of ideas that, as Chair Sirois said earlier,  
4 some hybrids of ideas that really combine some of  
5 the best work product of the Legislature and maps  
6 that we proposed and really trying to pull those  
7 ideas together to get the best out of these maps.

8 CHAIRMAN SIROIS: All right. Thank you,  
9 Representative Brown.

10 Representative Driskell, you're recognized  
11 in questions.

12 REPRESENTATIVE DRISKELL: Thank you,  
13 Mr. Chair.

14 Are you saying that because the Governor  
15 doesn't like CD 5 as it currently exists that you  
16 don't have to regard CD 5 as a benchmark district  
17 for which a functional analysis is required?

18 CHAIRMAN SIROIS: You're recognized.

19 ALEX KELLY: Thank you, Mr. Chair.

20 Not exactly the way that you said that, but  
21 the crux of the argument -- and Ryan laid out the  
22 argument in detail well earlier -- the crux of the  
23 argument is that the district violates the U.S.  
24 Constitution. So if the district violates federal  
25 law, there's no district with which there is an

1 obligation to look at diminishment. The district  
2 was unlawful to begin with.

3 So at that point, the Legislature had no  
4 obligation to consider that question. At that  
5 point, the Legislature just has Nassau County, Duval  
6 County, Clay County, St. Johns County, which in  
7 those four counties alone you could fit two whole  
8 congressional districts plus start a third district  
9 very compactly, very adherent to standards in the  
10 State Constitution.

11 CHAIRMAN SIROIS: Representative Driskell.

12 REPRESENTATIVE DRISKELL: Thank you,  
13 Mr. Chair.

14 But that's your opinion, correct? That's  
15 not actually the current legal standard. The  
16 current legal standard, as I understand it, is that  
17 when there's a benchmark district, you're supposed  
18 to perform a functional analysis; is that correct?

19 CHAIRMAN SIROIS: Mr. Kelly.

20 ALEX KELLY: Thank you, Mr. Chair.

21 No. No. There's no obligation to perform  
22 a functional analysis on that district, and as our  
23 general counsel noted, as the memorandum notes, as I  
24 summarized earlier, that district as drawn in the  
25 benchmark violates the Equal Protection Clause of

1 the United States Constitution. Attempts to redraw  
2 that district in various configurations violated the  
3 Equal Protection Clause of the United States  
4 Constitution.

5 So there's no need to do a functional  
6 analysis for a district that, on its face, is  
7 unlawful, and the Legislature was not obligated to  
8 redraw. And that's really the analysis that Mr.  
9 Newman gave, our -- our legal memorandum gave.

10 REPRESENTATIVE DRISKELL: I just -- I don't  
11 want to beat a dead horse --

12 CHAIRMAN SIROIS: Representative, just go  
13 one more -- one last follow-up, and then we're going  
14 to move on.

15 REPRESENTATIVE DRISKELL: Okay. Not a  
16 follow-up, new question about Tampa Bay.

17 CHAIRMAN SIROIS: You're recognized.

18 REPRESENTATIVE DRISKELL: All right. Thank  
19 you, Mr. Chair.

20 So if we follow the map that you've  
21 prepared and that we're reviewing today, it actually  
22 follows the exact -- the net effect is that it looks  
23 like it's following the exact same strategy that led  
24 to what was determined to be a partisan gerrymander  
25 that was struck down last decade, packing Democrats

1 into Tampa Bay CD 14.

2 So my question is, you know, how is  
3 following the county lines not just a pretext for  
4 partisan gerrymandering here? Because it kind of  
5 looks the same as it did about a decade ago.

6 CHAIRMAN SIROIS: You're recognized.

7 ALEX KELLY: Mr. Chair -- Thank you,  
8 Mr. Chair.

9 I don't know the partisan breakdown of  
10 those seats. I don't know where, you know, where  
11 District 13, 14, 15 -- I don't know how those seats  
12 are affected. I don't know the partisan data for  
13 those seats. So I don't know how to address that  
14 question. I can only address the question in the  
15 context of how I drew the districts.

16 I wanted to draw -- because I could see  
17 that the Legislature had an intent to draw a seat  
18 wholly in Pinellas County. So I drew a seat wholly  
19 in Pinellas County, utilized very clear boundary  
20 lines, a county line for the northern part of that,  
21 a state road for the southern part of that, and  
22 essentially moved to the east in a block-like  
23 fashion and then came north out of Manatee County  
24 into southern Hillsborough and essentially just had  
25 those two seats, 13 and 16, and eventually meeting

1 15, just meet along major roadways. So they're just  
2 nice, clean, compact seats that follow those major  
3 roadways. I'm unaware of the data you're  
4 referencing.

5 CHAIRMAN SIROIS: Thank you.

6 Representative Hunschofsky, you're  
7 recognized for one brief question.

8 REPRESENTATIVE HUNSCHOFSKY: I'll try my  
9 best, Chair Sirois. Thank you.

10 I have a -- I'm going to put it kind of, I  
11 guess, all together. We talk constantly about the  
12 Tier 2, and I keep going back to the Tier 1 that was  
13 told to all of us from multiple times in our  
14 committees. And the Tier 2, we're picking bodies of  
15 water in certain places, but in other places, it  
16 doesn't seem to bother us that we cross bodies of  
17 water.

18 My question is -- and this is all related  
19 in one, Chair Sirois, how are you defining race  
20 neutral, where did that term come from, and how do  
21 you -- how do you explain CD 20, for example, when  
22 you say that?

23 CHAIRMAN SIROIS: Representative  
24 Hunschofsky, I think the initial part of your  
25 question has been asked and answered in the

1 testimony that's been offered.

2 Mr. Kelly, if you'd like to speak to  
3 Congressional District 20, you're recognized.

4 ALEX KELLY: Thank you, Mr. Chair.

5 And I really can't speak to Congressional  
6 District 20. We didn't draw Congressional District  
7 20. So I think I would have to defer to your  
8 professional staff or the Legislature as a whole,  
9 but we didn't draw Congressional District 20.

10 CHAIRMAN SIROIS: Representative  
11 Hunschofsky, can you repeat your question as it  
12 relates to Congressional District 20?

13 REPRESENTATIVE HUNSCHOFSKY: Yes. I guess  
14 my question, I keep going back to, as I did the last  
15 time we had a map in front of us that we were voting  
16 on, Tier 1 criteria, the one that I mentioned  
17 before, versus the Tier 2 criteria. You bring up  
18 the term race neutral. I'm not really sure what  
19 that means, and I'm not really sure where that comes  
20 from.

21 The map you presented to us has a district  
22 that does move around and is obviously done so to  
23 protect a racial group from being able to pick a  
24 candidate of their choice. So how do you explain  
25 that as part of what you were talking about before?

1 I don't know if that's making sense.

2 CHAIRMAN SIROIS: Staff is recognized.

3 Ms. Kelly.

4 LEDA KELLY: Thank you, Mr. Chair. And  
5 thank you, Representative, for the question.

6 So for -- and I'll kind of piece together a  
7 couple of things that have been mentioned today  
8 already with regards to District 20.

9 So in the Legislature's perspective, that's  
10 a protected black performing district. So we  
11 performed our functional analysis on the benchmark  
12 district and then recreated it to ensure that that  
13 minority group can elect a candidate of their  
14 choice.

15 One difference that I'd say between  
16 Congressional District 20 and, I guess, previous  
17 iterations of Congressional District 5 is the  
18 threshold of the voting age population. So you've  
19 heard the Governor's Office elude several times  
20 today to the Voting Rights Act and Section 2  
21 analysis.

22 The first condition of the Gingles  
23 prerequisite is to have a majority-minority  
24 district. In the benchmark district and in the one  
25 that's recreated in this plan and prior iterations,

1 CD 20 is above 50 percent and does meet that first  
2 criteria for if someone was to bring a Section 2  
3 violation against the map. So we're obviously aware  
4 of that and wanted to recreate it to be in alignment  
5 with that law as well. Thank you.

6 REPRESENTATIVE HUNSCHOFSKY: Can I --

7 CHAIRMAN SIROIS: Thank you very much.

8 Members, I apologize. We have an amendment  
9 -- we have an amendment that we need to take up. We  
10 have members of the public that have traveled here  
11 today to be with us. We need to -- we need to move,  
12 Representative Joseph, into your amendment.

13 REPRESENTATIVE JOSEPH: (Indiscernible)

14 CHAIRMAN SIROIS: Representative Joseph,  
15 you are recognized to present your amendment.

16 Members, this is amendment barcode 959221.

17 Representative Joseph, you are recognized.

18 REPRESENTATIVE JOSEPH: Thank you,

19 Mr. Chair.

20 So in this bill, at lines 3627 through  
21 3647, it creates Section 7, which limits venue for  
22 legal actions challenging federal congressional  
23 districts to state court. That makes no sense to  
24 me. The question I would have asked had I had the  
25 opportunity to do so was, what was the rationale for

1 that?

2 So this basically -- this amendment is  
3 quite simple and straightforward. It removes those  
4 lines, such that these congressional federal seats  
5 can be challenged in federal court. That is the  
6 amendment.

7 CHAIRMAN SIROIS: Thank you very much.

8 Having explained the amendment, members,  
9 are there questions on the amendment? Questions on  
10 the amendment?

11 Seeing none, is there public testimony on  
12 the amendment?

13 We have none submitted, ma'am. We're on  
14 the amendment now, but we're going to get to public  
15 testimony on the bill in just a moment. I  
16 appreciate you being here today. Just one moment.

17 Seeing no public testimony on the  
18 amendment, members, is there debate on the  
19 amendment?

20 Ranking Member Skidmore, you are recognized  
21 to debate on the amendment.

22 DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
23 you, Mr. Chair.

24 And thank you, Rep Joseph, for the  
25 amendment.

1 I too was unsure why we needed to do this  
2 and why we would want to try and circumvent the  
3 federal courts and an opportunity for individuals to  
4 work through that process? I don't think it's --  
5 this is necessary. We've managed for hundreds of  
6 years without, you know, weaponizing the process.  
7 I'm not sure why we need to do it now.

8 We have only had these maps for a few  
9 hours. We are still trying to wrap our heads around  
10 them. We don't need to bog this whole process down  
11 with this unnecessary language that gives us all a  
12 lot of heartburn and is likely to be  
13 unconstitutional for us to tell people whether they  
14 can work through the federal court system or not.

15 So I support your amendment. I think it's  
16 a good one, and I would ask everyone else to vote up  
17 on this amendment.

18 CHAIRMAN SIROIS: Representative Benjamin,  
19 recognized in debate.

20 REPRESENTATIVE BENJAMIN: (Indiscernible)

21 CHAIRMAN SIROIS: The amendment.

22 REPRESENTATIVE BENJAMIN: Thank you,  
23 Mr. Chair.

24 And just to reiterate that point, we've  
25 been arguing now about a federal question, the 14th

1 Amendment -- how does the 14th Amendment apply in  
2 this case? And so if we're talking about a federal  
3 question, whether or not our maps violate the 14th  
4 Amendment, how can you preclude the federal court  
5 from weighing in on that? It's a federal question,  
6 which is a requirement to enter into state -- enter  
7 into federal court in the first place. So we cannot  
8 preclude the federal court from determining what is,  
9 in essence, a federal question. So that is my  
10 debate. We should vote down on this amendment -- I  
11 mean, excuse me -- vote up on this amendment.

12 CHAIRMAN SIROIS: Any other members in  
13 debate?

14 Seeing none --

15 REPRESENTATIVE DRISKELL: No. No.

16 CHAIRMAN SIROIS: Representative Driskell  
17 in debate.

18 REPRESENTATIVE DRISKELL: Sorry, Mr. Chair.  
19 Just very, very, very briefly.

20 And, yeah, I just want to echo back to  
21 something that we talked about when we were in  
22 regular session, which is this concept of weaponing  
23 procedure, and if we believe that, you know, the  
24 maps that we pass are going to be constitutional, if  
25 we believe that they're going to stand, there's no

1 need to weaponize procedure in this way.

2 Previously, it was -- first, it was the  
3 statute of limitations and limiting that. Now, it's  
4 choice of venue. What's next? It's a very slippery  
5 slope, and it's something that we should all be  
6 concerned about. And we need to be down on this,  
7 thank you -- I mean, up on this amendment, thank  
8 you.

9 CHAIRMAN SIROIS: Members in debate?

10 Seeing none, Representative Joseph, you are  
11 recognized to close on the amendment.

12 REPRESENTATIVE JOSEPH: Thank you, Mr.  
13 Chair.

14 This amendment is very straightforward. I  
15 mean, it's a federal question, federal courts. It  
16 really just makes sense. So the portion restricting  
17 the jurisdiction, it's in direct conflict with the  
18 Voting Rights Act and 28 USC 1367, which provides  
19 supplemental federal jurisdiction over state law  
20 claims that are closely related to federal claims.

21 As such, the supremacy clause controls and  
22 the state law must concede that federal law, which  
23 states that federal courts have jurisdiction over  
24 these maps. I mean, it's not even complicated.  
25 It's not even close.

1           So we have to ask ourselves what's really  
2 going on. Why would we want to limit challenging  
3 federal congressional seats to state courts? I  
4 think many of us have ideas as to what the answer is  
5 to that question, but even that notwithstanding,  
6 let's talk about what the 14th Amendment is, which  
7 is the basis for these new maps, as has been  
8 espoused to us. The 14th Amendment is one of those  
9 remedial statutes in the Post-Reconstruction Era  
10 that allowed for more black representation, and but  
11 for that law and several others, we would have less  
12 black representation.

13           So now, we have the Governor using that  
14 same law to turn it on its face, and he wants you to  
15 believe that somehow, under some universe, that he  
16 is protecting us against segregation, which is  
17 straight foolishness because I didn't get into all  
18 of the questions that I --

19           CHAIRMAN SIROIS: Representative Joseph, I  
20 apologize for --

21           REPRESENTATIVE JOSEPH: Okay.

22           CHAIRMAN SIROIS: -- interrupting. We are  
23 very pressed for --

24           REPRESENTATIVE JOSEPH: I understand.

25           CHAIRMAN SIROIS: -- time. Let's --

1           REPRESENTATIVE JOSEPH: I'm trying to close  
2 on my --

3           CHAIRMAN SIROIS: -- you can close on the  
4 amendment.

5           REPRESENTATIVE JOSEPH: -- amendment. You  
6 shut off all my other questions. So I'm trying to  
7 get the point across.

8                       So when we look at CD 26, which is  
9 protected, as you heard, as Latino voters, which is  
10 a Tier 1 criteria, why are we protecting Latino  
11 voters and not black voters? When we look at that,  
12 there are infirmities that make that map worse in  
13 terms of the Tier 2 criteria that we're alleging  
14 that we're protecting, but we're not actually  
15 protecting it.

16                      So what are we really doing? This is smoke  
17 and mirrors. This amendment directly just  
18 eliminates the -- which court you're taking it to.  
19 We shouldn't need this. If your premise is under  
20 the U.S. Constitution and the 14th Amendment, which  
21 is what we heard legal counsel say, that that's the  
22 basis for their claim, then let it play out in  
23 federal courts. If it's not, then tell us what  
24 you're actually doing. We're not asleep at the  
25 wheel. This amendment fixes that and allows us to

1 do what we're substantively able to do.

2 Thank you, Mr. Chair.

3 CHAIRMAN SIROIS: Thank you, Representative  
4 Joseph.

5 Having closed on the amendment, members in  
6 favor of the amendment, please signify by saying  
7 aye.

8 (Multiple ayes)

9 Those opposed, no.

10 (Multiple nos)

11 The amendment fails.

12 We are now on public testimony.

13 Ladies and gentlemen, we appreciate you  
14 being here today for public testimony. We have a  
15 lot of public testimony to get through. What I  
16 would like to do is, once I call your name, please  
17 approach the podium, if you'd like to speak. I will  
18 call the next person to speak as well. They are on  
19 deck if they would like to move forward in the room.  
20 You are also welcome to waive in support or waive in  
21 opposition in order to save time.

22 Members of the public joining us today, I'd  
23 like to spend the next 40 to 45 minutes receiving  
24 your public testimony, which is very important to us  
25 to have, and then we'll move into member debate and

1 the bill sponsor's close.

2 With that, I'd like to ask LaShonda  
3 Holloway, a citizen from Jacksonville, to please  
4 approach the podium. If you would please state your  
5 name, I'm sure that I pronounced it incorrectly, and  
6 then next on deck will be Nancy Staats from Atlantic  
7 Beach.

8 You are recognized.

9 LASHONDA HOLLOWAY: Thank you.

10 Good afternoon to this Committee. First  
11 and foremost, I want to thank you for your work, but  
12 I must say that I am in utter shock that that last  
13 amendment was not approved.

14 I would urge each of you to vote no on this  
15 bill. If congressional seats are federal, then the  
16 Equal Protection should be -- law should be heard by  
17 federal courts and not by the lower courts.

18 Moreover, as a fourth generation Floridian who is  
19 not only a constituent in the 5th Congressional  
20 District, I am a stakeholder as a candidate to  
21 represent the people of the 5th Congressional  
22 District.

23 Furthermore, understand that this  
24 particular map that the Governor has proposed, it  
25 uses Tier 2 metrics. It does not even use the

1 federal standard. It used the preferred standard.  
2 So not only should we be using United States census  
3 numbers, we should also be using Tier 1 standards,  
4 and we all know that Tier 1 says you cannot favor a  
5 political party.

6 CHAIRMAN SIROIS: Thank you. Thank you,  
7 ma'am. That's --

8 LASHONDA HOLLOWAY: My two minutes are  
9 up?

10 CHAIRMAN SIROIS: Please continue. My  
11 mistake. You have two minutes. Proceed.

12 LASHONDA HOLLOWAY: Thank you so -- thank  
13 you so very much.

14 Furthermore, we know that Mr. Kelly stated  
15 that this particular -- these particular maps affect  
16 18 districts, and as a result of that, it would  
17 favor 20 Republican districts and 8 Democratic  
18 districts.

19 The citizens of the state of Florida voted  
20 for Fair Districts. So not only does it violate the  
21 will of the people, it also violates the Equal  
22 Protection Clause. The second section of the 14th  
23 Amendment strictly states that you must not prohibit  
24 voting practices or procedures that discriminate on  
25 the basis of race, color, or membership in one

1 minority language.

2 Last and not -- certainly not least, I  
3 would say to you we must protect minority access  
4 districts from retrogression. We must protect  
5 minority access districts from retrogression. Black  
6 people, minorities, people of color, and people of  
7 minority language ethnicities should have  
8 representation. We are --

9 CHAIRMAN SIROIS: Thank you.

10 LASHONDA HOLLOWAY: -- a part of this  
11 democracy, and we deserve to be heard.

12 CHAIRMAN SIROIS: Thank you, ma'am.

13 LASHONDA HOLLOWAY: Thank you.

14 CHAIRMAN SIROIS: My apologies for  
15 interrupting you.

16 Ms. Staats. Next on deck is Judy Sheklin  
17 of Jacksonville.

18 You are recognized, ma'am.

19 NANCY STAATS: Good afternoon, everyone.  
20 My name is Dr. Nancy Staats. I'm a board-certified  
21 medical doctor, but you don't need an advanced  
22 degree to see what is happening here. What we are  
23 seeing is a blatant disenfranchisement of African  
24 American communities and their representatives.

25 The Governor has many duties and

1 responsibilities, but drawing maps is not one of  
2 them. That is your job, and you are here working  
3 hard doing that job. But unfortunately the Governor  
4 rejected all your hard work, then came up with us  
5 his maps, which you appropriately, rightfully  
6 rejected when he first proposed. But now suddenly,  
7 after vetoing yours, he's back with more nonsense,  
8 and you have folded like a cheap suit, the  
9 Republicans.

10 Now, what I would like to say --

11 CHAIRMAN SIROIS: Ma'am, I'm going to  
12 remind you. I don't know if you were here when we  
13 --

14 NANCY STAATS: Yes. Thank you. I will.

15 CHAIRMAN SIROIS: -- started the meeting --

16 NANCY STAATS: I will.

17 CHAIRMAN SIROIS: -- regarding decorum --

18 NANCY STAATS: I will. Yes.

19 CHAIRMAN SIROIS: -- in the Committee room.

20 NANCY STAATS: I will. What happened in  
21 those two months? I'm just curious. Were there  
22 discussions about budgetary requests perhaps? Was  
23 there arm twisting? I don't know. Maybe someone  
24 can clarify. It's painfully clear to me that  
25 everyone in this room and everyone outside of this

1 room knows this entire special session is a farce  
2 because there is not even another map being  
3 considered.

4 As has been mentioned by others, our  
5 Harvard-educated Governor must be well aware that  
6 this map violates both the Florida Fair Districts  
7 Amendment and the Voting Rights Act, but perhaps he  
8 wants the attention. Perhaps a Supreme Court case?  
9 I don't know.

10 Everyone remembers back our American  
11 history lesson that our government was formed in  
12 response to an authoritarian ruler, King George.  
13 Our Founding Fathers created a system of three  
14 district, autonomous branches of government, yet  
15 here we are today, seeking complete -- seeing  
16 complete complicity on your part to a new king.

17 In closing, as a physician, I took an oath.  
18 I pledged to uphold the Hippocratic Oath. You too,  
19 each of you, took an oath. You have taken oaths to  
20 uphold the State and U.S. Constitutions and to serve  
21 your constituents, and many of you sadly seem to  
22 have forgotten. We will not.

23 CHAIRMAN SIROIS: Thank you, ma'am.

24 Ms. Sheklin, you're up next, followed by  
25 Juanita Powell-Williams of Jacksonville.

1 Ladies and gentlemen, if I'd just ask you,  
2 when you come to the podium, if you would identify  
3 yourself once again. And we'll observe the two  
4 minutes, but we may be pressed for time moving  
5 forward.

6 Ma'am, you are recognized.

7 JUDY SHEKLIN: My name is Judy Sheklin, and  
8 I live in Jacksonville. I'm speaking in opposition  
9 to the Governor's proposed maps for several reasons.  
10 It is the responsibility of the Legislature to  
11 create congressional maps during redistricting  
12 according to Article III of the Florida  
13 Constitution.

14 The House and Senate, as the previous  
15 speaker stated, created and approved maps that you  
16 were satisfied with, which, as we know, were then  
17 vetoed and redrawn by the Governor. This is  
18 unprecedented in state Legislatures throughout the  
19 United States.

20 The Legislature here, quickly, the House  
21 and Senate acquiesced to the Governor, and that  
22 created a dramatic imbalance of power in our state  
23 government. This is troubling to me as a citizen.  
24 The Governor's maps are a radical departure and  
25 aren't in compliance with state and federal law.

1 These maps, as we've heard today, reduce the  
2 likelihood of minorities to elect congressional  
3 members of their choice, eliminating two minority  
4 districts, and also violating the Voting Rights Act.

5 In 2010, Florida passed the Fair Districts  
6 Amendment, and the citizens stated and deserve and  
7 expect fairness in redistricting decisions. The  
8 Governor's plan that creates 20 Republican minority  
9 -- majority districts out of -- and 8 majority  
10 Democratic districts blatantly demonstrates partisan  
11 gerrymandering.

12 Please stand up for all Floridians and  
13 oppose these unfair maps. Thank you.

14 CHAIRMAN SIROIS: Thank you, ma'am.

15 Ms. Powell-Williams, you're up, followed by  
16 Cristian Cardona.

17 You're recognized.

18 JUANITA POWELL-WILLIAMS: Yes. Thank you.

19 Good afternoon. Juanita Powell-Williams  
20 from Jacksonville, Florida. We often in the law  
21 consider knowledge and intent. Ladies and  
22 gentlemen, I present to you today that there is full  
23 knowledge of what is being done here today within  
24 Florida.

25 Florida has become a laughingstock,

1 unfortunately, and with that, you as our leaders are  
2 privy to that. There is full knowledge, and with  
3 that, intent, to do just what the Governor is doing.  
4 He is taking away a right of a people. We are  
5 retrogressing back to the past, and you are allowing  
6 that to happen.

7 I know this is falling on deaf ears,  
8 unfortunately. We're here from -- your constituents  
9 are here from these various counties within Florida,  
10 and we're speaking out regardless of some of you  
11 already having made up your minds as to what's going  
12 to come out of your mouth.

13 But we're here. Ladies and gentlemen,  
14 we're going to speak up. We're going to vote, and  
15 we will remember. Thank you.

16 CHAIRMAN SIROIS: Thank you, ma'am.

17 Cristian Cardona followed by Marsha Davis.

18 If I could remind members, if I call your  
19 name second, if you could make your -- members of  
20 the public, if you could make your way up, you're on  
21 deck. That will help us move things a little bit --  
22 move along a little bit faster.

23 You are recognized.

24 CRISTIAN CARDONA: Thank you.

25 Hello, everyone. My name is Cristian

1 Cardona. I am opposed to the redistricting plan. I  
2 am a worker and a leader with the Fight for \$15 and  
3 the union. Different movements are gathered here  
4 today because we stand against the elimination of  
5 protections that the Fair Districts Amendment  
6 provides. This map is a direct attack on black  
7 representation and our democracy, and that ain't  
8 right.

9 I want to share why -- I want to share my  
10 experience as a voter and why this issue is  
11 important to me. I moved to Orlando, Florida, with  
12 my family in 2009. I gained citizenship and just in  
13 time to vote for Amendment 2, which brought us one  
14 step closer to a living wage, which is something I  
15 have been organizing and speaking up about for  
16 years.

17 This amendment has a direct impact on the  
18 community around me, my family, my friends, and my  
19 neighbors. It felt powerful to organize and  
20 campaign to raise the standard of living for  
21 millions of Floridians. The day I got to vote yes  
22 for Amendment 2 was a day that I will always  
23 remember. After months of complaining and yelling  
24 it out to the world, I finally had the chance to  
25 cast my vote along with my community.

1           This is why it's so important that workers  
2     have a strong voice and a vote. Workers have never  
3     been given rights. We've had to fight for all of  
4     the things that we won, ever little crumb, every  
5     race, every right, and this fight is no different.

6           Governor DeSantis is trying to diminish our  
7     ability to have our voices heard at the state level,  
8     which we aren't going to let happen. Thank you.

9           CHAIRMAN SIROIS: Thank you.

10          Marsha Davis, followed by Rosemary McCoy of  
11     Jacksonville, followed by Tameka Hobbs of  
12     Jacksonville.

13          Ma'am, you are recognized.

14          MARSHA DAVIS: Thank you.

15          Good afternoon. I'm Marsha Davis from  
16     Orlando, Florida. I'm here to speak against  
17     Governor DeSantis' legislative map.

18          Floridians passed the Fair District Act  
19     amending the State Constitution to protect minority  
20     voters, to ensure their access to representation,  
21     and to limit legislators from drawing maps that are  
22     unfair. And this map is -- these maps are unfair.  
23     It's just not right. I hope your conscience is  
24     twinging just a little bit.

25          Minority growth in the last -- this last

1 census is very clear. That's why we got an  
2 additional congressional seat. That tells us that  
3 we need more representation, not less. So I would  
4 ask you to consider that. The plan is unfair, and I  
5 believe the plan is unconstitutional. So I would  
6 ask for you to please think about all of your  
7 constituents and vote no. Thank you.

8 CHAIRMAN SIROIS: Thank you, ma'am.

9 Rosemary McCoy, followed by Tameka Hobbs  
10 and then Laura Cardona.

11 ROSEMARY MCCOY: Good afternoon and thank  
12 you so much for having us here and thank you so much  
13 for being here.

14 We are living in a time of desperate  
15 reaction, and we need your reaction in a positive  
16 way. Everyone here knows that we have a war, and  
17 yes, I'm going to continue to speak about this here  
18 war, Russia and Ukrainian. It's a serious war  
19 because it does affect us, whether we're in Florida  
20 as a state or whether we are federal or whether we  
21 are citizens, residents of the state of Florida.

22 I am a disabled veteran, and I believe in  
23 this country. I would go to war today for this  
24 country, and you know what I'm asking you all to do?  
25 I'm asking you to go to war right here in the state

1 of Florida. I'm asking you to put down your party.  
2 We're not here to be Republicans. We're not here to  
3 be Democrats or Independents. We're here to serve  
4 the people. I have a nonprofit organization called  
5 Harriet Tubman Freedom Fighters, freedom fighters.

6 I believe in freedom. I am a Ukrainian. I  
7 have that spirit, and I pray that each one of you  
8 do. I pray that you do not bow down to a dictator.  
9 We have to stop this. When are we going to stop  
10 this?

11 CHAIRMAN SIROIS: Ma'am, I'm going to  
12 caution you regarding --

13 ROSEMARY MCCOY: Stop it now. Stop it now.

14 CHAIRMAN SIROIS: Our next speaker is  
15 Tameka Hobbs, followed by Laura Cardona.

16 I'd like to remind members of the audience  
17 as well regarding civility and decorum in the  
18 Committee room.

19 Ma'am, you are recognized.

20 TAMEKA HOBBS: Thank you. Good evening.  
21 My name is Dr. Tameka Hobbs. I am a recent resident  
22 of Jacksonville and Congressional District 5. I am  
23 a native of Florida. I grew up not very far from  
24 here in Suwannee County. I am here to report to you  
25 as a person who has lived the majority of my life

1 here in the state of Florida that I have never paid  
2 as much attention to the proceedings of this  
3 organization because I have never in my life been as  
4 concerned as I have been over the last several  
5 months.

6 I'm here to voice my opposition to the maps  
7 that are being presented by the Governor to this  
8 legislative body because, on its face, that is  
9 outside of his scope and function. This body has a  
10 responsibility for bringing these maps, developing  
11 these maps, as you have, for consideration. And it  
12 is a definite violation of the checks and balances  
13 that are built into our Constitution, as I  
14 understand them, for someone else to present those  
15 to us. So I will say that, number one.

16 I will also echo what's been said already  
17 in that these proposed maps, this proposed map is  
18 unconstitutional based on the Florida State  
19 Constitution, based on the Fair Districts Amendment  
20 from 2010, based on the Voter Rights Amendment  
21 that's been -- Voting Rights Act, excuse me, that's  
22 been presented here several times.

23 I'd also like to talk about what I heard in  
24 the two times, both in the Senate and before this  
25 body, that I have heard Mr. Kelly make his

1 representations about the way that the map that was  
2 presented today was -- had come about. He asserted  
3 us that he was very interested in it being squared  
4 and compact. He described these very round  
5 districts. Visually, certainly, we can certainly  
6 see that.

7           What he has used -- and I believe  
8 mistakenly -- is the application of this idea that  
9 these maps were constructed in a race neutral  
10 fashion. If it was race neutral, we would not be  
11 dealing with the disillusionment, the dismantlement  
12 of two of four seats -- congressional districts that  
13 have put African Americans in the Congress.

14           CHAIRMAN SIROIS: Ma'am, your time is  
15 expired. You want to just bring it in for a  
16 landing.

17           TAMEKA HOBBS: For two minutes?

18           CHAIRMAN SIROIS: Ma'am, your time is  
19 expired.

20           TAMEKA HOBBS: Okay.

21           CHAIRMAN SIROIS: If you'd like to wrap up  
22 your comments.

23           TAMEKA HOBBS: I would like to say that  
24 that is on its face false. I want to say to this  
25 body that you have a choice before you. As a

1 historian I have followed the racial history, very  
2 painful --

3 CHAIRMAN SIROIS: Thank you.

4 TAMEKA HOBBS: -- history that has not been  
5 considered here.

6 CHAIRMAN SIROIS: Thank you, ma'am. Thank  
7 you.

8 TAMEKA HOBBS: You have a choice about your  
9 legacy today.

10 CHAIRMAN SIROIS: Thank you very much.

11 Laura Cardona of Orlando and then  
12 Christopher Nurse of Jacksonville waives in  
13 opposition. Our next speaker -- is Laura Cardona  
14 coming up? Christopher Nurse waives in opposition.  
15 The next speaker Sheila Singleton of Jacksonville,  
16 followed by Barney Roberts of Jacksonville.

17 Sheila Singleton?

18 Barney Roberts of Jacksonville, come on up,  
19 sir. And then our next speaker will be Trish Neely  
20 of Tallahassee.

21 BARNEY ROBERTS: Hi. I'm Barney Roberts  
22 from Jacksonville, Florida. I'd like to challenge  
23 you to build a future for our kids for tomorrow. If  
24 they look at Tallahassee as it has been for the last  
25 couple years and they see the behavior that's

1 happening here, then they're going to say, hey, what  
2 should we do about it?

3 Our kids deserve the best, and I hope that  
4 you do that too with your decision that you make  
5 today and tomorrow. Thank you.

6 CHAIRMAN SIROIS: Thank you, sir.

7 Trish Neely, Tallahassee, followed by Larry  
8 Coleton (phonetic) of Orlando.

9 TRISH NEELY: Thank you.

10 CHAIRMAN SIROIS: Ma'am, you're recognized.

11 TRISH NEELY: Thank you for the opportunity  
12 to speak. I'm Trish Neely, and I am with the League  
13 of Women Voters.

14 I won't repeat what's already been said,  
15 but I do have two points. Number one, it was the  
16 League of Women Voters against the State of Florida  
17 that was the lawsuit that Mr. Kelly mentioned, and  
18 we disagree that the court got it wrong. We believe  
19 they got it very right.

20 We urge you, urge you to carefully consider  
21 what this map will do. It cuts the voting power of  
22 African Americans by 50 percent. Think of that, by  
23 50 percent, and this is very reminiscent of  
24 Florida's voter suppression tactics of over 100  
25 years ago.

1 Folks, we don't want to go backwards. We  
2 need to go be going forward. We urge you to vote  
3 this map down. Thank you.

4 CHAIRMAN SIROIS: Thank you, ma'am.

5 Larry Coleton -- I'm sorry. I know I'm  
6 mispronouncing that -- followed by Hedder Pierre-  
7 Joseph of Orlando.

8 If you're going to speak and I mention your  
9 name, please make your way forward in the interest  
10 of time.

11 Hedder will be followed by Stacy Williams  
12 of Orlando.

13 Sir, you're recognized.

14 LARRY COLETON: Thank you, Mr. Chairman.  
15 Larry Coleton from Orlando, Florida.

16 I find myself thinking that I'm back in the  
17 1950s or 1940s. This reminds me of basically,  
18 pardon the language, but white supremacy.

19 CHAIRMAN SIROIS: Sir, I'm --

20 LARRY COLETON: And the fact of the matter  
21 is it's ironic to me that the 14th Amendment would  
22 be turned on its head when that was initiated to  
23 protect Africans who were recently freed from  
24 slavery, and we, me, an African descendant of  
25 slavery, having people stand -- sit here and talk

1 about this as though -- and using it as a weapon  
2 against the very people it was intended to protect.

3 This is a moment for profiles in either  
4 courage or cowardice. To be intimidated by the  
5 Governor of this state to capitulate, this is not  
6 this Committee's bill. This is the Governor's bill.  
7 You haven't done your job. You aren't doing your  
8 job, and we are not going to forget this. And  
9 history will speak to you. It will speak about you.  
10 You will be dealt with for your history and  
11 hopefully at the ballot box.

12 CHAIRMAN SIROIS: Thank you, sir.

13 Hedder Pierre-Joseph -- I apologize. I'm  
14 butchering the name -- followed by Stacy Williams.

15 HEDDER PIERRE-JOSEPH: No worries. Good  
16 evening to the Committee and the Committee members.

17 My name is Hedder Pierre-Joseph.  
18 Redistricting is the process by which new  
19 congressional and state legislative districts are  
20 drawn. Federal law stipulates that districts must  
21 have nearly equal population and must not  
22 discriminate on the basis of race and ethnicity.

23 The current redistricting map, which  
24 eliminates congressional House representation for  
25 black people, is based on solely fear, fear that

1 black people are voting. As black people who are  
2 descendants of the enslaved Africans, we know our  
3 history, and we have seen this devil before.

4 I implore you not to continue down the dark  
5 path of your ancestors and deny black people their  
6 constitutional right of representation. I remind  
7 all of you of the Boston Tea Party of 1773.

8 Finally, I ask you to look around and to  
9 see the promise and the hope of the enslaved  
10 Africans. We are on the side of justice, and with  
11 the God of Abraham, Isaac, Jacob, and our ancestors,  
12 we shall always overcome. Remember, there is  
13 something called God and time. Thank you for your  
14 consideration.

15 CHAIRMAN SIROIS: Thank you. My apologies  
16 for butchering your name.

17 Stacy Williams followed by Troy Squire.

18 Stacy Williams is not here.

19 Troy Squire of Jacksonville. If I call  
20 your name, if you'd make your way forward.

21 Following Troy will be Jonathan Webber of  
22 Tallahassee.

23 TROY SQUIRE: THANK YOU for letting me  
24 speak.

25 I just have one question, but first, my

1 name is Troy Squire. I live in Congressional  
2 District 5, and as the regional breakdown for  
3 Northern Florida states, your plan will split black  
4 communities across three different congressional  
5 districts, which results in the loss of the current  
6 black opportunity district, linking Jacksonville and  
7 Tallahassee.

8 So my question is to Governor Ronald Deon  
9 DeSantis and this Subcommittee. What are you saying  
10 (sic) is that black votes does not matter to you?  
11 That's my only question. Thank you.

12 CHAIRMAN SIROIS: Thank you, sir.

13 Jonathan Webber of Tallahassee, followed by  
14 David Rucker of Orlando. And after David will be  
15 Genesis Robinson of Daytona Beach.

16 Sir, you are recognized.

17 JONATHAN WEBBER: Thank you so much.

18 Good afternoon. My name is Jonathan  
19 Webber. I'm the deputy director of Florida  
20 Conservation Voters, and for the record, I do live  
21 in CD 5, Al Lawson's district just south of  
22 Apalachee here in Tallahassee.

23 Florida Conservation Voters strongly  
24 believes that the health of our environment is  
25 directly tied to the health of our republic, and

1 just as we monitor our water for pollution, we  
2 monitor our government for signs of sickness.

3 Fair representation is one of the best  
4 metrics we have to measure the health of our  
5 government. The census and ensuing redistricting  
6 process is the test. Today, we're asking ourselves  
7 questions like, was this map drawn in complete  
8 transparency? Does it respect the rules set forth  
9 in the Voting Rights Act, in the state and federal  
10 Constitutions? Were the people of Florida given  
11 ample opportunity to participate and comment on this  
12 map? And most important, considering the profound  
13 legacy of state-sponsored oppression in Florida,  
14 does it protect or diminish the right of black  
15 Floridians to elect the leaders of their choice.

16 You all know the answers to these  
17 questions, and while fair representation is vital,  
18 fear of doing the right thing is the ultimate  
19 terminal sickness in democracy. Our republic is  
20 only as strong as the rights of the minority groups  
21 to participate. I love this country not so much for  
22 its history but for its promise. But that promise  
23 must be guaranteed to everyone, not just the  
24 powerful or the monied or the ruling class.

25 FCV stands in solidarity with our friends

1 and allies across the state in opposition to these  
2 maps. Thank you all for coming today. Thank you.

3 CHAIRMAN SIROIS: Thank you.

4 Next is David Rucker, followed by Genesis  
5 Robinson.

6 Ladies and gentlemen, we have about 20  
7 speaker cards left. I'd like to move into debate at  
8 6:00 p.m. So following you, sir, I will be reducing  
9 public testimony to one minute each.

10 Thank you, sir.

11 DAVID RUCKER: You're giving me one minute?

12 CHAIRMAN SIROIS: No, sir. After you.

13 DAVID RUCKER: Oh, after me.

14 CHAIRMAN SIROIS: You have two minutes.

15 DAVID RUCKER: Good. My name is David  
16 Rucker. I live in Orlando. I live in District 10,  
17 and I am a super voter. I started voting when I was  
18 18. That's in the Civil Rights in 1965. I've only  
19 missed two voting out of my whole time as being a  
20 teenager and a young and old adult.

21 And what I like to do and have you guys,  
22 before you even think about voting, we keep asking  
23 you to vote and the things that we don't like about  
24 what's happening with the Governor and what he's  
25 talking about, I want you to go back.

1           Before you make this vote -- in 1975, a  
2           song came out by the O'Jays, and it would say you  
3           got to give the people what they want. Before you  
4           vote, I want you to listen to that song. I want you  
5           to listen to it all the way through and then come  
6           back and vote. All right. That's what I need you  
7           to do. All right.

8           The next thing, there are four positions  
9           that we have now. The Governor want to cut them  
10          down to two, all right. You need to look at that  
11          too. We're talking about oppression of voters,  
12          especially blacks at that time, in '65. We need to  
13          take heed and look at those things. We don't want  
14          to repeat history, all right. We want to move  
15          forward.

16          But what the Governor is trying to is to  
17          try to repeat history, which is not good for all of  
18          us in America, you know. U.S. is us. That means we  
19          are here together, but remember, what I want you to  
20          do, 1975, the O'Jays, the O'Jays, all right. You  
21          got to give the people what they want. Thank you.

22                   CHAIRMAN SIROIS: Thank you, sir.

23                   Genesis Robinson, followed by Gail Gardner,  
24                   one minute.

25                   Sir, you are recognized.

1           GENESIS ROBINSON: Mr. Chair, I would ask  
2 that you reconsider to allow two minutes so I can  
3 speak.

4           CHAIRMAN SIROIS: Sir. I have --

5           GENESIS ROBINSON: I have somebody that's  
6 going to yield his time.

7           CHAIRMAN SIROIS: I have 20 speakers left.  
8 One minute, sir. You are recognized.

9           GENESIS ROBINSON: Okay. Thank you. Good  
10 afternoon, members. Thank you, Mr. Chair, for the  
11 opportunity to speak for one minute to address the  
12 House Subcommittee.

13           My name is Genesis Robinson. I am a  
14 registered voter in the state of Florida. I also  
15 serve as the political director for Equal Ground  
16 Action Fund. We are a black-led voting rights  
17 organization working to increase civic engagement in  
18 black communities throughout the state.

19           We are here in opposition to this plan.  
20 Obviously, you have abdicated your responsibility to  
21 draw maps to the Governor, and as an organization  
22 working to expand equity in the state, we believe  
23 that this map is unconstitutional.

24           With minority growth that we saw in the  
25 2020 census, it is critical that we have diverse

1 viewpoints and experiences represented at the  
2 federal level of government. The lived experiences  
3 and perspectives of these individuals are a crucial  
4 part in representing and reflecting the fullness of  
5 our state.

6 It is unconscionable to think that maps  
7 that govern our state for the next decade could give  
8 us less minority representation than we currently  
9 have. When the history of this moment is written,  
10 you do not want your name to be among those that  
11 violated --

12 CHAIRMAN SIROIS: Sir, your time --

13 GENESIS ROBINSON: -- and voted to take --

14 CHAIRMAN SIROIS: -- your time is expired.

15 GENESIS ROBINSON: -- away minority  
16 representation --

17 CHAIRMAN SIROIS: Thank you.

18 GENESIS ROBINSON: -- in the state of  
19 Florida. Thank you.

20 CHAIRMAN SIROIS: Thank you.

21 Gail Gardner of Ocoee, followed by Cheryl  
22 Jones of Winter Garden.

23 Ma'am, you're recognized.

24 GAIL GARDNER: Good evening. Gail Gardner  
25 from District 10.

1           In the '60s, my ancestors who lived in the  
2 North where I was born and grew up would board a  
3 charter bus and head south where they were born and  
4 grew up. Well, now, I too boarded a charter bus  
5 today for the same reason.

6           My experience has been that we are fighting  
7 once again and repeating history. Our ancestors did  
8 this. They defended their time. They defended the  
9 right to vote. And so, therefore, we're asking that  
10 the congressional redistricting map not just to draw  
11 the line but hold the line and make this legislative  
12 body accountable and not allow the persuasive  
13 executive decision by the Governor to be a force to  
14 diminish the black vote, of which those of you who  
15 benefited from the Fair Districts Amendment 5 and 6  
16 that prohibits politicians from drawing districts  
17 that favor themselves and their parties, to ensure  
18 that minorities will have the opportunity to elect  
19 representatives of their choice. Let's not allow  
20 history to repeat itself. Thank you.

21           CHAIRMAN SIROIS: Thank you, ma'am.

22           Cheryl Jones, followed by Ebony Hardy-Allen  
23 of Jacksonville.

24           Ma'am, you are recognized.

25           CHERYL JONES: Hello. I am Cheryl Jones

1 from Orlando.

2 I want to emphasize that our democracy is  
3 under attack. When you look at this redistricting  
4 map, it is clearly and blatantly designed to oppress  
5 black voters.

6 And I also want to address the fact that  
7 you would not have the speaker under oath. That  
8 simply holds them accountable. I don't know if  
9 others in here have heard, but he's flip-flopped  
10 back and forth a few times between here and the  
11 Senate, and being under oath holds his word to his  
12 record. So we would like to make sure that as we  
13 listen to the speakers, that they are held  
14 accountable and that the redistricting map actually  
15 does represent the citizens of our state.

16 I live in Orlando, which is currently  
17 district 10, but the redistricting will put me in  
18 District 11. And some of the reasons that were  
19 stated as to why it's being redistricted are  
20 different from other counties. Other counties are  
21 held intact, and I believe that holding our  
22 representatives accountable will make a difference.

23 CHAIRMAN SIROIS: Your time is expired.  
24 Thank you, ma'am.

25 Our next speaker is Ebony Hardy-Allen,

1 followed by Indesar Sabris (phonetic) of  
2 Jacksonville, and then we'll have Gail Presley of  
3 Orlando.

4 Ma'am, you're recognized.

5 EBONY HARDY-ALLEN: Hello. My name is  
6 Ebony Hardy-Allen. I'm a voter's right advocate.

7 Since I only have one minute, I'm only  
8 going to take 30 seconds because I've sat here, and  
9 I prepared a speech. But I'm not going to use it.  
10 I sat here, and I listened. And I looked at  
11 everybody's faces.

12 Three things, this reminds me of a poll  
13 tax. This reminds me of a literacy test. This  
14 reminds me of a paper bag test. My skin is too  
15 dark. I will not have representation. If you all  
16 vote for this bill, we will remember. We will vote  
17 you out of office. I am asking that you do not  
18 strip us of our representation. That's all I have  
19 to say. Literacy tests, poll tax, and a paper bag  
20 test.

21 CHAIRMAN SIROIS: Thank you, ma'am.

22 Indesar Sabris of Jacksonville, and then  
23 we'll have Gail Presley of Orlando, followed by  
24 Hazel Gillis of Jacksonville.

25 Ms. Presley?

1 GAIL PRESLEY: Yes?

2 Come on up.

3 Hazel Gillis will be next, followed by  
4 Cecile Scoon.

5 Ma'am, you're recognized.

6 GAIL PRESLEY: Well, thank you and good  
7 afternoon. Thank you, Chairman. To all of our  
8 House of Representatives, my name is Gail Presley,  
9 and I am a proud member of Congressional District  
10 Number 10, which is held by none other than our  
11 House of Representative.

12 It is disheartening to me here today to  
13 hear some of the information that was shared,  
14 especially from the attorney today. I come from a  
15 family, who have -- back in the 1960s, listening to  
16 some of the stories that they told me about voters  
17 rights and how they had to fight so hard to become a  
18 voter. I feel like I'm back in the 1960s today, and  
19 it is 2022.

20 I do oppose to the bill that is here today,  
21 and I implore you -- because you took an oath to  
22 serve the people. And we are the people. I am that  
23 person, and I do represent Congress -- Congressional  
24 District 10, and I do implore you, ladies and  
25 gentlemen, to do the right thing --

1 CHAIRMAN SIROIS: Your time is --

2 GAIL PRESLEY: -- and vote the right way.

3 CHAIRMAN SIROIS: Your time is expired.

4 GAIL PRESLEY: Thank you, Chairman.

5 CHAIRMAN SIROIS: Thank you very much.

6 Thank you, ma'am.

7 Hazel Gillis, followed by Cecile Scoon, and  
8 then we'll have Allison Clark of Maitland.

9 Ma'am, you're recognized.

10 HAZEL GILLIS: Good evening. My name is  
11 Hazel Gillis. I am a member of the James Weldon  
12 Johnson Branch of the ASALH, the Association for the  
13 Study of African American Life and History, and I  
14 live in Congressional District 5 in Jacksonville,  
15 Florida.

16 Governor Ron DeSantis' rejection of Florida  
17 Legislature-drawn maps is a direct attack on black  
18 representation in our democracy. By proposing a  
19 congressional map that reduces Florida's black  
20 representation in Congress by 50 percent, the  
21 Governor is attempting to silence the voices of  
22 hundreds of thousands of black voters.

23 We oppose any map that has been drawn by  
24 Governor Ron DeSantis. In 2010, Florida passed the  
25 Fair Districts Amendments 5 and 6 that prohibits

1 politicians from drawing districts to favor  
2 themselves and their parties and to ensure minority  
3 voters have equal opportunity to participate in the  
4 political process and have a fair opportunity to  
5 elect representatives of their choice --

6 CHAIRMAN SIROIS: Thank you, ma'am.

7 HAZEL GILLIS: -- their party.

8 CHAIRMAN SIROIS: Your time is expired.

9 HAZEL GILLIS: We must end this  
10 manipulation. Thank you.

11 CHAIRMAN SIROIS: Cecile Scoon of Panama  
12 City.

13 Thank you, ma'am.

14 Cecile Scoon of Panama City, followed by  
15 Allison Clark of Maitland, followed by ZsaZsa  
16 Ingram-Fitzpatrick of Tallahassee.

17 Ma'am, you are recognized.

18 CECILE SCOON: Thank you. Cecile Scoon,  
19 President of the League of Women Voters of Florida.

20 What a difference a day makes. I was here  
21 a few weeks ago, and I was really proud of this body  
22 when you addressed Mr. Popper, Professor Popper, and  
23 he came forth with this idea, turning things on its  
24 head and telling you that following the law was  
25 illegal.

1           And you literally asked him, do you have a  
2 case on point? And the man said no. I don't. And  
3 that is the true fact. You are ignoring Tier 1.  
4 Tier 1 actually does not require intent, as Mr.  
5 Kelly seemed to be implying and stating. It goes by  
6 impact. If you do not protect the voting rights and  
7 make sure that people have an opportunity to select  
8 a representative of their choice if they are a  
9 minority by race or language, you are violating Tier  
10 1, and you are violating the Florida Supreme Court's  
11 standing on the law. And that's simply the case.

12           They are trying to change the law ahead of  
13 time. The Governor is supposed to enforce the law,  
14 not change the law. The people that write the law  
15 are the legislators. This is all backwards, and  
16 it's hurting every single citizen of this state.

17           Yes. Black people are being targeted, but  
18 the destruction of our separation of powers is --

19           CHAIRMAN SIROIS: Thank you, ma'am.

20           CECILE SCOON: -- is affecting everyone.

21 Thank you.

22           CHAIRMAN SIROIS: Thank you, ma'am. Thank  
23 you.

24           CECILE SCOON: Please vote no.

25           CHAIRMAN SIROIS: Thank you, ma'am.

1 Ms. Clark of Maitland, followed by ZsaZsa  
2 Ingram-Fitzpatrick of Tallahassee, and then we'll  
3 have Myrtle Lucas of Jacksonville.

4 Ma'am, you are recognized.

5 ALLISON CLARK: Thank you, Mr. Chair.

6 I am Dr. Allison Clark, a native Floridian  
7 born in Volusia County, and I live in District 7. I  
8 am here to voice my opposition to this bill.

9 I could cite historical data, statistics,  
10 court cases, et cetera that demonstrate the  
11 unconstitutionality of the vote that you are about  
12 to take, but due to time, I will keep my statement  
13 to this.

14 The purpose of this session is clear to the  
15 nation and Floridians. It is to establish a path  
16 for the Governor's race for the White House in 2024,  
17 and it is a path that is being built on the backs of  
18 Florida's black voters. I ask you to vote no to  
19 this bill.

20 CHAIRMAN SIROIS: Thank you, ma'am.

21 ZsaZsa Ingram-Fitzpatrick, followed by  
22 Myrtle Lucas.

23 Ma'am, you are recognized.

24 ZSAZSA INGRAM-FITZPATRICK: Thank you.

25 I am ZsaZsa Ingram-Fitzpatrick, and I come

1 to give you a brief statement. It is about facts,  
2 rights, and responsibility. The fact is it is not  
3 in the Governor's job description that he should be  
4 putting forth maps on redistricting.

5 It is your right to tell him to stay in his  
6 lane and do his job, and it is the responsibility of  
7 us, the voters, the people who put you in office, to  
8 come before you and let you know what we think when  
9 we do not like what you're doing.

10 And today I am requesting that you look  
11 closely at what is being put forth to diminish black  
12 voters and people of color, our voices within this  
13 state, and that you also look at the census and know  
14 that we are that sleeping giant because our numbers  
15 are not diminishing. They are growing. Thank you  
16 and vote against this bill.

17 CHAIRMAN SIROIS: Thank you, ma'am.

18 Myrtle Lucas of Jacksonville, followed by  
19 Haraka Carswell of Jacksonville, and then we'll have  
20 Ingrid Montgomery.

21 MYRTLE LUCAS: Okay. My name is Myrtle  
22 Lucas. I am a member of the James Weldon Johnson  
23 Branch of the ASALH, the Association for the Study  
24 of African American Life and History, and I live in  
25 the Congressional District 5 in Jacksonville,

1 Florida.

2 We oppose any map that has been drawn by  
3 the Governor -- by Governor Ron DeSantis.  
4 Legislators and Governors are doing this to unfairly  
5 rule -- unfairly have it their way. That's what I'm  
6 really going to say. Okay. We must end this at the  
7 cost to protect our democracy and black voters. We  
8 vote for legislation --

9 CHAIRMAN SIROIS: Thank you, ma'am.

10 MYRTLE LUCAS: -- to draw -- no. I can't  
11 sit -- to draw maps for Fair Districts, and we want  
12 them to do their job.

13 CHAIRMAN SIROIS: Thank you, ma'am. Your  
14 time is expired.

15 MYRTLE LUCAS: Okay. Enough for Governor  
16 DeSantis.

17 CHAIRMAN SIROIS: Thank you, ma'am.

18 Haraka Carswell, followed by Ingrid  
19 Montgomery, and we'll -- no Haraka Carswell?

20 Ingrid Montgomery?

21 Yes, ma'am.

22 HARAKA CARSWELL: (No audible response)

23 CHAIRMAN SIROIS: Waive in opposition.

24 Thank you very much.

25 Ingrid Montgomery?

1 INGRID MONTOMERY: (No audible response)

2 CHAIRMAN SIROIS: Oh. My apologies. Thank  
3 you, ma'am.

4 Jasmine Burney-Clark, an opponent of the  
5 bill.

6 Odwan Whitfield (phonetic) of Jacksonville,  
7 an opponent of the bill. Are you here to speak?  
8 Come on up, sir. And then we'll have Gwendolyn  
9 Colman of Jacksonville.

10 Sir, you are recognized.

11 ODWAN WHITFIELD: My name is Odwan  
12 Whitfield. I'm in Congressional District 5. I'm a  
13 taxpayer, and I am a United States Army combat  
14 veteran. I fought over in district -- in foreign  
15 territories only to come back here to fight for my  
16 rights for representation.

17 It bothers me. It bothers me that we rush  
18 through this Committee hearing. First, it was for  
19 the interest of the people. So you rush the  
20 Representatives, and the people come up, and we rush  
21 the Representatives.

22 CHAIRMAN SIROIS: Sir, could you please  
23 keep your comments to the legislation.

24 ODWAN WHITFIELD: It's to you all. And so  
25 what's the rush? The session is from the 19th until

1 the 22nd. Why are we rushing so fast? This affects  
2 me and the people in my district.

3 The difference between you all saying that,  
4 you know, well, my uncle, auntie, cousin, brother,  
5 sister went to war, the difference is they don't  
6 have to come back to this. They don't have to. Do  
7 your jobs.

8 CHAIRMAN SIROIS: Sir, your time is --

9 ODWAN WHITFIELD: It isn't fair.

10 CHAIRMAN SIROIS: Sir, your time is  
11 expired.

12 ODWAN WHITFIELD: Do your jobs. That's all  
13 (indiscernible).

14 CHAIRMAN SIROIS: Your time is expired.  
15 Thank you.

16 Gwendolyn Coleman, Jacksonville.

17 Thank you for your service.

18 Gwendolyn Coleman, an opponent of the bill.

19 Walter Smith of Jacksonville, an opponent  
20 of the bill.

21 Kristin Fowailee of Maitland, an opponent  
22 of the bill.

23 Dr.Carolynn Zonia, followed by Lisa Perry.

24 Lisa, are you here? Next will be Joey McKinnon.

25 Ma'am, you are recognized.

1 DR. CAROLYNN ZONIA: Okay. Mr. Chairman,  
2 Committee members, I'm Dr. Carolynn Zonia. I'm  
3 speaking against the Governor's maps.

4 I just wanted to point out in September  
5 2021, the U.S. Department of Justice issued  
6 guidelines for Section 2 of the Voting Rights Act,  
7 and they clearly state that it's prohibited -- it  
8 prohibits any procedure or practices that minimize  
9 or cancel out the voting strength of members of  
10 racial or language minority groups in the voting  
11 population.

12 So whether you vote down the amendment,  
13 whether, you know, you're keeping the language in  
14 that says that you're limiting where this can be  
15 challenge, it's going to be challenged, and it's  
16 going to be overturned. Please vote against the  
17 Governor's maps. Thank you.

18 CHAIRMAN SIROIS: Thank you, ma'am.  
19 Lisa Perry, followed by Joey McKinnon.  
20 Mr. McKinnon, you are recognized.

21 JOEY MCKINNON: Thank you, Chair.

22 CHAIRMAN SIROIS: I'm sorry. Excuse me.  
23 Lisa Perry is an opponent of the bill.

24 Sir, you're recognized.

25 JOEY MCKINNON: Thank you, Chair.

1           My name is Joey McKinnon, and I'm a  
2     resident of the impacted CD 5. And I'm opposed to  
3     this bill.

4           During the regular legislative session,  
5     you, the Legislature, produced a map that was  
6     challenged to my knowledge by no one. Until  
7     Governor DeSantis broke with democratic norms, and  
8     here we are. And to be fair, I love many of you,  
9     but I didn't want to see you after Easter.

10          Stand by your maps. You did a good job.  
11     How often do people come to this podium and say  
12     that? But stand by your map. After this past  
13     session, it's time to turn down the heat. We all  
14     know that.

15          Today, you have the opportunity to protect  
16     the Constitution of the great state of Florida by  
17     upholding the Fair Districts Amendments, defend  
18     democratic norms, and prioritize people over  
19     partisanship, like you did with your maps. So let's  
20     do what's right. Thank you.

21          Thank you. We have Charletta Sowell of  
22     Jacksonville, waiving in opposition.

23          And finally Joanne Brooks of Jacksonville,  
24     waiving in opposition.

25          Members, we are now in debate.

1 Members wishing to debate.

2 Representative Benjamin, you are  
3 recognized, followed by Representative Skidmore.

4 REPRESENTATIVE BENJAMIN: Thank you,  
5 Mr. Chair.

6 We're here at this special session and in  
7 this Subcommittee to consider the Governor's veto  
8 with regards to a map or maps that we sent him that  
9 we believed at the time that we sent them that those  
10 maps were constitutionally compliant and that those  
11 maps were sufficient for representation in our --  
12 for our congressional representation.

13 That map held that four seats from Florida  
14 would hold black representation in our Congress.  
15 And now we're here today discussing a map that will  
16 change that representation from four to two.

17 And when we talk about the significance of  
18 that, we're told that the contested seating was, in  
19 fact, not legal in its iteration. However, it was  
20 not challenged. It was provided to us by the courts  
21 and was never challenged. That makes it benchmark.  
22 That means it had to be analyzed. That means it was  
23 subject to Title 3, or our Fair District Amendment,  
24 and that we codify Section 5 of the VRA, which says  
25 that we have to protect our representation in our

1 state from regression.

2 We believe that when we did that Title that  
3 regression was something that we wanted to protect  
4 our state from, and we have long recognized that in  
5 the law that we can give greater protections than  
6 the federal government. And it was said by counsel  
7 that adhering to state law was not a compelling  
8 state interest.

9 Yeah. I believe that -- and that's not  
10 case law. That's his opinion, and I believe that  
11 there is no greater state interest than upholding  
12 our Constitution, our Constitution that gives  
13 greater protections. And so we have now decided  
14 that we would compromise with the Governor after  
15 we've given him constitutionally compliant (sic),  
16 but where is the compromise? He's given us an  
17 offer, but where is our counteroffer? Where is our  
18 counter discussions as to what we believe should be  
19 right.

20 You've heard a lot of testimony giving here  
21 today. I don't believe that the court got it wrong.  
22 I believe that we're getting it wrong now, that  
23 black folks matter. Black representation matters.  
24 We sought to ensure that we would not go backwards.  
25 Our State Constitution ensured that we would

1 continue to take Florida forward, and in doing so,  
2 we enshrined it in law.

3 And so there could be no greater state  
4 interest -- there could be no greater compelling  
5 interest than to ensure that our laws are upheld  
6 when -- especially when they give greater benefit.

7 And so we should vote this down because  
8 black votes matter. Black voters matter. Black  
9 representation matters, and we should give the  
10 people what they want.

11 CHAIRMAN SIROIS: Thank you, Representative  
12 Benjamin.

13 Members, just checking in on time,  
14 according to my phone, we're at 6:02 now. I'd like  
15 -- my goal is for us to vote or to have a close from  
16 Chair Leek at about 6:25. So if you'd help me stay  
17 on track.

18 Representative Skidmore, you are  
19 recognized.

20 DEMOCRATIC RANKING MEMBER SKIDMORE: Thank  
21 you, Mr. Chair.

22 I want to thank the folks that traveled  
23 from around the state who came to testify today. We  
24 heard they came from all parts of Florida.

25 You know, I just feel that this map clearly

1 violates the Florida Constitution. Whether it was  
2 devised with the intent of denying of abridging the  
3 equal opportunity of racial or language minorities  
4 to participate in the political process or to  
5 diminish the ability to elect representatives of  
6 their choice, the fact of the matter is the result  
7 is it does. And that violates the Constitution.

8           If the Governor believes, as he has stated,  
9 that a racially gerrymandered district is tantamount  
10 to segregation, then why did he leave Congressional  
11 District 20 alone? When all of his objection was on  
12 Congressional District 5 and they redrew 18 other  
13 districts but they left a racially gerrymandered  
14 district alone, that is -- it doesn't jive with what  
15 it is that he is saying.

16           And this bill, this map, is  
17 unconstitutional because whether it was devised with  
18 the intent to favor a political party, the fact of  
19 the matter is the result is it does. Mr. Kelly  
20 testified that -- in his testimony that his cleanup  
21 of the Legislature's map randomly resulted in a  
22 partisan makeup of 20 Republican seats and 8  
23 Democratic seats, as widely reported in the media.

24           Members, it's an Easter miracle, and all he  
25 was worried about was race neutral. But remarkably

1 this map has 20 Republican performing seats and 8  
2 Democratic seats. There are so many things wrong  
3 with this map. There are so many things that are  
4 wrong with this process and wrong with the  
5 Governor's insertion of himself in this map to  
6 benefit his Presidential election.

7 I am telling you this is going to come back  
8 and bite you. You should vote no on this. I don't  
9 care how many times we have to come back to get it  
10 right. I will come back. I will come back. I will  
11 come back. And you should too.

12 CHAIRMAN SIROIS: Representative Brown, you  
13 are recognized in debate.

14 REPRESENTATIVE BROWN: Thank you, Mr.  
15 Chair.

16 Frankly, I cannot tell you what the purpose  
17 of this Committee is -- here is today because it  
18 seems as though there are folks within this room  
19 that are sort of content with the Governor's  
20 decision to run a one-man show with these  
21 congressional maps.

22 Not only has this move been unprecedented,  
23 but it is unnecessary meddling in its finest on  
24 behalf of the Governor. I find it an honor and a  
25 privilege and it is an honor and a privilege that

1 Floridians have elected us to represent them and to  
2 really participate in this redistricting process.  
3 But it's also our constitutional duty as legislators  
4 to do so.

5 And so I refuse to sit here and neglect  
6 that. I refuse to sit here and ignore my  
7 constitutional duty, my moral duty, of the people of  
8 the state of Florida, who entrusted us to ensure  
9 that their voices are heard.

10 They voted some years ago on the Fair  
11 District Amendments, and they voted for every  
12 legislator in this room. Our biggest obligation to  
13 them, members, is to do what's right. The biggest  
14 obligation is to them and not the Governor.

15 His pride, as it was mentioned by Rep  
16 Skidmore, his pride and his ambition to become  
17 President by any means necessary only hurts us as a  
18 collective, and it hurts us as Floridians. And we  
19 have continually seen this time and time again, just  
20 with the many bills that we have been asked to vote  
21 on. We've seen it with SB-90. We've seen it with  
22 last year election's police bill, and all these  
23 bills disenfranchise voters.

24 I feel that we should not be allowing  
25 someone to bully both chambers and do his bidding

1 without a fight, and so today, on behalf of the many  
2 folks that have come here, those that have been  
3 silent, those who have not been able to make it here  
4 to Tallahassee, I'm here to fight for you as a  
5 constituent. I will be voting no, absolutely. I'm  
6 not here to work for the Governor or his ambition,  
7 and so I ask my colleagues, I implore my colleagues,  
8 not only in this room but also in the other chambers  
9 and the 120 of us to do the same and do what the  
10 folks of Florida sent us here to do.

11 CHAIRMAN SIROIS: Thank you.

12 Representative Harding in debate.

13 REPRESENTATIVE HARDING: Thank you,  
14 Chairman.

15 And, first, I just want to say that I will  
16 be supporting House Bill 1-C today, one, because I  
17 believe that, as it's been outlined throughout this  
18 process today, that I believe it's constitutional,  
19 and I believe it's the right result. But, number  
20 two, because there's a process.

21 And today we've talked about -- we've used  
22 the term veto several times, but we haven't talked  
23 about -- I'm sorry -- we've inserted the term about  
24 the Governor proposing a map, but we haven't talked  
25 about in the process the Governor has the ability to

1 veto. That is part of the process.

2           When you get elected, oftentimes, we were  
3 told, you know, the first time you have a bill that  
4 you want to run, the idea that it's going to pass on  
5 its first time is pretty slim. It does happen, but  
6 it's the exception. It may not work through the  
7 process for a variety of reasons, or it may be  
8 vetoed. And you have to come back and reconvene on  
9 how do we work to move forward? And that's what  
10 we're doing is moving forward.

11           When I got elected, I tried to do three  
12 things when I was running and then also as I've  
13 served. I've tried to be straightforward, try to  
14 represent the people that have sent me here, and  
15 I've also tried to stay true to my values.

16           And on the straightforward piece, I went  
17 back, and there's been discussion today in Committee  
18 that the previous map was just this harmonious map  
19 that we all loved. And it was so great. The fact  
20 was that there was not a single Democrat member that  
21 voted for the previous map. So when we point to  
22 that as the example, then why did you not support  
23 that map?

24           And the second thing I want to point out is  
25 that, just as I mentioned previously, there's a

1 process. We were -- we knew going into  
2 redistricting that one of the jobs we had was we  
3 could propose our own maps. That didn't happen. I  
4 have not seen Democrat members that are opposing the  
5 bill today propose their own maps in the process.

6 So I want to -- last thing is just to the  
7 audience members, I want to thank you for being  
8 here. Whether we agree or disagree, it takes  
9 courage to be here, and the term courage was pointed  
10 out. And I like that word courage because it takes  
11 courage to speak. It takes courage to run for  
12 office. It takes courage.

13 But I would implore you to hold the folks  
14 accountable that you are celebrating today in  
15 opposing this bill by having the courage to propose  
16 their own maps, which hasn't happened.

17 So I'll be supporting this bill. Thank you  
18 for being here and speaking, whether we agree or  
19 disagree.

20 CHAIRMAN SIROIS: Representative Joseph in  
21 debate.

22 REPRESENTATIVE JOSEPH: Thank you,  
23 Mr. Chair.

24 Black representation matters. Even if that  
25 means you might have a better chance at getting a

1 seat in Congress. When we think about the amendment  
2 that I proposed, right now, even in the bill, there  
3 is a little subclause that says federal questions  
4 can be addressed in federal court. So why would we  
5 need to add that it needs to go to state courts?

6 Well, if you haven't been following the  
7 jurisprudence, the federal courts have relegated  
8 dealing with these kinds of redistricting  
9 gerrymandering cases in cases where there's  
10 partisanship. They say we're not touching that. So  
11 partisanship is the carrot.

12 We also have indications from the U.S.  
13 Supreme Court with questions raised in other  
14 litigation about what constitutes a compelling  
15 interest. I would posit that making sure that  
16 minority representation exists is a compelling state  
17 interest. Some may disagree. Some people want us  
18 to be race neutral.

19 What race neutral means is that I have the  
20 opportunity to ignore the impact on racial  
21 minorities when I make a decision that is factually  
22 neutral. That means, on its face, it doesn't take  
23 into account race, but in practice, the impact, the  
24 effect is that it eliminates, diminishes, decreases,  
25 and has the effect of discrimination.

1           And what we're saying when we pass these  
2 policies, whether it's in this context or in the  
3 context of education or in the context of employment  
4 is we see the pain, but we don't want to see the  
5 pain. So we're just going to pretend like your pain  
6 does not exist.

7           It is disgraceful that this legislative  
8 body would be willing to sacrifice black  
9 representation at the alter of this Governor's  
10 political ambitions and maybe some of your own.  
11 People, Floridians, voters, Americans should have  
12 the right to choose their representatives and not  
13 the other way around.

14           We should not be stacking the cards --  
15 Republicans should not be stacking the cards in  
16 their favor 20 to 8 and then have the nerve to come  
17 up here and try to say that it was not in  
18 consideration of partisanship.

19           All that does is empowers one particular  
20 group to continue to ignore the needs of Floridians.  
21 Floridians, both Republicans and Democrats, care  
22 about things that help us to be healthy, prosperous  
23 and safe, whether that means fixing our broken  
24 Unemployment Compensation system -- and a number of  
25 things that I'm not even going to get into.

1           CHAIRMAN SIROIS: Representative Joseph,  
2 let's try to keep it, you know, within the framework  
3 of the bill.

4           REPRESENTATIVE JOSEPH: Understood.

5           CHAIRMAN SIROIS: And let's bring it in for  
6 a landing because there's others that want to  
7 participate.

8           REPRESENTATIVE JOSEPH: I will do my  
9 darndest right now.

10           These maps are not it. They're not even  
11 our maps. They're the Governor's maps. This is  
12 absurd. I was so proud of us last time that we even  
13 at least made the effort. It doesn't mean that  
14 those maps were perfect. We identified issues.  
15 We're going to have issues. Just because something  
16 isn't perfect doesn't mean it wasn't better. The  
17 other ones were better than this.

18           And I'm disappointed that this is the route  
19 that we have decided to go, we, to be clear, my  
20 colleagues who will be voting in favor of this map.  
21 That's who I mean by we. But we who are still  
22 fighting for the people, whether you're Democrat or  
23 Republican, whether you're black or white, we are  
24 disappointed with this process, with this  
25 legislation, and with the result of decreasing black

1 representation, which will be difficult to challenge  
2 in advance of the next elections.

3 CHAIRMAN SIROIS: Representative Driskell  
4 in debate.

5 REPRESENTATIVE DRISKELL: Thank you,  
6 Mr. Chair.

7 Members, no problem can be solved from the  
8 same consciousness that created it. That's Albert  
9 Einstein. And when I look at what we're doing with  
10 the redistricting process, it seems to me that we're  
11 trying to roll back the clock to the same  
12 consciousness that created the problems such that we  
13 would need a Voting Rights Act and Fair District  
14 Amendments in the first place.

15 I know sometimes our debates get heated in  
16 here, and we have very deep issues and values that  
17 cause us to disagree. But I actually have love in  
18 my heart for each and every one of you, and when I  
19 go back home, people ask me, how is that possible  
20 when you hear these bills that are just -- my  
21 constituents, many of them perceive to be so mean  
22 spirited. And I say because I'm able to connect  
23 with my colleagues on a human level.

24 But I think that we've missed something in  
25 the process when we can have people come before us

1 and bare their souls and their fears and their  
2 frustrations, and we cannot connect with them on a  
3 human level. What about their humanity? What do we  
4 say to the voters of Gadsden County, the only  
5 majority-minority district that we have in the state  
6 of Florida? I'm sorry. We're taking your  
7 representation. What about their humanity? I'm  
8 worried about our consciousness. I'm worried that  
9 we are going backwards with these maps.

10 Just to address a couple of things. I know  
11 the point was raised that the Democrats in large  
12 part did not vote in favor of the congressional maps  
13 when we had them before us in regular session.  
14 Well, there were some real things wrong with that,  
15 starting with we introduced two maps, and the  
16 primary map was closer to what the Governor was  
17 proposing then, which we thought was  
18 unconstitutional.

19 The secondary map was closer to what many  
20 of us had worked on with Chair Sirois, and there was  
21 starting to be a consensus around. And I'm not even  
22 sure that passing two maps was constitutional,  
23 right. So the only flip that I see -- Democrats,  
24 let's be clear, have been real consistent. The only  
25 flip that I see was not from our caucus.

1           And to the point that was made earlier in  
2 testimony, that the Governor, you know, it's no  
3 secret that he's, you know, been putting information  
4 about there about these maps and what he thinks,  
5 that's right. And guess what? The Legislature  
6 close to ignore that for the most part. Some of his  
7 feedback was taken into the primary map that was  
8 passed, but we looked at what the Governor was  
9 doing. We were saying no. This is wrong. It's  
10 unconstitutional. The Governor is the executive  
11 branch. That is to execute the law, not to  
12 legislate it and to pass it. That's our job.

13           Another thing, second, the current law  
14 matters. I heard in testimony today, well, the  
15 court got it wrong. Well, we can opine that all  
16 that we want, but the law is the law. The rule of  
17 law matters, and I don't see anything that we've  
18 done here that suggests to me that we actually are  
19 following in a legal way redistricting principles.

20           I know. I got to bring it in for a  
21 landing. Thank you, Mr. Chair.

22           The third point is just I see so much  
23 inconsistency in what's been presented before us  
24 where we focused on certain principles for certain  
25 regions of the state but not for South Florida. I

1 don't understand the inconsistency. It's  
2 problematic. It is rushed. We need more time,  
3 Mr. Chair. We absolutely just need more time to  
4 consider this. This process is not enough. I'm  
5 down. Thank you.

6 CHAIRMAN SIROIS: Representative  
7 Hunschofsky.

8 REPRESENTATIVE HUNSCHOFSKY: Thank you,  
9 Mr. Chair.

10 I have to say when I asked to be on this  
11 Committee, I was very excited. I find it an  
12 incredible honor to be able to serve in this Florida  
13 House of Representatives. Wherever the outcomes  
14 end, I feel so -- it weighs tremendously on me that  
15 every vote I make, every decision I make impacts  
16 someone's life, and not just their life today but  
17 their future.

18 It also is about a sense of trust that we  
19 have been entrusted to be the voice and to speak up  
20 for the people we represent. So I was super excited  
21 when I got to be on this Committee, and we were told  
22 really early on not to talk to people about the  
23 maps, not to listen to people about the maps. And  
24 we were given rules to follow.

25 And I followed them. I listened at every

1 Committee meeting. Every time something came up, I  
2 always went back to the Tier 1 and Tier 2 that the  
3 leadership here and the staff here told us this is  
4 what we are supposed to follow. I didn't follow  
5 Twitter. I didn't follow newspapers. I followed  
6 exactly what I was told to follow.

7 This map doesn't follow what I was told we  
8 are supposed to follow. It doesn't matter what the  
9 intent is. It's the result of whether we are  
10 denying or abridging the equal opportunity of racial  
11 or language minorities to participate in the  
12 political process or to diminish their ability to  
13 elect representatives of their choice, not the  
14 intent but the result.

15 That's a Tier 1 standard, which must come  
16 before the Tier 2 standards. And I, as a local  
17 person, always talked about I want to keep our  
18 cities together, ad nauseum. But it's --

19 CHAIRMAN SIROIS: Representative, if you  
20 could -- if you could wrap up your comments please.

21 REPRESENTATIVE HUNSCHOFSKY: I will --

22 CHAIRMAN SIROIS: There are others.

23 REPRESENTATIVE HUNSCHOFSKY: I understand.

24 So what I'm saying is we talk about being  
25 race neutral. I didn't see anywhere in my

1 directions that I'm supposed to be race neutral. I  
2 see that I'm supposed to make sure that we're not  
3 diluting representation.

4 There are also concerns in here that now  
5 we're picking which courts the challenges come. We  
6 didn't do that in our last maps, and we even put in  
7 a \$1 million of an appropriation in here for that,  
8 that we didn't do prior. And those are all concerns  
9 I have with this map.

10 I don't understand why -- where the  
11 difference is that some bodies of water take  
12 precedent over other bodies of water, that some  
13 weird-shaped districts take priority over some --  
14 why 200 miles is worse than 180, and these are all  
15 my concerns with this map.

16 CHAIRMAN SIROIS: Thank you.

17 Representative Latvala.

18 REPRESENTATIVE LATVALA: Thank you, Mr.  
19 Chairman.

20 I think it's slightly disingenuous to say  
21 that you were proud of something that you voted  
22 against. The last Speaker, one of the last Speakers  
23 said that there was virtually -- and my -- just for  
24 the record, I was not referring to Representative  
25 Hunschofsky.

1           One of the last Speakers said that the last  
2 map had no opposition. Well, it was apposed by the  
3 nonpartisan organization the League of Women Voters,  
4 and it was also opposed by every one of my  
5 Democratic colleagues. But other than that, it  
6 didn't have any opposition.

7           And, you know, we passed a map, members.  
8 the Governor didn't like it, and I remember the day  
9 that we passed it on the floor. One of my  
10 Democratic colleagues stood up on the floor and said  
11 you all are passing this map for the Governor.

12           We were accused of passing the map for the  
13 Governor then, and I didn't agree with that. And I  
14 guess the Governor also didn't think that we passed  
15 the map for him because he vetoed it, which is part  
16 of his constitutional duties. He's allowed to do  
17 that.

18           Gadsden County was brought up. We're  
19 keeping Gadsden County whole in this map. We're not  
20 including Gadsden County with a county that's 10  
21 counties away.

22           I thank all the people that were here to  
23 speak to us today. I thought it was interesting  
24 that we had people from Tallahassee and people from  
25 Jacksonville that were here, and they were all in

1 the same congressional district. I grew up in  
2 Jacksonville.

3 I voted in -- the first election that I  
4 voted in was in 2000. Back then, my Congressperson  
5 represented me, and her congressional district was  
6 in Jacksonville. And it stretched all the way from  
7 Jacksonville to Orlando. Part of it had one side of  
8 the street but not the other because it was a, as  
9 somebody from the Governor's Office's mentioned, it  
10 was a small skinny salamander. That's called  
11 gerrymandering.

12 And so this is a good map. I will be  
13 supporting it. I will have no regrets, and I think  
14 history will judge me just fine, as it will everyone  
15 else that votes yes. Thank you.

16 CHAIRMAN SIROIS: Representative Leek, you  
17 are recognized to close.

18 REPRESENTATIVE LEEK: Thank you, Mr. Chair.  
19 In the interest of time, I'll waive close.

20 CHAIRMAN SIROIS: Thank you.

21 DJ, please call the roll.

22 THE CLERK: Chair Sirois.

23 CHAIRMAN SIROIS: Yes.

24 THE CLERK: Representatives Benjamin.

25 REPRESENTATIVE BENJAMIN: No.

1 THE CLERK: Brown.  
2 REPRESENTATIVE BROWN: No.  
3 THE CLERK: Fabricio.  
4 REPRESENTATIVE FABRICIO: Yes.  
5 THE CLERK: Fetterhoff.  
6 REPRESENTATIVE FETTERHOFF: Yes.  
7 THE CLERK: Harding.  
8 REPRESENTATIVE HARDING: Yes.  
9 THE CLERK: Hunschofsky.  
10 REPRESENTATIVE HUNSCHOFSKY: No.  
11 THE CLERK: Joseph.  
12 REPRESENTATIVE JOSEPH: No.  
13 THE CLERK: Latvala.  
14 REPRESENTATIVE LATVALA: Yes.  
15 THE CLERK: Maggard.  
16 REPRESENTATIVE MAGGARD: Yes.  
17 THE CLERK: Massullo.  
18 REPRESENTATIVE MASSULLO: Yes.  
19 THE CLERK: McClure.  
20 REPRESENTATIVE MCCLURE: Yes.  
21 THE CLERK: Morales.  
22 REPRESENTATIVE MORALES: No.  
23 THE CLERK: Perez.  
24 REPRESENTATIVE PEREZ: Yes.  
25 THE CLERK: Plakon.

1 REPRESENTATIVE PLAKON: Yes.

2 THE CLERK: Silvers has been excused.

3 Skidmore.

4 DEMOCRATIC RANKING MEMBER SKIDMORE: No.

5 THE CLERK: Trabulsy.

6 REPRESENTATIVE TRABULSY: Yes.

7 THE CLERK: Truenow.

8 REPRESENTATIVE TRUENOW: Yes.

9 THE CLERK: Tuck.

10 VICE CHAIR TUCK: Yes.

11 THE CLERK: Williamson.

12 REPRESENTATIVE WILLIAMSON: Yes.

13 THE CLERK: Ex Officio Driskell.

14 REPRESENTATIVE DRISKELL: No.

15 THE CLERK: Ex Officio Leek.

16 REPRESENTATIVE LEEK: Yes.

17 THE CLERK: 15 yeas, 7 nays, Mr. Chair.

18 CHAIRMAN SIROIS: Thank you, DJ.

19 Please show the bill reported favorably.

20 Members, I'd like to thank you for your

21 work today. I'd like to thank the members of the

22 public that joined us as well.

23 Without objection, the meeting is

24 adjourned.

25 (END OF VIDEO RECORDING)

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CERTIFICATE OF TRANSCRIPTIONIST

I certify that the foregoing is a true and accurate transcript of the digital recording provided to me in this matter.

I do further certify that I am neither a relative, nor employee, nor attorney of any of the parties to this action, and that I am not financially interested in the action.

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Julie Thompson, CET-1036

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Black Voters Matter Capacity Building Institute, Inc.

vs.

Cord Byrd, et al.

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Deposition of:

James Kelly

June 07, 2023

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Vol 1



IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY  
BUILDING INSTITUTE, INC.,  
et al.,

Plaintiffs,

vs.

CASE NO. 2022 CA 000666

CORD BYRD, in his official  
capacity as Florida Secretary  
of State, et al.,

Defendants.

\_\_\_\_\_ /

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

COMMON CAUSE FLORIDA, et al.,

Plaintiffs,

vs.

CASE NO. 4:22-cv-109-AW-MAF

CORD BYRD, in his official  
capacity as Florida Secretary  
of State,

Defendant.

\_\_\_\_\_ /

DEPOSITION OF JAMES ALEXANDER KELLY  
(Volume 1, Pages 1 - 194)

Wednesday, June 7, 2023  
9:35 a.m. - 2:00 p.m.

LOCATION:

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK  
119 South Monroe Street, #500  
Tallahassee, FL 32301

STENOGRAPHICALLY REPORTED BY: SANDRA L. NARGIZ  
RPR, CM, CRR, CRC, CCR

Job No. 311409

1 APPEARANCES:

2

3 ON BEHALF OF THE PLAINTIFFS BLACK VOTERS MATTER,  
4 et al.:

5 ELIAS LAW GROUP, LLP  
6 10 G Street NE  
7 Washington, DC 20002  
8 202.968.4490

9 BY: JOSEPH POSIMATO, ESQUIRE  
10 jposimato@elias.law

11 BY: CHRISTINA FORD ESQUIRE  
12 cford@elias.law

13

14 ON BEHALF OF THE PLAINTIFFS COMMON CAUSE, et al.:

15

16 PATTERSON BELKNAP WEBB & TAYLOR  
17 1133 Avenue of the Americas  
18 New York, NY 10036  
19 212.336.2817  
20 BY: CATHERINE J. DJANG, ESQUIRE  
21 cdjang@pbwt.com

22

23 ON BEHALF OF THE DEFENDANT SECRETARY OF STATE:

24

25 HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIK  
119 South Monroe Street, #500  
Tallahassee, FL 32301  
850.508.7775

BY: MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com

BY: ROBERT MICHAEL BEATO, ESQUIRE  
mbeato@holtzmanvogel.com

26

27

28

29

30

31

32

1 APPEARANCES: (Continued.)

2 ON BEHALF OF THE DEFENDANT FLORIDA SENATE:

3 SHUTTS AND BOWEN  
4 215 S. Monroe Street, #800  
5 Tallahassee, FL 32301  
6 850.241.1717  
7 BY: DANIEL E. NORDBY, ESQUIRE (Via Zoom.)  
8 dnordby@shutts.com

9 THE FLORIDA SENATE  
10 302 The Capitol, #404S  
11 Tallahassee, FL 32399  
12 850.487.5237  
13 BY: KYLE EDWIN GRAY, ESQUIRE (Via Zoom.)  
14 gray.kyle@flsenate.gov

15 ON BEHALF OF THE DEFENDANT FLORIDA HOUSE OF  
16 REPRESENTATIVES:

17 GRAY|ROBINSON  
18 301 S. Bronough Street, #600  
19 Tallahassee, Florida 32301  
20 850.577.9090  
21 BY: ASHLEY H. LUKIS, ESQUIRE  
22 ashley.lukis@gray-robinson.com

23 ALSO PRESENT:

24 Nicholas Meros, Office of the Governor  
25 Michael Halper, Common Cause Florida  
Taylor Meehan (Via Zoom.)  
David Rosenthal (Via Zoom.)

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22  
23  
24  
25

1 The following proceedings began at 9:35 a.m.:

2 THE STENOGRAPHER: Would you raise your  
3 right hand, please?

4 Do you swear or affirm that the testimony  
5 you are about to give will be the truth, the  
6 whole truth, and nothing but the truth?

7 THE WITNESS: I do.

8 THE STENOGRAPHER: Thank you.

9 Thereupon,

10 JAMES ALEXANDER KELLY

11 having been first duly sworn or affirmed, as  
12 hereinafter certified testified as follows:

13 DIRECT EXAMINATION

14 BY MS. FORD:

15 Q All right. Good morning, Mr. Kelly.

16 A Good morning.

17 Q My name is Christina Ford. I'm  
18 representing the Black Voters Matter plaintiffs in  
19 this case. And we're here today, I know we have the  
20 federal plaintiffs.

21 MS. FORD: If you guys want to go on the  
22 record and sort of explain the merged  
23 deposition and what will happen today?

24 MR. JAZIL: How about I start with that?  
25 Mohammad Jazil on behalf of Secretary Byrd.

1 I note for the record that this deposition  
2 is being taken in Black Voters Matter Capacity  
3 Building Institute, Inc., versus Cord Byrd,  
4 Case Number 2022-CA-666, which is in the Second  
5 Judicial Circuit of Leon County. And it's also  
6 being taken in Common Cause Florida v. Cord  
7 Byrd, which is in the Northern District of  
8 Florida, Case Number 4:22-cv-109.

9 This deposition is being taken consistent  
10 with Judge Marsh's order in the Second Circuit,  
11 which is Exhibit 1 to the deposition.

12 (Exhibit 1 was marked for identification.)

13 MR. JAZIL: This stipulation of the  
14 parties in the Second Circuit case, which is  
15 Exhibit 2 to the deposition.

16 (Exhibit 2 was marked for identification.)

17 (Exhibit 3 was marked for identification.)

18 MR. JAZIL: And the Federal District  
19 Court's order from May 25th, 2023, which is ECF  
20 Number 157.

21 And we are preserving all our privileges,  
22 not waiving them. And I apologize in advance  
23 for having to interject when my friend asks  
24 questions that I think are getting close to the  
25 line, but with that, Christina --

1 MS. FORD: Great. Cat, all that works for  
2 you?

3 MS. DJANG: Yes.

4 MS. FORD: That all works.

5 BY MS. FORD:

6 Q Okay. Mr. Kelly, can you just state your  
7 full name for the record?

8 A Sure. James Alexander Kelly.

9 Q All right. And you've been deposed  
10 several times before?

11 A Yes.

12 Q Including in the previous litigation over  
13 Florida's congressional districts, correct?

14 A Yes, that is --

15 Q 2010?

16 A Yes, 2010 cycle, whenever it was -- 2013,  
17 2014.

18 Q Okay. And you've previously given  
19 testimony at trial before, correct?

20 A Yes.

21 Q Including in Florida's last cycle of the  
22 congressional districting trial?

23 A Yes.

24 Q So I won't spend much time on ground rules  
25 because I think you understand them, but you

1 understand your testimony here is under oath?

2 A Yes.

3 Q And your attorney, Mr. Jazil here, may  
4 make an objection to my questions and that's fine,  
5 but you are required to answer unless Mr. Jazil has  
6 specifically instructed you not to answer based on a  
7 topic that is privileged.

8 Do you understand that?

9 A Yes.

10 Q And if at any point you don't understand a  
11 question that I'm asking, will you please let me  
12 know?

13 A Yes.

14 Q If at any time you'd like to take a break,  
15 will you let me know?

16 A Yes.

17 Q I will probably need some breaks.

18 And do you agree that during your breaks  
19 you will not consult with anyone, including your  
20 counsel, about how to substantively answer a  
21 question?

22 A I can't consult with him?

23 Q About how to substantively answer a  
24 question. So I mean about the content of your  
25 answer.

1           A       I'm not sure why I would agree to that.

2           **Q       Do you object to that instruction?**

3                   MR. JAZIL:  It's okay.

4                   THE WITNESS:  Okay?

5                   MR. JAZIL:  Yeah.  I'm okay with that  
6                   instruction.

7           A       Okay.  Yes.

8  BY MS. FORD:

9           **Q       Are you on any medications or drugs today**  
10 **that would impair your ability to answer accurately**  
11 **or truthfully today?**

12           A       No medications, no drugs.

13           **Q       Okay.  And is there any circumstance that**  
14 **would impair your ability to answer my questions**  
15 **today?**

16           A       No.

17           **Q       Okay.  Let's just get to the deposition**  
18 **notice.**

19                   **Okay.  This is just the notice of your**  
20 **deposition.**

21                   MS. FORD:  Do you want a copy, Mo?

22                   MR. JAZIL:  Sure.  Yeah.

23                   MS. FORD:  So this is going to be  
24                   Exhibit 4.

25

1 (Exhibit 4 was marked for identification.)

2 BY MS. FORD:

3 Q I just want to confirm this is what  
4 you're -- you're appearing in response to. I think  
5 I have an outdated address, but otherwise --

6 A Yes.

7 Q Okay. What did you do to prepare for  
8 today's deposition?

9 A I consulted with our counsel. I reviewed  
10 back through the presentation that I gave in the  
11 House and the Senate in April of last year -- video,  
12 written comments, the maps themselves -- of what I  
13 presented.

14 I've reviewed back through the map as it  
15 was passed by the legislature.

16 I reviewed the interrogatories that the  
17 Secretary of State submitted.

18 I reviewed the questions that I believe  
19 I'm responsible for from both sides of this  
20 deposition.

21 I reviewed the legal -- the memorandums  
22 that our office published when our office requested  
23 an opinion before the Supreme Court, when our office  
24 provided written guidance to the Florida House of  
25 Representatives.

1 I've reviewed the memorandum that Robert  
2 Popper provided to the Florida House of  
3 Representatives.

4 I've reviewed the veto message that the  
5 Governor issued when vetoing the legislature's  
6 original plan.

7 I think I've covered in saying that the  
8 different legal memorandums that our office -- legal  
9 opinions that our office issued, but I reviewed  
10 those.

11 I may -- I may be missing something, but I  
12 think that probably covers it.

13 **Q Thank you. That's helpful.**

14 **Did you speak to anyone in the Governor's**  
15 **Office in preparing for today's deposition?**

16 A Yes.

17 **Q Who did you speak with?**

18 A Our general counsel, Ryan Newman.

19 **Q Anyone else in the Governor's Office?**

20 A Did I speak to anybody else in the  
21 Governor's Office?

22 **Q About today's deposition, to prepare.**

23 A To prepare, no.

24 **Q Did you speak to any member or staff of**  
25 **the legislature about today's deposition?**

1 A No.

2 Q Did you speak to Mr. Adam Foltz?

3 A No.

4 Q Mr. Thomas Bryan?

5 A No.

6 Q Did you consult with anyone other than  
7 Mr. Jazil or Mr. Newman?

8 A Just the legal counsel that we have.

9 Q All right. And you told us about the  
10 communications you reviewed, which is great.

11 What's your current job title?

12 A I am one of the deputy chiefs of staff for  
13 the Governor.

14 Q And you were promoted -- I think I read?

15 A Yes.

16 Q Okay. Great. Congratulations.

17 How long have you been in your current  
18 position?

19 A Since April -- April 7th of 2021.

20 Q Okay. And who do you report to in your  
21 position as deputy chief of staff?

22 A The chief of staff.

23 Q Oh, you're not chief of staff?

24 A No, I report to the chief of staff.

25 Q You report to the chief of staff. And who

1     **is that?**

2           A     James Uthmeier.

3           **Q     What are your general responsibilities as**  
4     **deputy chief of staff?**

5           A     Sure. A lot.

6                     So I cover education policy, economic  
7     development policy. In addition to that, the  
8     Department of State, a variety of things the  
9     Department of State oversees. And then also the  
10    Department of the Lottery.

11                    And so as a deputy chief, I oversee  
12    basically reporting to -- or reporting to our office  
13    of those agencies that fall under those umbrellas:  
14    Education, economic development, state and lottery.

15           **Q     Okay. How did you get the job of deputy**  
16    **chief of staff?**

17           A     I was offered the job by the former chief  
18    of staff there.

19           **Q     Who was that?**

20           A     Adrian Lukis.

21           **Q     Is that someone that you personally had a**  
22    **relationship with?**

23           A     Yeah, I've known Adrian for several years.

24           **Q     And when you were being considered for**  
25    **that job -- for your current job, I should say --**

1     **did you discuss the idea of redistricting as**  
2     **something you would be working on for the Governor?**

3           A     No.

4           **Q     You also spent several years at the**  
5     **Florida House, right?  Previously?**

6           A     Yes.

7           **Q     And what years were those?**

8           A     My first stint with the House was the end  
9     of 2002 to mid-2004.  And then -- I'm sorry -- I'm  
10    sorry.  2000, end of 2000 to mid-2002.

11                   And then I returned in late 2004, left  
12    late 2005.  And then I came back for a third stint  
13    in the House September 2009 to September 2012.

14           **Q     Okay.  Just to each of those, when you**  
15    **were there in 2000, what was your role then?**

16           A     I was a legislative aide for one of the  
17    representatives.

18           **Q     Which representative?**

19           A     Aaron Bean.

20           **Q     And that was your first job in the House?**

21           A     Yes.

22           **Q     Have you maintained a relationship with**  
23    **Representative Bean?**

24           A     Not close.  It's probably -- probably been  
25    quite a while since we talked.

1           **Q     And what were your responsibilities in**  
2 **that role?**

3           A     As a legislative aide?

4           **Q     Uh-huh.**

5           A     Legislative aide primarily works on  
6 legislation for the representative, who essentially  
7 is the policy liaison for the representative;  
8 constituent matters as well, often representing the  
9 representative at community functions, things of  
10 that nature, if he couldn't participate in them;  
11 working with the other offices in the legislature to  
12 advance his legislative priorities.

13           **Q     And what area of Florida did**  
14 **Representative Bean represent at the time?**

15           A     He had all of Nassau County, all of  
16 Bradford, all of Baker, all of Union, and a little  
17 sliver of Duval.

18           **Q     Okay. And you ended that sometime in**  
19 **2002, you said?**

20           A     Yeah, 2002.

21           **Q     Okay. And when you came back in 2004,**  
22 **what was that role for?**

23           A     I was hired as an analyst in the House  
24 Majority Office.

25           **Q     Okay. And what did you do in that role?**

1           A       I was a policy analyst.

2           **Q       And when you say the "majority office," is**  
3           **that the Republican Majority Office?**

4           A       Yes.

5           **Q       And then when you came back in 2009**  
6           **through 2012, what were your roles then?**

7           A       Sure. A couple different roles.  
8           Initially, the -- not the current Speaker, the  
9           incoming Speaker had a select policy council that  
10          covered different policies, so I was an analyst for  
11          that. And then late 2010, transitioned into  
12          redistricting.

13          **Q       And when you came into the House in 2009,**  
14          **did you understand that you would play a role in**  
15          **redistricting?**

16          A       Yeah, probably. It wasn't certain. There  
17          was a question as to whether I might work in  
18          appropriations or redistricting.

19          **Q       And then you later went on to oversee**  
20          **redistricting for the House, right?**

21          A       Yes.

22          **Q       What was your official title at that**  
23          **point?**

24          A       Staff director.

25          **Q       For the House Redistricting Committee?**

1           A     Yes.

2           **Q     All right.  And previously you've also**  
3 **worked as a political analyst for the Republican**  
4 **Party of Florida?**

5           A     Yeah.

6           **Q     When was that?**

7           A     That was in 2009.  I think probably  
8 actually started in late 2008, but I think we  
9 were -- I think I was actually on salary  
10 January 2009 to September.

11          **Q     Okay.  And did you -- what was your**  
12 **position or title, if you remember?**

13          A     I don't remember.

14          **Q     What did -- what did you do for them?**

15          A     I was responsible for interviewing  
16 candidates, helping with fundraising, recruiting  
17 candidates.  We would do political events, so  
18 staffing political events.

19          **Q     And when you say interview candidates and**  
20 **whatnot, what kind of races were you working on?**

21          A     State House races.

22          **Q     Were you responsible for just a region or**  
23 **all State House races statewide?**

24          A     Not all.  I don't recall how the work was  
25 divided up, but not all.

1           **Q**     Do you remember any particular regions  
2     that you were responsible for working in?

3           A     I don't remember how it was divided up.

4           **Q**     And so after your work at the Republican  
5     Party of Florida, your very next job was with the  
6     House, correct?

7           A     Yes.

8           **Q**     And you've been a campaign manager for  
9     Florida candidates several times, right?

10          A     Yes.

11          **Q**     Have those candidates always been  
12     Republicans?

13          A     Yes.

14          **Q**     And you've worked on Republican campaigns,  
15     and I have 2000, 2002, 2004, and 2008 election  
16     cycles; is that right?

17          A     Yes.

18          **Q**     What were your responsibilities on those  
19     campaigns, generally?

20          A     Either campaign manager or, in one case,  
21     co-campaign manager.

22          **Q**     What did you do in your role as campaign  
23     manager?

24          A     What campaign managers do. They work with  
25     the candidate in every way to support their getting

1 elected: Fundraising, meeting with voter groups,  
2 helping candidates with speeches and helping them  
3 with policy, policy briefings, putting signs in  
4 yards, waving signs, everything that campaign  
5 managers do.

**6 Q And where were those campaigns located?**

7 A The 2000 campaign, Lake County was the --  
8 was the main part of that district.

9 2002, that district -- large district in  
10 what we call our Suncoast, which is kind of in the  
11 counties that are north of the Tampa Bay area,  
12 mostly.

13 And 2004, a district that was centered in  
14 St. Augustine.

15 And then 2008, we're actually sitting in  
16 the district, which it was the Tallahassee district.

**17 Q Okay. And you attended the University of  
18 Florida?**

19 A Yes.

20 MS. FORD: I did as well. Go Gators.

21 THE WITNESS: Go Gators.

22 BY MS. FORD:

**23 Q And you got a masters in political  
24 science?**

25 A Yes.

1           **Q     Did you have any other degrees from the**  
2     **University of Florida?**

3           A     That was it.

4           **Q     And when did you first move to Florida?**

5           A     The summer of 1998.

6           **Q     And you've lived in Florida since then?**

7           A     Yes.

8           **Q     What cities in Florida have you lived in?**

9           A     Gainesville, Fernandina Beach, Leesburg,  
10     St. Augustine, Tallahassee, Crystal River.

11           I think that's it.

12          **Q     Have you spent any time in Jacksonville?**

13          A     Yes.

14          **Q     So you're familiar generally with**  
15     **Jacksonville?**

16          A     Generally, yes.

17          **Q     All right. Have you spent any time in**  
18     **Tampa Bay?**

19          A     Yes.

20          **Q     Generally familiar with the cities to**  
21     **Tampa Bay?**

22          A     Yes.

23          **Q     Are you aware that St. Petersburg has a**  
24     **substantial minority population?**

25          A     I've been told, yes.

1           **Q     Are you aware that St. Petersburg has a**  
2           **substantial Democratic population?**

3           A     I don't know the partisan breakdown of  
4           St. Petersburg.

5           **Q     I'm not asking for the exact breakdown of**  
6           **partisanship of St. Petersburg, but you're aware**  
7           **that it generally has a substantial number of**  
8           **Democratic voters?**

9                     MR. JAZIL: Object to the form.

10                    You can answer.

11           A     I'm generally not aware.

12                     (Brief interruption.)

13           BY MS. FORD:

14           **Q     Are you aware that Tampa has a substantial**  
15           **minority population?**

16           A     Yes.

17           **Q     Are you aware that the city of Tampa also**  
18           **has a substantial population that votes Democratic?**

19           A     I don't know.

20           **Q     You don't know anything about the city of**  
21           **Tampa's general electoral behavior?**

22                     MR. JAZIL: Object.

23           A     I don't know.

24           BY MS. FORD:

25           **Q     Do you know who the City of Tampa's mayor**

1 is?

2 A No.

3 Q Do you know who the City of  
4 St. Petersburg's mayor is?

5 A No.

6 Q Do you know who the City of Orlando's  
7 mayor is?

8 A No.

9 Q Do you know who the City of Tallahassee's  
10 mayor is?

11 A Shamefully, no.

12 Q Have you spent any time in Central  
13 Florida?

14 A Yes.

15 Q Are you generally familiar with the cities  
16 in Central Florida?

17 A Yes.

18 Q Are you aware that Orange County has a  
19 substantial minority population?

20 A Yes.

21 Q And are you aware that Orange County has a  
22 substantial population that votes Democratic?

23 A I don't know. I can picture the mayor of  
24 Tallahassee, by the way, I just literally can't --  
25 like, I'm completely blank on his name.

1           **Q     Would you agree with me that Volusia**  
2     **County is on average a whiter and more Republican**  
3     **county than Orange County?**

4           A     I don't know.

5           **Q     Do you have a Twitter account?**

6           A     No.

7           **Q     Do you spend any time on Twitter, whether**  
8     **or not you personally tweet?**

9           A     Barely.

10          **Q     Is part of your job to sort of follow the**  
11     **news in the political environment?**

12          A     No.

13          **Q     Is it fair to say that you generally**  
14     **follow Florida politics?**

15                     MR. JAZIL: Object to form.

16                     You can answer.

17          A     You'd have to define "generally."

18     BY MS. FORD:

19          **Q     What do you follow?**

20          A     I follow education news, I follow economic  
21     development news; more often than not, what people  
22     share with me.

23          **Q     Do you follow campaign news?**

24          A     Um --

25          **Q     Actually, let me clarify that.**

1           A       Sure.

2           **Q       Who's running, who's dropped out, who's**  
3 **won, stuff like that?**

4           A       I follow the Governor's campaign, the  
5 statewide campaigns. That's about it.

6           **Q       Okay. Where do you generally get your**  
7 **news?**

8           A       Usually -- usually people who share it  
9 with me.

10          **Q       Do you -- are there any websites, like,**  
11 **let's say, where you tend to go to check the news?**

12          A       No.

13          **Q       You don't go online to get news?**

14          A       I don't.

15          **Q       Do you get the paper delivered?**

16          A       No.

17          **Q       And you're not on Twitter?**

18          A       I'm not on Twitter.

19          **Q       That's probably a good thing. I spend too**  
20 **much time on Twitter.**

21                   **So you only get news when people**  
22 **personally tell you about news?**

23          A       Most of the time, yes, that's correct.

24          **Q       Do you -- do you read any particular**  
25 **redistricting websites or blogs?**

1 A No.

2 Q So you don't follow David -- Dave

3 Wasserman at the Cook Political Report?

4 A No.

5 Q You don't follow or read Matt Isbell at

6 MCIMAPS?

7 A No.

8 Q Do you receive news alerts as part of your

9 job to your inbox at work?

10 A Yes.

11 Q And those sometimes -- those news updates

12 sometimes include updates about the redistricting

13 process?

14 A I'm not sure.

15 Q Do you consume news anywhere else that we

16 haven't talked about?

17 A No.

18 Q Okay. Let's get into redistricting.

19 When did you first start doing

20 redistricting work?

21 A Just -- you mean just generally?

22 Q Uh-huh.

23 A Fall of 2009.

24 Q Did you do -- I'm sorry, did you have --

25 A I was just thinking. That sounds right,

1 fall of 2009.

2 **Q Did you do anything related to**  
3 **redistricting in the 2002 cycle, redistricting**  
4 **cycle?**

5 A Yeah. Yeah, actually, yes.

6 **Q What did you do?**

7 A I drew a State House map with 108  
8 districts.

9 **Q And that was while you worked for**  
10 **Representative Bean?**

11 A Yeah.

12 **Q Was that part of your job or just did it**  
13 **for fun?**

14 A He asked me to.

15 **Q Okay. What was the purpose of drawing**  
16 **that State House map?**

17 A He wanted to propose a district or a State  
18 House map with a 10 percent cut in the number of  
19 districts.

20 **Q Okay. So you drew a map that -- a State**  
21 **House map that was -- did you get it down all the**  
22 **way to equal population, it was a map that could**  
23 **have really been implemented?**

24 A That's a long time ago; I don't recall.

25 **Q And did you generally follow Florida's**

1     **2002 redistricting cycle while you were a**  
2     **legislative aide for Representative Bean?**

3             MR. JAZIL: Object.

4             A     High level, generally.

5     BY MS. FORD:

6             **Q     What was redistricting like in the 2002**  
7     **cycle, to the best of your memory? I realize it was**  
8     **20 years ago.**

9             A     It was a blur. I'm not sure what more --  
10     I'm not sure what you mean by "what was it like?"

11            **Q     The Governor in 2002 was Jeb Bush, right?**

12            A     Yes.

13            **Q     Do you remember Governor Bush playing a**  
14     **role in the redistricting process in that cycle?**

15            A     Nothing specific.

16            **Q     Have you ever drawn a redistricting plan**  
17     **for a state other than Florida?**

18            A     No.

19            **Q     And have you ever drawn a redistricting**  
20     **plan as part of your work in the private sector?**

21            A     No.

22            **Q     Have you ever drawn a redistricting plan**  
23     **in a capacity as a consultant?**

24            A     No.

25            **Q     So is it correct to say you've only ever**

1 redrawn redistricting plans for your job at the  
2 House and then your current job for the Governor?

3 A Correct.

4 Q And so within Florida, I just want to go  
5 over the kind of redistricting plans that you've  
6 drawn.

7 You said you drew a State House map in  
8 2002, right?

9 A Yes.

10 Q And you drew State House maps in the 2010  
11 cycle as well?

12 A Yes.

13 Q Did you draw any State House maps this  
14 cycle?

15 A No.

16 Q Okay. What about Congressional maps? Did  
17 you draw any Congressional maps in the 2002 cycle?

18 A No.

19 Q You did draw Congressional maps in the  
20 2010 cycle, right?

21 A Yes.

22 Q And you drew Congressional maps in the  
23 2020 cycle, this cycle?

24 A Yes.

25 Q What about Senate maps? Have you ever

1 **drawn maps for the Florida Senate?**

2 A Yeah.

3 **Q When was that?**

4 A The 20 -- '10 to 2012 cycle.

5 **Q Okay. Did you draw any this cycle for the**  
6 **Florida Senate?**

7 A No.

8 **Q Have you ever drawn a redistricting plan**  
9 **of a Florida municipality?**

10 A No.

11 **Q Have you drawn any other kind of**  
12 **redistricting plans within the state of Florida or**  
13 **for the State of Florida?**

14 A No.

15 **Q Did you personally have a position on the**  
16 **Fair District Amendments when they were first**  
17 **introduced?**

18 A Did I personally have a position? What do  
19 you mean?

20 **Q Did you -- is it correct that you voted**  
21 **against the Fair District Amendments when they were**  
22 **on the ballot in November of 2010?**

23 A Yes.

24 **Q And what was your -- what was your**  
25 **opposition to the amendments?**

1           A     I don't really remember what my -- what  
2     was my reasons?

3           **Q     Yeah.**

4           A     I don't know. I may have answered that  
5     question on the record 10 years ago, I'm not sure.  
6     You can probably consult the transcript from my  
7     deposition a decade ago.

8                     I don't know if I remember at this point.

9           **Q     I don't think you remembered then either.**  
10    **I was just wondering.**

11          A     Okay.

12          **Q     All right. Okay. The 2012 cycle -- so**  
13    **you served as the staff director for the House**  
14    **Redistricting Committee, right?**

15          A     Yes.

16          **Q     And you were in that role for a couple of**  
17    **years?**

18          A     Yes.

19          **Q     So you said you did a little bit of**  
20    **redistricting work in 2002, but only at a high**  
21    **level, right?**

22          A     Yes.

23          **Q     Okay. So what did you do to get prepared**  
24    **for the role of overseeing redistricting for the**  
25    **House for that 2010/2012 cycle?**

1           A       I remember I went back and -- went and  
2       read some recently redistricting cases, get familiar  
3       with redistricting law.

4                    I remember there was a guide that I want  
5       to say I think NCSL produced -- I don't know if they  
6       still do, but they used to produce a guide, kind of  
7       a legal background guide on redistricting. I  
8       remember reviewing that.

9                    I went to one of NCSL's conferences,  
10      consulted with the legal team that the House  
11      developed. That was it, generally speaking.

12           **Q       Okay. And what were your responsibilities**  
13      **as staff director for the House Redistricting**  
14      **Committee?**

15           A       Sure. Like any staff director, staff -- I  
16      have a group of staff who work for the committee who  
17      report to the staff manager, so I was the manager of  
18      that team.

19                    I was responsible for reporting to and  
20      proposing to the leadership of the House as to how  
21      we would schedule and run committee meetings, how we  
22      would get citizen input, how we would propose maps,  
23      what that process would look like; and then, of  
24      course, leadership of the House lead the House, so  
25      whatever -- they ultimately approved and would

1 execute that vision.

2 Q Is it correct that you helped develop the  
3 software that the House used, which was called  
4 MyDistrictBuilder?

5 A Yes.

6 Q And you already established you drew maps  
7 yourself, including State House maps?

8 A Yes.

9 Q Okay. Sorry, I just have to get it on  
10 record.

11 Congressional maps?

12 A Yes.

13 Q And you said you drew Senate maps that  
14 cycle?

15 A Yes, the '10 to '12 cycle, yes.

16 Q And overall you were the chief map drawer  
17 for the House, correct?

18 A Yes.

19 Q And you supervised other staff members'  
20 map drawing?

21 A Yes.

22 Q Is it fair to say that by the end of the  
23 2012 redistricting cycle that you would have drawn  
24 hundreds of different maps for the State?

25 A I doubt hundreds, that's a lot. I'm not

1 sure of the number.

2 **Q Dozens of different drafts?**

3 A Yes. Yeah.

4 **Q And is it fair to say by the end of the**  
5 **2010 to 2012 redistricting cycle you would have**  
6 **spent thousands of hours drawing maps?**

7 A I'm not sure how the hours add up. I  
8 don't -- I don't know if it's literally thousands.

9 **Q So several hundred hours?**

10 A Yes.

11 **Q By the time you left the House in -- was**  
12 **it September of 2012, you said?**

13 A Yes.

14 **Q By the time you left in September of 2012,**  
15 **would you have considered yourself an expert in**  
16 **Florida redistricting?**

17 A I'm not sure what qualifies someone as an  
18 expert.

19 **Q I'm not speaking in technical terms here.**  
20 **You knew a ton about Florida redistricting?**

21 A I'm giving a technical answer. I'm not  
22 sure what qualifies as an expert.

23 **Q By the time you left in September of 2012,**  
24 **did you know a lot about Florida redistricting?**

25 A Yes.

1           **Q**     **Is there anyone that you can think of that**  
2     **would have known more about Florida redistricting**  
3     **than you back in the 2012 cycle?**

4           A     I'm sure there were people who knew more  
5     than me.

6           **Q**     **Who were they?**

7           A     Really good legal counsel.

8           **Q**     **I mean about like the actual process of**  
9     **map drawing and the drawing of the map for the**  
10    **State.**

11                   **Who was more knowledgeable about it than**  
12    **you?**

13          A     I'm not sure.

14          **Q**     **From your perspective, how did**  
15    **redistricting in the 2012 cycle differ from the 2002**  
16    **cycle?**

17          A     How did it differ?

18          **Q**     **Uh-huh.**

19          A     Um --

20          **Q**     **Or how did -- how did it compare?**

21          A     The state had pretty significant growth,  
22    so that alone obviously changes the process. The  
23    law had changed. Amendments 5 and 6 had passed.  
24    That's -- you know, population and the law changing  
25    are pretty significant changes.

1           **Q     How did the new arrival of the Fair**  
2 **District Amendments change how the cycle worked?**

3           A     How did it change it?

4           **Q     Yeah, from your perspective.**

5           A     The State had two constitutional  
6 amendments to adhere to. It creates an unknown.  
7 New law, untested, creates an element of unknown for  
8 the process.

9           **Q     And Governor Scott would have been the**  
10 **Governor at this time, right, in the 2010 to 2012**  
11 **cycle?**

12          A     Yes.

13          **Q     And to your knowledge, did Governor Scott**  
14 **have any role in the redistricting process in that**  
15 **cycle?**

16          A     Nothing significant.

17          **Q     And still talking about the 2012 cycle,**  
18 **you served as one of the negotiators for the House**  
19 **when the House and the Senate were working out their**  
20 **differences on the Congressional map, right?**

21          A     Yes.

22          **Q     And my understanding is that while the**  
23 **House made some concessions to the Senate in those**  
24 **negotiations, that the vast majority of the final**  
25 **enacted Congressional plan came from the House; is**

1       **that correct?**

2                   MR. JAZIL: Object to the form.

3                   You can answer.

4           A       Correct, yes.

5                   I guess I should say -- I mean, you asked  
6 about Governor Bush and Governor Scott. I mean,  
7 both have to sign the Congressional map in the  
8 traditional general bill, so I don't mean to  
9 downplay that.

10       BY MS. FORD:

11           Q       **For sure, yeah, I realize that they signed**  
12 **it. Just do you remember any other role that they**  
13 **played in terms of weighing in on map proposals or**  
14 **offering ideas?**

15           A       No.

16           Q       **And in 2014 after the redistricting trial,**  
17 **the Florida House and Senate stated to the trial**  
18 **court that you, Jason Poreda, and John Guthrie were**  
19 **the primary architects of the 2012 Congressional**  
20 **plan.**

21                   **Is that a fair characterization of your**  
22 **role?**

23           A       Yes.

24                   MS. FORD: Can we pull up the 2012 plan?

25                   Let's make this Exhibit 5?

1 I'll lose track at some point today.

2 (Exhibit 5 was marked for identification.)

3 MS. FORD: Oh, actually, this is 2002.

4 Did I say 2002?

5 Can I get 2012?

6 MR. POSIMATO: Sure.

7 THE WITNESS: Do you want this back?

8 MS. FORD: Sorry about that.

9 Let's just make this Exhibit 6.

10 (Exhibit 6 was marked for identification.)

11 BY MS. FORD:

12 Q Okay. Let's just look at the 2012 one for  
13 now.

14 Does this look like a fair and accurate  
15 copy of the Congressional plan that was enacted by  
16 the legislature in 2012?

17 A Yes.

18 Q So you were one of the primary drafters of  
19 this plan?

20 A Yes.

21 Q And in 2012 you helped the House analyze  
22 whether proposed plans would result in diminishment  
23 of minority voting strength by conducting a  
24 functional analysis, right?

25 A I wouldn't say -- I wouldn't say as a

1 legislative staff we conducted a full functional  
2 analysis. It depends on what -- when you're using  
3 that phrase, if you're using that phrase in the  
4 fairly sort of nuanced way or if you're using it  
5 kind of just sort of generally.

6 **Q I didn't mean it in nuanced sense of how**  
7 **the Florida Supreme Court has -- has defined the**  
8 **term "functional analysis" to determine whether a**  
9 **minority district performs or does not perform.**

10 A We as legislative staff did not do a full  
11 functional analysis.

12 **Q Did you do functional -- a functional**  
13 **analysis on certain districts in drawing this plan?**

14 A Same answer I was giving, that we as staff  
15 didn't do what you would consider to be a  
16 professional functional analysis.

17 **Q When I say a "functional analysis," do you**  
18 **know what that means?**

19 A I have a general concept as to what that  
20 means.

21 **Q Okay. What's your best understanding of**  
22 **what it means?**

23 A A full functional analysis would be where  
24 a professional political scientist would take a look  
25 at prior election results and try to determine if

1 there -- to what degree there's a consistent voting  
2 block in a district.

3 **Q Okay. And it would involve like a ratio**  
4 **voting analysis or analysis of block voting?**

5 A Yes.

6 **Q Can you tell me your best understanding of**  
7 **what it means for a district to be diminished?**

8 MR. JAZIL: Counsel, before he answers  
9 that question, I have a question about  
10 Exhibit 6.

11 MS. FORD: Sure.

12 MR. JAZIL: It says it was legislatively  
13 enacted on February 16, 2002, and then it  
14 references Senate Bill 2012. Is that just a  
15 scrivener's error in the original?

16 MS. FORD: I honestly don't know. I got  
17 this from the Florida Senate Committee on  
18 Apportionment, which has official plans that  
19 were done for publishing images of all. And  
20 this is what they have as the 2012 to 2016  
21 enacted.

22 MR. JAZIL: I just wanted to note that for  
23 the record. It seems to show it was enacted a  
24 decade before.

25 MS. FORD: Oh, I see. It says 2002. I'm

1           sorry.

2           I imagine that that is a scrivener's  
3           error. To my eyes, this looks like the 2012 to  
4           2016 plan.

5 BY MS. FORD:

6           **Q     Mr. Kelly, does this look like the 2012 to**  
7           **2016 plan to you?**

8           A     Yes.

9           MR. JAZIL: And you've represented on the  
10          record that you got it if from the website.  
11          That's good enough for me, so --

12          MS. FORD: Okay. Well, Dan, I'm letting  
13          you know you have a scrivener's error on the  
14          website.

15          I'm sure Dan is not responsible for that.

16          MR. JAZIL: I didn't mean to interrupt  
17          you.

18          MS. FORD: That's all right. That's okay.  
19          I didn't even notice.

20 BY MS. FORD:

21          **Q     Okay. I'm sorry. I think I just asked:**  
22          **Can you tell me what your best understanding is of**  
23          **what it means for a district to be diminished?**

24          A     I assume you mean like diminished in  
25          the --

1           Q     I mean under the Tier 1 framework -- good  
2 clarification. Under the Tier 1 framework, we have  
3 minority dilution, minority diminishment --

4           A     Uh-huh.

5           Q     -- and I'm asking what's your best  
6 understanding of what it means for a district to be  
7 diminished under Tier 1?

8           A     Sure. Likelihood to elect a candidate of  
9 choice.

10          Q     Okay. And if the likelihood were to  
11 decrease, that would mean that the district had  
12 diminished?

13          A     I don't think it's as simple as that,  
14 because you can't assume those other factors  
15 involved, but that could lead you to that answer.  
16 You'd have to look at other factors -- the districts  
17 are above or below population, there might be  
18 geographical limits. So I wouldn't stop there  
19 simply by saying that, but that would certainly  
20 start you down the path of that analysis.

21          Q     Okay. And I think you said before that  
22 you didn't do what you called a "professional  
23 functional analysis." But you -- my understanding  
24 is in the 2012 cycle you did do some version of a  
25 functional analysis for some districts; is that

1 correct?

2 A We as staff for some districts that I  
3 would characterize -- I wouldn't characterize it as  
4 a professional functional analysis. I would  
5 characterize it as a cursory review.

6 Q Did you consult sort of demographic data  
7 of minority populations when you were doing your  
8 cursory functional analysis?

9 A Yes, in the districts where -- where we --

10 Q Yeah, and I --

11 A -- felt it was necessary.

12 Q I'm only talking about the districts where  
13 the Florida House believed that it was a district  
14 that --

15 A Uh-huh.

16 Q -- that qualified for Tier 1 protection.  
17 And did you consult election data or  
18 political data in that cursory functional analysis?

19 A To the extent necessary, if it was -- if  
20 it was merited.

21 Q And political data or election data  
22 results, those were available in MyDistrictBuilder  
23 at the time, correct?

24 A Yes.

25 Q Did you also consider any sort of racially

1     **polarized voting analysis for the districts that**  
2     **merited Tier 1 protection?**

3           A     We as staff didn't do an analysis of  
4     racial polarization.

5           **Q     Were any racially polarized voting**  
6     **analyses available to you as staffers to help in**  
7     **your functional analysis?**

8           A     Well, again, we didn't do a full  
9     professional functional analysis. So, again, more  
10    of a cursory review.

11          **Q     But were those results available to you?**

12          A     At -- at what stage of the -- what do you  
13    mean?

14          **Q     I'm just -- I'm not trying to ask a trick**  
15    **question here. I'm just saying in your map drawing**  
16    **process --**

17          A     Uh-huh.

18          **Q     -- did you have access to or review**  
19    **information about the voting cohesion of certain**  
20    **minority groups or, you know, what candidates those**  
21    **minority groups preferred, as you were trying to**  
22    **comply with Tier 1?**

23          A     So while --

24                   MR. JAZIL: Just so the question is fair,  
25                   2012?

1 MS. FORD: 2012, I'm sorry. Thank you.

2 A Okay. So you're asking while we were  
3 drawing the maps themselves?

4 BY MS. FORD:

5 Q Uh-huh.

6 A No, that data was not available to us.

7 Q Okay. Was that data available to you at  
8 any other point in the 2012 cycle?

9 A The results of racial polarization data?

10 Q Yes.

11 A Yes, after we drew the maps.

12 Q Okay. And what was the purpose of  
13 consulting that data?

14 A Essentially to check our work.

15 Q To confirm that the district would still  
16 perform for the minority voters and their candidate  
17 of choice?

18 A Yes.

19 Q And let me go back just a second here. We  
20 talked about how election political data, election  
21 data, whatever you want to call it, was available in  
22 MyDistrictBuilder at the time. You said it was in  
23 2012, right?

24 A Yes.

25 Q Did that include voter registration data?

1 A Yes.

2 Q And it included election results?

3 A Yes.

4 Q For over a span of several years of  
5 elections?

6 A Three or four election cycles, yes.

7 Q So when you were doing at least your  
8 version of a functional analysis and sort of  
9 checking your work to make sure the districts would  
10 still perform, is there anything else you consulted?

11 A Do you mean outside of the  
12 MyDistrictBuilder tool; is that what you mean?

13 Q No, I'm saying outside of what we just  
14 talked about.

15 A No.

16 Q Well, what tools were available in  
17 MyDistrictBuilder at the time that you relied on?

18 A Census data, American Community Survey  
19 data, voter registration and election data that you  
20 just referenced. The tool, of course, will tell you  
21 population numbers. The tool had alerts for things  
22 like contiguity. That covers it.

23 Q And when you were doing a functional  
24 analysis, you're looking at both the benchmark map  
25 and the new map that you're drawing, right, to

1 compare the two?

2 A Yes.

3 Q And when I say the benchmark map, I know  
4 "benchmark map" can have a lot of meanings. Here, I  
5 just mean the previously --

6 A Well --

7 Q -- enacted map.

8 A -- for someone who's doing a functional  
9 analysis, yes.

10 MS. FORD: Just give me a second here. I  
11 want to cross out questions that we've done so  
12 we can go as fast as possible.

13 BY MS. FORD:

14 Q Okay. Let's go to this 2002 plan, which I  
15 think is Exhibit 5.

16 So I have a question here about CD-3 at  
17 the time, this blue district on this map that goes  
18 from Central Florida up to North Florida and Duval.  
19 So this was -- let's call it benchmark CD-3, which  
20 later becomes number CD-5 later.

21 So in the last redistricting cycle, you  
22 would have done at least a cursory functional  
23 analysis on this district, right?

24 A A cursory review. Again, just I need to  
25 insist: We, the staff, were not doing a

1 professional functional analysis. You keep saying  
2 that we were; we were not.

3 So a cursory review of the data that we  
4 mentioned, yes.

5 **Q Was someone in -- someone else in the**  
6 **House doing the more professional analysis?**

7 A In the House, no.

8 **Q Was anyone in the legislature doing a more**  
9 **professional functional analysis?**

10 A No.

11 **Q In any event, my understanding is that the**  
12 **House concluded that benchmark CD-3, this blue one**  
13 **right here, was entitled to Tier 1 diminishment**  
14 **protection; is that right?**

15 A Yes.

16 **Q And benchmark CD-3 did not have a**  
17 **50 percent Black voting-age population, correct?**

18 A I believe that's correct. Well, at what  
19 point in time? I know that it changed during the  
20 decade.

21 **Q My understanding is at the end of the**  
22 **decade, this at least no longer had a 50 percent**  
23 **Black voting-age population; is that your memory?**

24 A Correct.

25 **Q And the proposed maps you drew for the**

1 House in the 2012 cycle for this district also did  
2 not quite reach 50 percent Black voting-age  
3 population, correct?

4 A Correct.

5 Q How did you reach the conclusion that the  
6 House's version of this district in your new maps  
7 would continue to perform for the minority candidate  
8 of choice with less than a 50 percent Black  
9 voting-age population?

10 MR. JAZIL: In 2012?

11 MS. FORD: 2012.

12 A That ultimately wasn't my conclusion to  
13 reach.

14 BY MS. FORD:

15 Q Well, in 2012 you offered the opinion  
16 that -- I should say in the 2012 redistricting  
17 cycle -- that this district would continue to  
18 perform for minority voters with a percentage less  
19 than 50 percent Black voting-age population.

20 Do you remember that?

21 A Do you have --

22 Q Sure.

23 A -- a copy of -- of the transcript or  
24 something that I can review?

25 Q Sure. Give me a second.

1 MS. FORD: This is what really kills  
2 trees.

3 THE WITNESS: Thank you.

4 MS. FORD: And let's mark this as  
5 Exhibit 7, maybe?

6 THE STENOGRAPHER: Yes.

7 (Exhibit 7 was marked for identification.)

8 MS. FORD: And, Mr. Kelly, I'll tell you I  
9 did not print all 3,000 pages of that  
10 transcript. I just started here where your  
11 testimony picks up and it includes the next  
12 several hundred pages, that we hopefully won't  
13 get to today.

14 MR. JAZIL: Christina, would you just mind  
15 making clear on the record this is an excerpt?

16 MS. FORD: Yeah, yeah, yeah.

17 So this is Exhibit 7. It is a  
18 several-hundred-page excerpt of the trial  
19 testimony in Romo v. Detzner from the 2012  
20 cycle concerning Florida's Congressional  
21 districts. And so this is Mr. Kelly's  
22 testimony from that trial.

23 Just a second.

24 BY MS. FORD:

25 Q Let's start with page 931.

1                   **Mr. Kelly, would you mind reading for the**  
2   **record just starting at line 1, and I'll let you**  
3   **know when to stop?**

4           A       Okay.

5           Question: And that would seem to suggest  
6   that you had done these functional analyses for --  
7   of those districts, correct?

8           Answer: Yes, sir.

9           Question: For example, in District 5 you  
10   would have done a functional analysis, right?

11          Answer: Yes, sir.

12          Question: And your conclusion was that  
13   the way you had drawn it with between 47 and a half  
14   and 48 plus was a legal and compliant district,  
15   correct?

16          Answer: Yes, sir.

17          Question: That provided an  
18   African-American candidate of choice the opportunity  
19   to be successful in that district, correct?

20          Answer: I wouldn't say it exactly that  
21   way. I would say it maintained the opportunity that  
22   existed in the benchmark map.

23          Question: Maintained the ability to  
24   elect, right?

25          Answer: That existed in the benchmark

1 map. That's a key point.

2 Q Okay. You can stop there for a moment.

3 So here you at least testified that you  
4 did do a functional analysis on districts, including  
5 District 5.

6 Does that refresh your memory as to  
7 anything you did in the 2012 cycle?

8 A It's what I said in the -- you said this  
9 is the trial?

10 Q Yes, this is --

11 A This is what I said in the trial.

12 Q Okay. Was that -- was that truthful?

13 A It's what I said.

14 Q I mean, whether it's truthful or not is a  
15 yes-or-no question, I would say.

16 A It's what I believed at the time.

17 Q Okay. You now believe that you have  
18 better memory now in 2023 about whether or not you  
19 did a functional analysis?

20 MR. JAZIL: Object to form.

21 A No, I know -- I know better now what  
22 really a functional analysis is. And so me saying I  
23 did a functional analysis or didn't do one is a very  
24 technical thing. I can only surmise that at that  
25 time I didn't appreciate the technical nature of

1 that word.

2 BY MS. FORD:

3 Q Okay. Let's go to a different part of  
4 this transcript. Give me one second.

5 Let's go over to 976. Let me find the --  
6 so let's go to 977.

7 Could you start reading at line 6, please.

8 A Sure.

9 Question: Once you have a benchmark, what  
10 do you do to try to determine whether there is a  
11 diminishment in a new district as compared to the  
12 benchmark districts?

13 Answer: The most practical thing to do is  
14 look at them side by side and compare the data. The  
15 first thing that I would tend to focus in on would  
16 be the actual political party primaries. Sometimes  
17 if you recognize that you had reduced the chance of  
18 the minority candidate entering the political party  
19 primary, you may have very much diminished -- you  
20 don't have to go much further in your analysis if  
21 you are confident in the primary. You followed the  
22 candidate through the process of the general  
23 election, the type of candidate they are likely to  
24 face. The analysis is going to be typically  
25 different for an African-American versus a Hispanic

1 candidate because in most areas, if not all, but  
2 most areas a Hispanic candidate could be viable for  
3 a Republican or Democratic party whereas an  
4 African American candidate is only likely to be  
5 viable from a Democratic party.

6 So the analysis can change a little bit  
7 depending on the circumstances. But what you have  
8 to look at is whether or not there is any potential  
9 crossover vote for those candidates, and you just  
10 have to look at how cohesive the communities are in  
11 each stage of the election.

12 Q Okay, you can stop there. Thank you,  
13 Mr. Kelly.

14 So is it correct that you would have  
15 looked at political primary data and election  
16 results in doing -- I would call a functional  
17 analysis, but your -- your view of what the district  
18 would perform?

19 A That's definitely what I testified to.

20 Q And you would consider things like how  
21 cohesive the minority community is in their voting  
22 patterns?

23 A Yes.

24 Q You answered the likelihood that the  
25 candidate in the primary would go on to win the

1       **general election?**

2           A       Yes.

3           Q       Okay.  Let's put this away.

4                    So in the 2012 cycle, my understanding is  
5       that it was the House's position and your position  
6       that a district that had less than a 50 percent  
7       Black voting-age population could still qualify for  
8       Tier 1 protection for diminishment; is that correct?

9           A       Yes.

10          Q       So there was no specific percentage of a  
11       Black voting-age population that needed to qualify  
12       for a district to be protected under Tier 1?

13          A       For diminishment, yes, correct.

14          Q       Let's actually go back to this 2012 map,  
15       Exhibit 6.

16                    So in 2012, my understanding is that there  
17       were some minor disagreements between the House and  
18       the Senate as to how to draw CD-3, what became CD-5.

19                    Is that your memory too?

20                    MR. JAZIL:  Object to form.

21          A       Yes.

22       BY MS. FORD:

23          Q       And can you tell me what the basic  
24       disagreement was?

25          A       I don't remember.

1           Q     My understanding is that the ultimate map  
2     that you negotiated with the Senate in 2012 ended up  
3     being just a hair over a 50 percent Black voting-age  
4     population because the Senate was concerned about a  
5     potential Section 2 claim.

6                     Is that your memory as well?

7           A     I don't remember if that was the  
8     percentage or the issue.

9           Q     All right. So in this version of CD-5  
10    that is ultimately enacted in 2012, it sort of  
11    starts here in Central Florida, has this little  
12    appendage that goes into Sanford, sort of winds  
13    north to pick up the Black populations in Hawthorne  
14    and Reddick, picks up the east side of Gainesville,  
15    picks up Palatka, and it sort of winds all the way  
16    up to Jacksonville to pick up the Black populations  
17    there.

18                    Do you generally agree with that  
19    description?

20          A     Yes.

21          Q     And at the time the House and the Senate  
22    determined this district was reasonably compact,  
23    correct?

24          A     Yes.

25          Q     And you yourself previously testified that

1     **you believe this district was reasonably compact,**  
2     **correct?**

3           A     I don't recall if I testified to it.

4           **Q     At the time did you believe this district**  
5     **was reasonably compact?**

6           A     At -- based on our understanding of the  
7     law, yes.

8                   MS. FORD: Okay. Can we switch over to  
9     Exhibit 5, which is the 2002 enacted  
10    Congressional districts.

11   BY MS. FORD:

12           **Q     So I'd like to switch over to a different**  
13    **area now, which is the Tampa Bay area.**

14                   **So to bring you back, this one is 2010,**  
15    **2011, 2012. This was still in the era of federal**  
16    **preclearance.**

17           A     Could you -- I'm sorry, I'm confused. You  
18    said the 2002 map and then you said in 2010, 2012.

19           **Q     I'm sorry, I'm talking about -- I am going**  
20    **to the 2002 map --**

21           A     Okay.

22           **Q     -- but I'm talking about when you were**  
23    **faced with redrawing these districts --**

24           A     Sure.

25           **Q     -- which would have eventually become the**

1 2012 enacted one.

2 A Gotcha.

3 Q So you were working on this in the span of  
4 2010, 2012, right?

5 A Yes.

6 Q Okay. That was still in the era of  
7 federal preclearance?

8 A Yes.

9 Q Okay. So Hillsborough County was one of  
10 the counties that was still under preclearance at  
11 that time, right?

12 A Correct.

13 Q Okay. So the district numbers have  
14 changed a little bit over time. But here I'm  
15 looking at Tampa Bay in the 2002 map and I'm looking  
16 at District 11.

17 Do you see where that is?

18 A The 2002 map, District 11?

19 Q Yes, this green one here in Hillsborough  
20 County.

21 A Yes.

22 Q Okay. So at the time, this district was  
23 under federal preclearance, right?

24 A Yes.

25 Q Okay. So that meant you could not

1       **diminish the district, right?**

2           A       Generally, yes.

3           Q       **Generally, yes. I realize there could be**  
4       **extenuating --**

5           A       Other factors, yeah.

6           Q       **-- circumstances, but generally.**

7                    **So that meant you would have done a**  
8       **functional analysis on this district when redrawing**  
9       **Tampa Bay for the 2010 cycle, correct?**

10          A       Putting aside our differences in words  
11       when you say "functional analysis" and I say  
12       "cursory review," we would have done a cursory  
13       review of this. And then a functional analysis  
14       would have been done.

15          Q       **Okay.**

16                    **District 11 in the 2012 map had a sizable**  
17       **Black population, right?**

18          A       District 11 in the 2012 map?

19          Q       **I'm sorry. 2002 map.**

20          A       Yeah, what --

21          Q       **Let me -- let me reask my question for the**  
22       **record.**

23          A       What is "sizeable"?

24          Q       **Let me -- let me reask my question. I'm**  
25       **sorry, it was a bad one.**

1                   **In the 2002 map, District 11 here, this**  
2                   **green one in Hillsborough County, this had a**  
3                   **significant minority population, right?**

4           A       I'm not sure about that. I'm not -- I'm  
5           not sure of your threshold for significant, but I  
6           believe that Black and Hispanic community combined  
7           was, give or take, either below or above 50 percent.

8           **Q       I'm not trying to reach any --**

9           A       Yeah.

10          **Q       -- legal threshold here, just asking.**

11          **Given that it was under preclearance means it had a**  
12          **significant minority population, is all I was**  
13          **getting at.**

14                   **Do you agree with that?**

15          A       Yes.

16          **Q       And so your review of this district would**  
17          **have required you to look at elections data for this**  
18          **district, correct?**

19          A       I don't recall whether we did or didn't.

20                   MS. FORD: One second.

21                   (Short pause.)

22          BY MS. FORD:

23          **Q       Do you know that you were deposed over**  
24          **three days in this case?**

25          A       I think it was two.

1           **Q**     **Maybe two. It was three different**  
2     **transcripts.**

3           **A**     **It was two long days.**

4           **Q**     **Just making sure I have the right one, I**  
5     **think this is it. All right.**

6                   **Okay. This is your deposition testimony**  
7     **from the 2012 Florida Congressional redistricting**  
8     **cycle in Romo v. Detzner. This is from March 5th,**  
9     **2014, and it's the first volume of your deposition**  
10    **testimony. There are three volumes.**

11                   MS. FORD: Can we mark this as the next  
12                   exhibit. Are we on Exhibit 8?

13                   THE STENOGRAPHER: Yes.

14                   (Exhibit 8 was marked for identification.)

15    BY MS. FORD:

16           **Q**     **Okay. Let's go to page -- one second --**  
17     **26.**

18           **A**     **You mean the number page on the --**

19           **Q**     **Sorry, good question. I mean the number**  
20     **in the PDF of the actual testimony.**

21           **A**     **Got it.**

22           **Q**     **Can you start reading, please, at line 12**  
23     **where it starts, "And did you look."**

24           **A**     **Sure.**

25                   Question: And did you look and do a

1 functional analysis at District 14?

2 Answer: We did. District 14 is a little  
3 different from the others because District 14 at the  
4 time was not electing a minority candidate.

5 District 14, though, I believe that their -- that  
6 when you are looking at the different political  
7 data, you can see that the African-American and  
8 Hispanic communities -- it's the Hillsborough, yeah,  
9 you believe that the African American and Hispanic  
10 communities are still coalescing around a candidate  
11 of choice and, combined, those two communities are  
12 pretty significant. So when you look at the data, I  
13 believe that there is a pattern that shows that  
14 those communities are, A, a number of functional  
15 analyses, right --

16 I'm sorry, I read that in the wrong order.  
17 I'll go back.

18 So when you look at the data, I believe  
19 that there is a pattern that shows those communities  
20 are coalescing around one candidate and supporting  
21 that candidate.

22 Question: And did you do a functional  
23 analysis on District 9 as regards to the Hispanic  
24 population in that district?

25 **Q You can pause here.**

1           A     Sure.

2           Q     I think they finished talking about  
3     District 14.

4                     And here, the reference to District 14, my  
5     understanding is that it's a reference to what  
6     became 14 in the 2012 map, and its predecessor  
7     version is District 11 in the 2002 map.

8                     Is that your understanding as well?

9           A     Yes.

10          Q     Okay. And so here you testify in 2014  
11     that you performed what at least this transcript  
12     calls a functional analysis and that you did look at  
13     the political data and election data for this  
14     district, correct?

15          A     Correct.

16                     MR. JAZIL: Object to the form.

17                     And, Christina, I'd like to explain that  
18     objection just a bit.

19                     The answer refers to "we." Is he the  
20     corporate representative for the House in this,  
21     or was he giving testimony in his individual  
22     capacity?

23                     MS. FORD: I thought it was in his  
24     individual capacity, but I'll admit I'm not --

25                     MR. JAZIL: Fair enough.

1 MS. FORD: -- certain.

2 MR. JAZIL: And that's the reason why I  
3 objected to form.

4 MS. FORD: Okay.

5 MR. JAZIL: Because the answer said "we"  
6 and then your question said "you." I didn't  
7 know what the "we" was referring to.

8 I apologize for the speaking objection.

9 BY MS. FORD:

10 Q Okay, sorry. Let me gather my thoughts  
11 here.

12 All right. Well, at least at the time of  
13 this testimony in 2014, you were aware of the  
14 political data enough to make the conclusion that  
15 the African-American communities and the Hispanic  
16 communities in District 14 coalesced around a  
17 candidate of choice, correct?

18 A Yes.

19 Q And District 11 in the 2012 map was  
20 electing a Democrat, correct?

21 A District 11 in the 2012 map?

22 Q 20 -- I'm so sorry. I'm going to get this  
23 by the end of the day.

24 District 11 in the 2002 map, this  
25 Hillsborough-based district was electing a Democrat,

1 correct?

2 A I believe that's correct, yes.

3 Q All right. So when you concluded that the  
4 African-American and Hispanic communities here  
5 coalesced around the candidate of choice and they  
6 would continue to elect that candidate, you would  
7 have concluded that they would have continued to  
8 elect a Democratic candidate, correct?

9 A Probably.

10 Q Okay. That's fine. You can put this  
11 away. Or you can set it aside anyway.

12 MS. FORD: And, Mr. Kelly, let me know if  
13 you need a break at any point. We've only been  
14 going for a little over an hour.

15 THE WITNESS: I'm good.

16 MS. FORD: We're speeding through, I'll  
17 let you know. So we're going to get out of  
18 here at a decent time.

19 MR. JAZIL: I like that.

20 BY MS. FORD:

21 Q So let's go back to the Exhibit 6, the  
22 2012 Congressional map.

23 A Okay.

24 Q So can you tell me a little bit about how  
25 you drew this new district in 2012 -- and by new

1 district, I mean District 14 -- to ensure it would  
2 comply with preclearance and comply with Tier 1  
3 diminishment?

4 A 10 years later now?

5 Q You don't remember your work drawing this  
6 district?

7 A I remember working on it, but I don't  
8 remember how exactly I did what I did.

9 Q Am I correct that to comply with  
10 preclearance, you attempted to keep the minority  
11 voters of St. Petersburg with the minority voters of  
12 Tampa?

13 A I'm not sure.

14 Q Okay. Let's go back to your trial  
15 testimony.

16 It is Exhibit 7. Let's go to 1075, I  
17 think it is.

18 Hold on one second.

19 MS. FORD: Mo, do you have any objection  
20 to starting with part of an answer or would you  
21 like to read the whole question and answer for  
22 the record?

23 MR. JAZIL: I don't know if you want him  
24 to just refresh his recollection.

25

1 BY MS. FORD:

2 Q Yeah, sure.

3 Mr. Kelly, can you start reading -- why  
4 don't you just read at page 1074 and let me know  
5 when you've finished through 1077.

6 A Through 1077?

7 Q Yeah.

8 A And start where on 1074?

9 My apologies.

10 Q With line 13, where it says, "Okay."

11 A Okay.

12 Question: Okay. Now let's go to slide 8  
13 a minute. Now, let's look -- well, let's, generally  
14 speaking, if you would, what efforts were made to  
15 try to improve upon the benchmark area reflected in  
16 the benchmark Tampa Bay and the enacted Tampa Bay,  
17 and then I'm going to talk to you more about  
18 Pinellas and Hillsborough Counties.

19 Answer: Yes, sir. There were a number of  
20 very -- the benchmark map -- very sort of -- I'm not  
21 sure the best way to put it, but very odd arms and  
22 distortions in the districts. In the enacted map,  
23 we were able to -- we recognized population-wise  
24 that we have a good opportunity to draw a lot more  
25 compact districts. We had to make some decisions

1 about Pasco and Hernando, about whether to align  
2 them together in one district or whether to center a  
3 district around just Pasco and align it with  
4 northern Pinellas and northern Hillsborough.

5           Ultimately, we made the decision to align  
6 Pasco with Pinellas and Hillsborough, because if you  
7 don't, the peninsula district in Pinellas County,  
8 which in any map we did we always have a district  
9 that was very -- I'm sorry -- that was entirely  
10 included in Pinellas. That was even in the  
11 benchmark. The peninsula district would necessitate  
12 that if you left that space open, and moved to  
13 Pinellas and northern Hillsborough, you would have a  
14 district at the top of Pinellas and Hillsborough  
15 that much -- that looked much like a saw, very  
16 similar to portions of benchmark District 9.

17           We didn't want to repeat that. So it made  
18 sense to align Pasco County with the remaining  
19 population in Pinellas, and then enough of  
20 Hillsborough to keep them more closely aligned  
21 together and to avoid the sort of odd-looking  
22 appendage in the district.

23           Again, we always had in our map some sort  
24 of district wholly in Pinellas County. Pinellas  
25 County had the population to do such. The only main

1 issue that we always discussed during the process  
2 was that Pinellas County African-American voters had  
3 historically been aligned with Hillsborough County  
4 African-American voters, in part because  
5 Hillsborough County was a Section 5 county.

6 **Q Mr. Kelly, feel free to skip down to**  
7 **line 19. Pick up there.**

8 A Okay.

9 Question: Right. And Hillsborough County  
10 is one of the five Section 5 preclearance counties;  
11 is that correct?

12 Answer: Yes, sir.

13 Question: Am I -- do I understand  
14 correctly that any redistricting maps, any changes  
15 to any maps would have to be precleared in this area  
16 before they could be put into effect for elections?

17 Answer: Yes, sir.

18 Question: Okay. And in the Pinellas  
19 County area, you were, I believe, talking about a  
20 minority population in south Pinellas?

21 Answer: Yes, sir.

22 Question: Okay.

23 Answer: In St. Petersburg.

24 Question: I'm sorry?

25 Asked as a question.

1 Answer: In St. Petersburg.

2 Question: Right. South St. Pete, which,  
3 of course, I'm sure you're fascinated to know that's  
4 where I grew up. I just wanted to make sure that's  
5 on the record.

6 But in any event, this area here -- this  
7 area here, this poly, polyp -- well, I'm not --  
8 P-O-L-Y-P, I'm not sure what that is -- whatever,  
9 does that go into south Pinellas County and include  
10 African-American population into the Hillsborough  
11 County district?

12 Answer: Yes, sir.

13 Question: Okay. And over here, in the  
14 enacted map, does this reflect a portion of south  
15 Pinellas County that is in the Hillsborough  
16 district?

17 Answer: Yes, sir.

18 Okay -- or Question: Okay. And what --  
19 in the enacted map, what did you do with these  
20 appendages going into south Pinellas and into  
21 Manatee?

22 Answer: In the enacted map, we eliminated  
23 the portion of the district that went into Manatee.  
24 That would have been because it went down into  
25 Bradenton. We took out -- that out --

1           Let me back up. Page 1078, line 2.

2           We took that out of the district. It went  
3 into the African-American community in Bradenton,  
4 but it was actually a very small number of actual  
5 residents in Bradenton. We took that out of the  
6 district. What we did there, a couple of things  
7 with the portions that went into St. Pete and  
8 Pinellas County.

9           Number 1, we cleaned up the aesthetics of  
10 it, the actual visual of it. The other thing that  
11 we did was we worked more carefully with the  
12 municipal lines around St. Pete, and we were working  
13 with that throughout the process. Even up to the  
14 final map. Cities like Gulfport, a couple other  
15 cities that escape me at the moment, but we made  
16 sure not to intrude on those other city lines in the  
17 effort to pick up the African-American community in  
18 St. Pete.

19           **Q       Okay. You can stop there. Thank you for**  
20 **reading that.**

21           **So am I correct that to comply with**  
22 **preclearance you'd have to keep the minority voters**  
23 **of Tampa with the minority voters in St. Petersburg**  
24 **to create a performing district -- maintain a**  
25 **performing district, I should say?**

1           A     You said just a few different things  
2     there.

3                     Can you break that apart?

4           Q     Let me rephrase that question.

5                     Is it correct that in the 2012  
6     redistricting cycle, that in an attempt to comply  
7     with preclearance that was in effect at the time,  
8     you made a specific effort to include the minority  
9     population of Tampa with the minority population of  
10    St. Petersburg to ensure the district would continue  
11    to perform for the minority candidate of choice?

12          A     Yes.

13          Q     Okay.

14                    And you expected that this minority  
15    community coalesced would elect a Democrat, correct?

16          A     Probably.

17          Q     And that district that was enacted in 2012  
18    did, in fact, elect a Democrat, Kathy Castor, to  
19    Congress while this map was in place, correct?

20          A     Yes.

21          Q     All right. We can put this away.

22                    MS. FORD: Are you still good, Mr. Kelly?  
23     Do you need a break?

24                    THE WITNESS: I'm fine.

25                    MS. FORD: Okay.

1 BY MS. FORD:

2 Q All right. I would like to stay on the  
3 2012 Congressional plan for a moment. So we're on  
4 Exhibit 6.

5 A Okay.

6 Q So let's talk about District 14's  
7 neighbor, District 13 in Pinellas County, which for  
8 the record is my hometown.

9 This district contains what I would call  
10 the western part of Pinellas County with Seminole,  
11 all the beaches along the west coast, Pinellas Park,  
12 Clearwater, and a portion of north Pinellas.

13 Do you agree with that characterization?

14 A Yes.

15 Q Was this a district that you drew in the  
16 2012 cycle?

17 A I'm -- I'm sure I worked on it.

18 Q And we talked about how District 14 was a  
19 district with a significant minority population, but  
20 District 13 was much whiter than District 14,  
21 correct?

22 A Wider, like east to west wider?

23 Q No, no, I'm sorry, had white voters in it.  
24 It was much "whiter." It was not a minority  
25 district.

1           A     Oh, oh, oh. I don't recall what the  
2 racial breakdown of District 13 was.

3           **Q     Did District 13 present any Tier 1**  
4 **diminishment concerns that you had to comply with?**

5           A     None that I recall.

6           **Q     Did you consider it to be a minority**  
7 **district?**

8           A     I don't believe so.

9           **Q     I will represent to you that in June of**  
10 **2012 after this map was enacted, this district was**  
11 **rated, District 13, as a solidly Republican**  
12 **district.**

13                   **Do you have any reason to dispute that**  
14 **characterization?**

15           A     I -- I don't have any basis to believe it  
16 either way. I have no idea.

17           **Q     Do you know if this district did elect a**  
18 **Republican in the 2012 and 2014 Congressional**  
19 **elections?**

20           A     I don't know.

21           **Q     Do you know who Bill Young is?**

22           A     Yes.

23           **Q     Are you aware that he represented this**  
24 **district after this map was enacted?**

25           A     No.

1 Q Do you know who David Jolly is?

2 A I know who he is.

3 Q Are you aware that he represented this  
4 district after the 2014 elections, where he won this  
5 district?

6 A As stated earlier, I don't know who won  
7 those elections.

8 Q I assume that you're aware that after the  
9 redistricting litigation last cycle, that the  
10 Florida Supreme Court returned St. Petersburg to  
11 District 13, right?

12 A I'm sorry, could you say that again? I'm  
13 not following your question.

14 Q Sure. After the end of the entire  
15 redistricting trial, the various opinions from the  
16 Florida Supreme Court, I assume you're aware that in  
17 the new map that the Florida Supreme Court ordered  
18 that they returned St. Petersburg or rejoined  
19 St. Petersburg to the rest of District 13.

20 Are you aware of that?

21 A Do you have a copy of that? I don't have  
22 it in front of me.

23 Q I don't have a copy of it. But we can  
24 pull out --

25 (Discussion off the record.)

1 MS. FORD: Sandi, what number are we on?

2 THE STENOGRAPHER: 9.

3 (Exhibit 9 was marked for identification.)

4 BY MS. FORD:

5 Q Did you read the Florida Supreme Court  
6 opinions when they came out last cycle about the  
7 constitutionality of the 2012 Enacted Plan?

8 A The 2015 ruling?

9 Q Yes.

10 A No, I didn't.

11 Q Did you read any of the Florida  
12 Supreme Court opinions that came out?

13 A For the last cycle?

14 Q Yes, for the last cycle.

15 A I read their summary judgment of the State  
16 legislative maps.

17 Q Okay.

18 A Which was February or March 2012.

19 Q Do you remember reading the 2014 trial  
20 court opinion that came out in that record -- or in  
21 that case after the trial was concluded by Judge  
22 Lewis?

23 A I did not read the opinion.

24 Q Were you aware of the substance of the  
25 Florida Supreme Court's opinion in 2015 that the

1 drawing of District 13 and District 14 in the Tampa  
2 Bay area was a partisan gerrymandering?

3 A No, I was not aware.

4 Q Were you aware of any opinions that the  
5 Florida Supreme Court reached in its 2015 opinion?

6 A I never read it.

7 Q So in preparing to work on this  
8 redistricting cycle for the Governor, you did not  
9 read the opinion the Florida Supreme Court wrote in  
10 2015 explaining why this map was unconstitutional?

11 A Correct, I did not read it.

12 Q Did anyone relay to you the substance of  
13 that opinion?

14 A I would have to get into internal --

15 MR. JAZIL: Yeah, I --

16 A -- conversations.

17 MR. JAZIL: I'm going to ask him not to  
18 answer that because that would be  
19 attorney/client privilege and it would fall  
20 within the legislative privilege, internal  
21 deliberations.

22 BY MS. FORD:

23 Q Okay. Well, I just want to ask you what  
24 you were aware about. We can put conversations with  
25 counsel aside.

1                   **So at the time you started drawing maps**  
2                   **for the Governor, you were not aware that the**  
3                   **Florida Supreme Court had ruled that this drawing of**  
4                   **Tampa Bay where it crosses the bay constituted a**  
5                   **partisan gerrymandering?**

6                   A        Correct, I had no awareness of any of  
7                   that.

8                   Q        **Is today the first day you're learning**  
9                   **that the Florida Supreme Court considered this to be**  
10                  **a partisan gerrymandering in the Tampa Bay area?**

11                  A        Correct, I've never heard that before.

12                  Q        **Were you aware of anything that the**  
13                  **Florida Supreme Court said about Tampa Bay in its**  
14                  **2015 opinion?**

15                  A        I don't believe I was aware of anything.

16                  Q        **Do you know who Charlie Crist is?**

17                  A        Yes.

18                  Q        **Who is he?**

19                  A        Former Governor, former member of  
20                  Congress.

21                  Q        **You're aware that he represented this new**  
22                  **District 13, starting after the 2016 elections?**

23                  A        I know he served. I know he served in  
24                  Congress from Pinellas County, so it would stand  
25                  that it would probably be District 13.

1           **Q     And you're aware that Charlie Crist is at**  
2     **least currently a Democrat?**

3           A     Yes, that we know today.

4           **Q     All right. Just a couple more questions**  
5     **about your role in the 2012 cycle, and then we'll**  
6     **move on.**

7                     **So in December of 2010 you were working on**  
8     **redistricting for the House, correct?**

9           A     Say that period again?

10          **Q     Sure. In December -- I'm sorry, I said**  
11     **that wrong.**

12                     **In December 2010 you were working on**  
13     **redistricting for the House, correct?**

14          A     Correct.

15          **Q     Okay. And in December 2010, which would**  
16     **have been about a month after the Fair District**  
17     **Amendments were passed, you were invited to and you**  
18     **attended a meeting to discuss redistricting with**  
19     **several different Republican consultants, correct?**

20          A     I remember a meeting around that time. I  
21     don't remember if it was specifically December, but  
22     I remember a meeting around that time.

23          **Q     And that meeting was held at the office of**  
24     **the Republican Party of Florida?**

25          A     Not that I recall.

1           Q     Do you think it took some -- took place  
2     somewhere else, or you just don't remember?

3           A     I just don't remember.

4           Q     The following month in January 2011 while  
5     you were working on redistricting for the House, is  
6     it correct that you were invited to and you attended  
7     a second meeting about redistricting with several  
8     Republican Party consultants?

9           A     I only recall one meeting, so I don't -- I  
10    mean, I may not be remembering things, but I recall  
11    a single meeting, so like I said, December around  
12    that time, give or take.

13          Q     Okay. And then later in the redistricting  
14    cycle, is it correct that before your draft maps  
15    released to the public, some of those same  
16    Republican consultants received drafts of your maps,  
17    correct?

18          A     I don't know.

19          Q     You do not remember if any Republican  
20    consultants in the last redistricting cycle received  
21    copies of your maps before they were released to the  
22    public?

23          A     I don't know. I remember a lot of  
24    questions in deposition about that topic, but you're  
25    asking really broadly. I mean, we could read back

1 through the deposition again.

2 MS. FORD: All right. Why don't we take a  
3 break, if that's okay with you?

4 THE WITNESS: Okay.

5 MS. FORD: 11:10.

6 (A recess took place from 11:10 a.m. to  
7 11:20 a.m.)

8 BY MS. FORD:

9 Q Okay. Mr. Kelly, between the time you  
10 left the House in 2012 and the time you started  
11 working for the Governor in 2021 --

12 A Uh-huh.

13 Q -- did you draw any redistricting plans?

14 A No.

15 Q So you didn't, like, casually in your  
16 spare time, didn't draw any plans?

17 A I'm boring, but not that boring.

18 Q Between the time you left the House in  
19 2012 and the time you started working for the  
20 Governor in 2021, did you give any presentations on  
21 redistricting?

22 A To when I left the House in 2012 and --  
23 no.

24 Q Did you speak to any groups about  
25 redistricting?

1           A       No.

2           Q       Between the time you left the House in  
3       2012 and the time you started working for the  
4       Governor in 2021, did you discuss the Fair District  
5       Amendments with anyone?

6           A       Nothing that I can recall. I mean, part  
7       of the legal case -- legal case wound up in my trial  
8       in '13 or '14, so --

9           Q       Sure. I guess between the end of the  
10      trial and that litigation starting for the Governor  
11      in 2021, did you discuss the Fair District  
12      Amendments with anyone?

13          A       Yeah, nothing that I can recall.

14          Q       And let's say by the time the litigation  
15      ended in 2014 and the time you started working for  
16      the Governor in 2021, did you discuss redistricting  
17      with anyone?

18          A       I mean, are you putting aside like just  
19      casual conversation? I mean, there's no way I'm  
20      going to remember casual conversation, but nothing  
21      specific that I recall.

22          Q       Your wife became the staff director for  
23      the House Redistricting Committee in 2020, right?

24          A       Yes.

25          Q       And that was actually your prior job?

1 A Say that again?

2 Q She held your prior job with the House  
3 Redistricting Committee as staff director?

4 A We had the same job 10 years apart, yeah.

5 Q Yeah.

6 Did you have any conversations with her  
7 about redistricting before you started working for  
8 the Governor in April 2021?

9 MR. JAZIL: Alex, I'm going to ask you --  
10 under spousal privilege, if there's some third  
11 party present during those conversations, feel  
12 free to talk about them. If it was just you  
13 and Leda, I'd ask you not to answer those  
14 questions under spousal privilege.

15 MS. LUKIS: I'll join in that objection on  
16 behalf of Mrs. Kelly.

17 MS. FORD: My understanding of the spousal  
18 privilege is that it only applies to things  
19 that are made in confidence. And as it relates  
20 to a government matter of redistricting, I  
21 don't see any reason why the spousal privilege  
22 would apply.

23 MS. LUKIS: I would disagree with that  
24 characterization of the law, and I would  
25 instruct Mr. Kelly not to answer.

1 MS. FORD: What do you think the law  
2 requires for spousal privilege?

3 MS. LUKIS: Two spouses communicating  
4 without a third party present.

5 MS. FORD: My understanding of the spousal  
6 privilege is that it requires the confi- -- the  
7 communication to be made for the purpose that  
8 it will be made in confidence. And when  
9 spouses discuss business matters or stuff of  
10 that nature, it's no longer in confidence and  
11 the privilege does not apply.

12 MS. LUKIS: I just don't think that's a  
13 correct statement of the law. Would you like  
14 me to pull up some cases? I can put it on the  
15 record.

16 MR. JAZIL: Can I suggest this: Can we  
17 explore first what conversations were had, who  
18 was in the room, et cetera? This way perhaps  
19 we can avoid a bigger fight on this issue.

20 Maybe we just explore this a little bit  
21 without getting into the private conversations  
22 the two of them had and see where we are and  
23 take that up.

24 MS. FORD: Let's just, like, I guess  
25 establish for the record so we can determine

1           whether we're objecting about anything that  
2           matters.

3       BY MS. FORD:

4           **Q     Did you and -- did you and your wife in**  
5       **her role as the staff director for the House**  
6       **Redistricting Committee have any conversations just**  
7       **between the two of you about redistricting before**  
8       **you started working for the Governor?**

9           MS. FORD: I'm just asking whether the  
10          conversations ever existed so we know whether  
11          the objection matters or not.

12          MR. JAZIL: So I think the information  
13          that would be on a privilege log, for example,  
14          would be, you know, did you have a  
15          conversation, when did you have a conversation.

16          So you can establish the -- was there a  
17          conversation, when that conversation was had,  
18          and who else was in the room. And I think  
19          those would be things that would be on a  
20          privilege log anyway.

21          If there's a third party in the room, I  
22          think we're all in agreement that that isn't  
23          covered by the spousal privilege because  
24          there's no expectation that that's  
25          confidential, right?

1 MS. FORD: So that's what I was intending  
2 to ask in my first question, is, like, is it on  
3 the log, right; did you have conversations  
4 with -- with Mrs. Kelly about redistricting?

5 MR. JAZIL: The if, the when, the how  
6 often, I think those are all fair questions.

7 MS. FORD: Yeah, that's where I was going  
8 to start at least.

9 BY MS. FORD:

10 Q Did you have conversations with her about  
11 redistricting before you started your job with the  
12 Governor, I think you said it was April 7th, 2021?

13 A Correct, that's what I said.

14 Yes.

15 Q When would those conversations have  
16 occurred?

17 A We're husband and wife, everyday kind of  
18 conversations about "how was your day," you know,  
19 "you look stressed," just husband and wife  
20 conversations.

21 Q Did you have any conversations with your  
22 wife about redistricting -- I'm still talking about  
23 before you -- before you went to work for the  
24 Governor --

25 A Okay.

1           **Q     -- about redistricting in which a third**  
2 **party would have been present?**

3           A     No.

4           **Q     This is not a question.**

5           MS. FORD:  So, Mr. Jazil, my understanding  
6 of the spousal privilege and I'll read here:  
7 "For a marital communication to be protected,  
8 the Court must determine the couple had a  
9 reasonable expectation of privacy at the time  
10 the communication took place.

11           "Only communications that are intended to  
12 be confidential are privileged.  And there is  
13 no third-party requirement here if the message  
14 itself is not intended to be confidential."

15           Do you still believe that spousal  
16 privilege would apply to those conversations,  
17 given they concerned redistricting as a matter  
18 of public record, Florida's business?

19           MR. JAZIL:  Sure.  Just a question for you  
20 first.  Are you reading from something --

21           MS. FORD:  Yeah.

22           MR. JAZIL:  -- or a case?

23           You want to just put the case on the  
24 record?

25           MS. FORD:  Yeah.  I'll just read the quote

1           again.

2                   "For a marital communication to be  
3           protected, the Court must determine the couple  
4           had a reasonable expectation of privacy at the  
5           time that communication took place."

6                   That's *Boyd v. State*, 17 So. 3d, 812-817,  
7           Florida Fourth DCA 2009, citing a Fifth DCA  
8           case.

9                   MR. JAZIL: Now, so the record's clear,  
10          I'm going to defer to my colleague in the House  
11          who's been doing the research on this spousal  
12          privilege issue. I never litigated the spousal  
13          privilege issue. I'll defer to them and their  
14          perspective on it.

15                  MS. LUKIS: Sure. If there is -- if the  
16          suggestion is the husband and wife  
17          communicating between the two of them is not --  
18          that they don't have a reasonable expectation  
19          of privacy in that communication, I think I  
20          would disagree. Otherwise, you read that case  
21          correctly.

22                  I'd also add Fourth DCA --

23                  THE STENOGRAPHER: I can't hear you.

24                  MS. LUKIS: I'm sorry.

25                  "Marital communication is presumed

1 confidential, absent evidence to the contrary,"  
2 which I think is why the exercise of going  
3 through whether there was a third party in the  
4 room is a useful -- is a useful line of  
5 questioning. But if there's not a third party  
6 in the room, I don't think any facts can be  
7 established to overcome the strong marital  
8 privilege.

9 I also say that there's statutory  
10 exemptions that apply to the assertion of the  
11 marital privilege under Florida law and  
12 district courts are loathed to stray outside of  
13 those exceptions.

14 And so I'm not sure -- the fact that a  
15 privileged communication occurs in the course  
16 of something that's being litigated doesn't  
17 waive the privilege.

18 So I feel -- very long-winded -- would say  
19 that questions about the substance of the  
20 communication between Mr. and Mrs. Kelly when  
21 no third party is present is privileged beyond  
22 the whether, when, how often, and who, as  
23 Mr. Jazil previously indicated. And I would  
24 still stand on the instruction not to answer  
25 anything further.

1 MS. FORD: Okay. Well, I don't think  
2 we're going to resolve this today, so I think  
3 at the end we can hold this deposition open.

4 BY MS. FORD:

5 Q Are you registered as affiliated with any  
6 political party?

7 A Am I a registered voter?

8 Q Yes, are you a registered voter in  
9 Florida?

10 A Yes.

11 Q Are you affiliated with any political  
12 party?

13 A I'm a registered Republican.

14 Q How long have you been a registered  
15 Republican in Florida?

16 A Since 1998.

17 Q I don't want to ask about your entire  
18 political history, so let's just talk about the past  
19 five years.

20 A Uh-huh.

21 Q So maybe let's go back to 2018.

22 A Okay.

23 Q Since 2018, have you volunteered for any  
24 campaign?

25 A No.

1           **Q     Have you donated or hosted any fundraisers**  
2 **for political candidates?**

3           A     Not per se fundraisers. Have I donated?  
4                   I don't recall if I've donated.

5           **Q     Have you attended any Republican Party**  
6 **conferences?**

7           A     No.

8           **Q     Have you attended any Republican Party**  
9 **meetings?**

10          A     No.

11          **Q     Have you had any other participation or**  
12 **affiliation with the Republican Party since 2018?**

13          A     No.

14          **Q     All right. Let's talk about this**  
15 **redistricting cycle.**

16          A     Uh-huh.

17          **Q     So when you were hired for your current**  
18 **job as deputy chief of staff, did you understand**  
19 **that redistricting would be part of your portfolio?**

20          A     No.

21          **Q     When did that change? When did you**  
22 **understand that it would become part of your**  
23 **portfolio?**

24          A     Late December of 2021.

25          **Q     Okay. What happened at that time that**

1     **made it become something that you would be working**  
2     **on?**

3             MR. JAZIL: Alex, to the extent that you  
4             can answer that question without getting into  
5             internal workings of the Executive Office of  
6             the Governor and redistricting issues, you can.

7             A     The only way I can answer that question  
8             would be to talk about internal conversations.

9             MS. FORD: So Mr. -- I don't want to call  
10            you Mr. Jazil -- just so we're on the same  
11            page.

12            My understanding of Judge Marsh's order is  
13            that Mr. Kelly can be questioned regarding any  
14            matter already part of the public record, and  
15            he can also be asked about any information  
16            received from anyone not part of the Governor's  
17            Office.

18            What is off limits are the thoughts or  
19            opinions for staff that are those of the  
20            Governor.

21            MR. JAZIL: Fair enough, Counsel.

22            So, Mr. Kelly, I will amend my instruction  
23            to you. If you can answer that question  
24            without getting into the internal deliberations  
25            of the Governor's Office, or if you can answer

1           that question based on information you've  
2           already shared with the public, perhaps the  
3           legislature, you can answer it.

4           To the extent, for example, you got into  
5           it with your legislative testimony, you can  
6           answer the question.

7           A     Okay. I believe I did testify in front of  
8           the House and/or Senate, maybe both, that early  
9           January I started to get involved in the  
10          redistricting process.

11         BY MS. FORD:

12           **Q     So I believe my question -- I don't know**  
13           **exactly what I asked, but I'll just ask it now.**

14                   **What happened that changed so that you**  
15           **became involved with redistricting when you hadn't**  
16           **previously?**

17           A     The change was that our office got  
18           involved pretty publicly in the redistricting  
19           process in early January.

20           **Q     Why?**

21                   MR. JAZIL: And again, anything that you  
22           shared publicly --

23                   THE WITNESS: Yeah, sure.

24                   MR. JAZIL: -- it's fine.

25           A     Okay. The Governor actually was pretty

1 clear publicly around that time about concerns with  
2 the maps that the legislature was looking at.

3 BY MS. FORD:

4 **Q What were those concerns?**

5 A The Governor made different statements,  
6 but a lot of it focused around, as I recall, a lot  
7 of it focused around the benchmark District 5, the  
8 Northern Florida districts, how that district was  
9 shaped in the legislature's proposals.

10 **Q What was the Governor's specific concern**  
11 **about benchmark CD-5?**

12 MR. JAZIL: Same instructions, anything  
13 publicly stated.

14 A Sure. And I mean, I don't know that I can  
15 capture it better than what was already recorded  
16 publicly in multiple memorandums by our office  
17 representing the position of the Governor and the  
18 position of the office. It was shared -- the  
19 concerns were shared with pretty exhaustive detail  
20 in the written record.

21 BY MS. FORD:

22 **Q Yeah, Mr. Kelly, I'm not trying to, like,**  
23 **play dumb here, anything like that. Just your**  
24 **testimony to the legislature was not necessarily**  
25 **part of this case, and that the -- I'm just asking**

1     **you on the record today what the Governor's concerns**  
2     **were with the benchmark CD-5. I realize they were**  
3     **discussed publicly, but we need a record in this**  
4     **case. So what were --**

5           A     Yeah, I've said the Governor -- our office  
6     published multiple documents regarding CD-5,  
7     regarding the 14th Amendment and the United States  
8     Constitution, Equal Protection, you know, whether  
9     the district was drawn for predominantly race-based  
10    purposes, therefore violating the 14th Amendment of  
11    the United States Constitution.

12           **Q     Is it fair to say that CD-5 was the**  
13    **primary reason why the Governor's Office decided to**  
14    **become involved in redistricting?**

15           A     I'd -- I'd have to -- to answer that  
16    question, I'd have to talk about internal  
17    conversations.

18           MR. JAZIL: And my instruction, again,  
19    Mr. Kelly, is do not talk about the internal  
20    conversations unless you discussed these with  
21    the legislative committees.

22                    If you did discuss them with the  
23    legislative committees, you can answer the  
24    question.

25           A     The way the question was asked, that this

1 being the primary concern, the only way that I can  
2 answer that question would be to talk about internal  
3 conversations in the Governor's Office.

4 MS. FORD: And, Mr. Jazil, would you agree  
5 with me when you give Mr. Kelly instruction,  
6 it's not just what he shared with the  
7 legislature, but with any third party external  
8 to the Governor's Office?

9 MR. JAZIL: Yes. So if you shared any  
10 conversations with anyone outside the Executive  
11 Office of the Governor, that doesn't include  
12 your lawyers or their consultants --

13 THE WITNESS: Sure.

14 MR. JAZIL: -- that's all internal. But  
15 if you shared information with folks outside of  
16 the Governor's Office, at the legislature, or  
17 with any other third party that you explained  
18 the map to, please give that information to  
19 Ms. Ford.

20 If you can answer her question by relying  
21 on that material, it's fine. If, as you said,  
22 it's just internal deliberations of the  
23 Governor's Office, do not answer that question.

24 A All right. I've already stated it for the  
25 record. The only way that I could answer that

1 question the way it was asked would be to reveal  
2 internal conversations with the Governor's Office.

3 BY MS. FORD:

4 **Q When you started working on redistricting,**  
5 **what was your understanding of what your role would**  
6 **be?**

7 MR. JAZIL: Same instructions. Go ahead.

8 A And I -- and this is something that I even  
9 testified to. I initially started as just observing  
10 the process, providing some consultation and  
11 guidance as someone who had worked on the process  
12 10 years prior.

13 BY MS. FORD:

14 **Q When you say you were providing**  
15 **consultation and guidance, to whom?**

16 A To our staff, to our legal team.

17 **Q What role did you end up playing in the**  
18 **process?**

19 MR. JAZIL: Same instructions, go ahead.

20 A Sure. And -- I walked through this in my  
21 opening to the House and the Senate. My role  
22 evolved and I eventually became map drawer.

23 MS. FORD: And, Mo, I would agree for the  
24 record that your objection is continuing on  
25 privilege, so you don't feel the need to state

1 it every time.

2 MR. JAZIL: Yeah, and if it's okay with  
3 you, I'll just say "same" -- "same instruction"  
4 rather than launch into a monologue each time.

5 So -- and just so the record's clear,  
6 "same instruction" means you can talk about  
7 things that the Governor's Office shared with  
8 the legislature, any other third party.

9 THE WITNESS: Uh-huh.

10 MR. JAZIL: Conversations that were had  
11 that were internal to the Governor's Office  
12 that were not shared outside the Governor's  
13 Office, do not talk about those.

14 The Governor's Office includes everyone  
15 working at the EOG, your lawyers, i.e., me, and  
16 the outside consultant who you retained to help  
17 us. Fair enough?

18 THE WITNESS: Okay.

19 MR. JAZIL: So every time I say "same  
20 instruction," that is what I mean, so I'm not  
21 repeating it.

22 MS. FORD: Thanks.

23 BY MS. FORD:

24 Q So at a broad level, what were your  
25 responsibilities with regard to redistricting in the

**1 Governor's Office?**

2 A The two that I've mentioned, started as  
3 providing consultation and guidance and transitioned  
4 into actual map drawing.

**5 Q Who oversaw your work?**

6 MR. JAZIL: Same instruction.

7 A I'd have to talk about internal Governor's  
8 Office conversations to answer that.

9 BY MS. FORD:

**10 Q Who was generally your boss -- or who do  
11 you generally report to in your job?**

12 A As I noted in the opening of the  
13 deposition, I report to James Uthmeier.

14 THE STENOGRAPHER: James --

15 THE WITNESS: Uthmeier.

16 BY MS. FORD:

**17 Q What did you understand that your goals  
18 were as it related to redistricting for the  
19 Governor?**

20 MR. JAZIL: Same instruction.

21 A I don't have a way to answer that without  
22 talking about internal office conversations.

23 BY MS. FORD:

**24 Q Were you given any instructions as it  
25 relates to redistricting?**

1 MR. JAZIL: Same instruction.

2 A Again, I don't have any way to answer that  
3 without talking about internal office conversations.

4 BY MS. FORD:

5 Q Did you follow the legislature's process  
6 throughout the fall of 2021 and winter 2022 that  
7 started releasing the draft plans and holding the  
8 committee meetings?

9 A Generally.

10 Q Did you watch subcommittee meetings or  
11 committee meetings?

12 A During which period?

13 Q I'm just talking about -- so let me go  
14 back.

15 My understanding is that there was sort of  
16 an interim session -- I don't know if I'm using the  
17 right word, but before -- before the 2022 session  
18 officially began, the House --

19 A Florida has what we call interim committee  
20 meetings --

21 Q Interim committee --

22 A -- where policies -- just to give you  
23 background, policy can be discussed, presented, and  
24 it can even move through the legislative committee  
25 process. However, the full Senate and the full

1 House can't take action on that policy as a body  
2 until the official legislative session starts.

3 However, you can get a legislative product  
4 right up to that penultimate point prior to the  
5 session starting.

6 **Q Okay. Thank you for that.**

7 **So there were interim committee meetings**  
8 **relating to redistricting, my understanding is**  
9 **October of '21, November of '21. Did you follow,**  
10 **generally follow those committees and the work**  
11 **product that they were releasing?**

12 **A Generally.**

13 **Q Did you take a look at any of the workshop**  
14 **maps that the Senate and House committees were**  
15 **releasing?**

16 **A During the fall and wintertime?**

17 **Q Yeah.**

18 **A Not -- I didn't take a look at the maps**  
19 **themselves until January.**

20 **Q My understanding is that the Senate, the**  
21 **Florida Senate first released some proposed plans in**  
22 **November of 2021. So based on your answer just now,**  
23 **sounds like you wouldn't have looked at those until**  
24 **January?**

25 **A Correct.**

1           **Q     What did you make of the Senate's**  
2 **proposals?**

3           A     What did I make of them?

4           **Q     What was your impression of them?**

5           A     I don't know.

6                     My impression of their proposals?

7           **Q     Did you have any reaction to it?**

8           A     Probably -- it's been a while since I  
9 looked at them. I don't know if I had any reaction  
10 to it.

11          **Q     Did you follow any of the news about the**  
12 **Senate's proposed maps when they came out in the**  
13 **fall of 2021?**

14          A     Not very detailed. I generally heard  
15 about them, general political chatter, but not  
16 really, not closely.

17          **Q     What do you mean by general political**  
18 **chatter? What was it you remember hearing?**

19          A     I think the Senate was progressing quicker  
20 than the House. The Senate came into the new year I  
21 think with a -- I think the Senate came into the new  
22 year with the Congressional map ready to pass; the  
23 House had further to go in the process.

24          **Q     Were you at least generally aware that the**  
25 **Senate's proposals resembled the benchmark plan?**

1           A       In what respect?

2           **Q       Just visually, looked a lot like the map**  
3       **that the Florida Supreme Court had put in place in**  
4       **2016?**

5           A       The overall map, no, not at that time.

6           **Q       Did you later become aware of that?**

7           A       I later took a closer look at the map. I  
8       don't think I ever had the -- I don't think I ever  
9       had the observation that it was very close to the  
10       benchmark.

11          **Q       And just for purposes of the record, when**  
12       **I say "benchmark," at this point I mean the 2016**  
13       **plan --**

14          A       Sure.

15          **Q       -- that was in place 2016 to 2022.**

16          A       Sure, and I understood your question.

17          **Q       Okay.**

18          A       Yeah, I don't think I ever had that  
19       thought of this looks similar or dissimilar from the  
20       benchmark. But I assume what you're asking, you're  
21       talking about the entire map?

22          **Q       Yeah, generally the entire map.**

23          A       Okay.

24          **Q       When the Senate's proposals were first**  
25       **released, there was pretty extensive reporting about**

1     **how the plans were likely to elect an estimated 16**  
2     **Republicans and 12 Democrats.**

3             **Did you read any of that reporting?**

4             A     Doesn't sound familiar.

5             **Q     Do you remember having any conversations**  
6     **with anyone about the -- sort of the expected**  
7     **partisan breakdown or results of the Senate's plans?**

8             MR. JAZIL: Same instruction.

9             A     To the extent that I talked with people  
10    outside the office, legislative, I stayed away from  
11    any kind of chatter like that.

12    BY MS. FORD:

13            **Q     So you don't remember seeing any news**  
14    **articles or reporting about the potential**  
15    **partisanship of the Senate maps?**

16            A     No.

17            **Q     Do you remember hearing any criticism from**  
18    **Republicans who thought the Senate maps were too**  
19    **friendly to Democrats?**

20            MR. JAZIL: Same instruction.

21            Can I start calling it the Marsh  
22    instruction? It may sound better than "same  
23    instruction."

24            MS. FORD: Sure.

25            A     I'm sorry. Could you ask it again?

1 MS. FORD: Sure.

2 BY MS. FORD:

3 Q Do you remember hearing any criticism from  
4 Republicans who thought the Senate maps were too  
5 friendly to Democrats?

6 A No.

7 THE STENOGRAPHER: 10.

8 MS. FORD: Thanks.

9 (Exhibit 10 was marked for  
10 identification.)

11 BY MS. FORD:

12 Q So Mr. Kelly, I -- this is Exhibit 10. I  
13 will represent to you that this was produced as a  
14 public record --

15 A Uh-huh.

16 Q -- as a document in the possession of the  
17 Governor's Office.

18 A Uh-huh.

19 Q This appears to me to be an internal news  
20 alert that went out around the Governor's Office.

21 Do you receive news alerts like this as  
22 part of your job?

23 A Everybody in the office gets news alerts.  
24 So yeah, you would probably have -- if you searched  
25 our news alerts, you'd have -- I don't know how

1 many -- tens of thousands --

2 Q Yeah.

3 A -- of news alerts.

4 Q So you received news alerts generally like  
5 this as part of your job?

6 A Yes. Yeah. Like I said, everybody in the  
7 office gets news alerts throughout the day.

8 Q So this article is titled "Florida Senate  
9 releases state redistricting maps as conflicts for  
10 incumbents loom." It's dated November 10th, 2021,  
11 written by Mary Ellen Klas, and it looks like it was  
12 published in the Tampa Bay Times.

13 This article goes on to recount some  
14 reactions to the Florida Senate's proposed  
15 Congressional maps, and I certainly do not want to  
16 read this entire article or most of it. But in  
17 particular I note the reaction from Dave Wasserman  
18 of the Cook Political Report.

19 Let me find it.

20 Down at the bottom of page 1.

21 A Uh-huh.

22 Q I'll just read it. You've done a lot of  
23 reading.

24 A Thank you.

25 Q Here the article says, "An early

1 assessment by mapping expert Dave Wasserman of the  
2 nonpartisan Cook Political Report was that the  
3 congressional maps were not obviously gerrymanders."

4 And continuing to read, "'Bizarre: These  
5 maps shore up Florida-27 Rep. Maria Salazar (R), but  
6 otherwise are barely gerrymanders. By my count  
7 these maps break down 16-12 Trump-Biden versus 15-12  
8 today. Is this a head fake?' Wasserman wrote on  
9 Twitter."

10 And just look at the next paragraph,  
11 Wasserman continues to write, "These maps would put  
12 Florida-15's Rep. Scott Franklin (R) in the new R  
13 Florida-28, but turn Florida-15 into a Biden seat in  
14 the east Tampa suburbs -- effectively creating a new  
15 Dem seat. I can't imagine this is going to be the  
16 ultimate GOP plan in Florida."

17 Do you remember reading this article or  
18 reading articles like this?

19 A No.

20 Q Do you remember hearing any conversation  
21 about this in the Governor's Office?

22 MR. JAZIL: Same instruction, Marsh  
23 instruction.

24 A I can't answer the question.

25

1 BY MS. FORD:

2 Q Do you remember hearing any conversations  
3 about this outside of the Governor's Office?

4 A No.

5 Q Presumably at some point you did become  
6 aware of the general expected partisan breakdown of  
7 the Senate's plans; is that correct?

8 A You just made me aware.

9 MR. JAZIL: Object to the form.

10 BY MS. FORD:

11 Q So before today, is this the first you  
12 ever heard about how many Republicans or Democrats  
13 the Senate's proposals might have elected?

14 A Yes, this is -- you've made me aware.  
15 It's amazing how I stay away from this stuff. I  
16 just stay away from it. My life at this point in  
17 time in November, December of 2021 was education,  
18 economic development; that's what I worked on.

19 Q So you did not become aware in -- I'm  
20 not -- to be clear, I'm not just asking November.  
21 I'm asking in December of '21, January of '22,  
22 February, March, April, you never became aware of  
23 the Florida Senate's proposals and their expected  
24 partisan breakdown?

25 A Their proposal, I became aware of it. I

1 stayed away from things about partisan breakdowns.  
2 I just didn't get involved in that and stayed away  
3 from it.

4 **Q So before today, you were not aware that**  
5 **the Senate's proposals would have retained CD-7 as a**  
6 **district in which Democrats were likely to win?**

7 A Correct.

8 **Q Before today, you were not aware that the**  
9 **Senate's proposals retained several competitive**  
10 **districts for Democrats in the Tampa Bay area?**

11 A I -- no prior knowledge.

12 **Q The Florida House also released some**  
13 **Congressional proposals in the fall of 2021.**

14 **Did you see those in the fall, or did you**  
15 **similarly not look at any House proposals until**  
16 **January?**

17 A Same basic answers, yes. Followed the  
18 process generally in the fall, and looked more  
19 specifically at their maps come January.

20 **Q When you started to look at the House**  
21 **maps, were you generally aware that the House's**  
22 **proposals started to move away from the benchmark**  
23 **plan?**

24 MR. JAZIL: Give you the Marsh  
25 instruction, but go ahead.

1           A       Sure, I never thought about it in that  
2       general context. Just wasn't -- like the Senate  
3       map, I didn't really look at it through that lens.

4       BY MS. FORD:

5           **Q       When the House's proposals were first**  
6       **released, there was pretty extensive reporting about**  
7       **how the House's plans were likely to elect**  
8       **18 Republicans and 10 Democrats.**

9                   **Did you see any of this reporting?**

10          A       Again, same answer as with the prior  
11       questions regarding the Senate maps. I just stayed  
12       away from this kind of news.

13          **Q       And similarly, when the House's proposals**  
14       **were first released, there was reporting about how**  
15       **the plans were more favorable for Republicans than**  
16       **the Senate plans.**

17                   **You did not see any of that reporting?**

18          A       Correct.

19          **Q       Do you remember any conversations in the**  
20       **Governor's Office to that effect?**

21                   MR. JAZIL: Marsh instruction.

22          A       I can't answer about internal  
23       conversations.

24       BY MS. FORD:

25          **Q       Do you remember hearing any conversations**

1     **about this that occurred outside the Governor's**  
2     **Office?**

3             A     No.

4             **Q     Before today -- before today's deposition,**  
5     **have you heard anything, any news articles, any**  
6     **reporting, any conversations about the expected**  
7     **potential partisanship of the House proposals?**

8             A     Have I just heard any general reportings  
9     anywhere?

10            **Q     Yes.**

11            A     I'm sure somewhere, I'm sure at some  
12     point, but I didn't read articles about the stuff.  
13     I stayed away from all of that. But I mean, I don't  
14     know that at some point in the summer or fall of  
15     2022 I wouldn't have heard somewhere something, some  
16     comment about all of this.

17            **Q     Okay.**

18                   MS. FORD: Do you have next exhibit?

19                   THE STENOGRAPHER: Number 11.

20                   (Discussion off record.)

21                   MS. FORD: Sandi, what exhibit are we on?

22                   THE STENOGRAPHER: 11.

23                   MS. FORD: Thanks.

24                   THE STENOGRAPHER: Uh-huh.

25

1                   (Exhibit 11 was marked for  
2                   identification.)

3       BY MS. FORD:

4           Q       So this is Exhibit 11. It is an article  
5       that was -- I'll represent it was published in  
6       Politico -- I'm sorry, it doesn't have it in the  
7       title here.

8                   It's titled "New draft redistricting map  
9       in Florida cuts up Murphy's seat, boosts GOP." It's  
10      written -- or was published November 29, 2021, by  
11      Matt Dixon.

12                  This article -- I don't think we should  
13      spend time reading it, but I'll represent that it  
14      recounts some reactions to the Florida House's  
15      proposed Congressional maps.

16                  And in particular, on the second page of  
17      this article, it notes, "'The second Congressional  
18      plan from the Florida House is a pretty notable  
19      gerrymander. If nukes Florida-7 Murphy's seat,'  
20      tweeted Democrat data consultant Matthew Isbell.  
21      'This is by far the most aggressive plan.'"

22                  Do you remember reading this article or  
23      reading articles like this?

24           A       No.

25           Q       And before I ask you, let me ask this

1 question I asked, and Mr. Jazil will object. I just  
2 want to get something clear on the record.

3 Did you have any conversations -- are you  
4 aware of any conversations in the Governor's Office  
5 about the proposed or expected partisan breakdown of  
6 any of the Senate's proposals or the House's  
7 proposals?

8 MR. JAZIL: I'm going to give you the  
9 Marsh instruction. If it's internal, it wasn't  
10 shared with anyone outside, don't talk about  
11 it. If it was internal, you discussed it with  
12 the legislature or some other third party, talk  
13 about it.

14 A I don't have anything responsive. The  
15 question is about internal conversations.

16 BY MS. FORD:

17 Q So my question is, is whether the  
18 conversation occurred. I agree with Mr. Jazil, you  
19 don't have to tell me the substance of it, but I'm  
20 asking whether the conversations -- did a  
21 conversation occur in the Governor's Office about  
22 the -- anything about partisan -- expected  
23 partisanship of the Senate's plans or the House's  
24 plans?

25 A Again, I'm going to follow the guidance of

1 Counsel.

2 MS. FORD: Mr. Jazil, do you agree with me  
3 this is like a privilege log where I'm just  
4 asking whether the conversation occurred; I'm  
5 not asking about the substance?

6 MR. JAZIL: Well, it's a little different.  
7 I think the way Judge Marsh framed his order is  
8 he may not be questioned as to information  
9 internal to the Governor's Office.

10 It's a little different than a privilege  
11 log we traditionally get in an attorney/client  
12 privilege type of situation. So I'm going to  
13 ask him not to answer.

14 A I'm going to follow the advice of counsel.

15 MS. FORD: Okay. And we may do this a  
16 couple of times. I just want to make it clear  
17 for the record.

18 MR. JAZIL: That's fair.

19 BY MS. FORD:

20 **Q Sitting here today, is this the first**  
21 **you've heard about how many Republicans or Democrats**  
22 **the House's proposals might have elected?**

23 A Yes.

24 **Q So before today you were not aware that**  
25 **the House's proposals would have changed CD-7 from a**

1 **Democratic-leaning district to a Republican-leaning**  
2 **district?**

3 A Correct.

4 Q And before today you were not aware that  
5 the House's proposals were generally viewed as more  
6 friendly to Republicans than the Senate's proposals?

7 A Correct.

8 Q By the time you submitted -- actually,  
9 before I ask this question, let's get some  
10 terminology on the table.

11 There's a lot of names for the Enacted  
12 Plan, from Enacted Plan to Plan 109?

13 A Uh-huh.

14 Q Right, the Governor's Plan? I can try to  
15 use consistent language today.

16 Is it okay with you if I just say "the  
17 Governor's plan"?

18 A Yeah, I would say just, because there were  
19 three plans our office --

20 Q That's true.

21 A -- submitted, I would go ahead and refer  
22 to it as the Enacted Plan.

23 Q Enacted?

24 A Enacted, meaning the Governor actually  
25 signed it into law.

1 Q Okay. That works for me.

2 The Enacted Plan is Plan 109, right?

3 A I believe that was the number, yes.

4 Q Okay. All right. By the time you  
5 submitted what became the Enacted Map to the  
6 legislature, were you aware that some of the  
7 legislature's redistricting plans, including  
8 Plan 8019, 8015, and Senate Plan 8060 were likely to  
9 elect several more Democrats than the Enacted Plan  
10 was?

11 MR. JAZIL: Object to the form.

12 A I wasn't aware of that with any of the  
13 plans. I -- the ones you're asking about, I'm not  
14 sure which is which, but I mean, just broadly, I  
15 wasn't aware of that with any of the plans.

16 BY MS. FORD:

17 Q Okay. And just so we're clear for the  
18 record on terminology, I should have also clarified  
19 this. When I say Plan 8019, I mean the plan that  
20 the legislature passed and that the Governor vetoed;  
21 does that sound right to you?

22 A Even though I wasn't -- I wasn't exactly  
23 remembering which plan number that was --

24 Q Right.

25 A -- the statement that I made applies to

1 any of the plans of the legislature. I wasn't aware  
2 of how they compared in any kind of partisan way to  
3 the -- ultimately the Enacted Plan.

4 **Q Okay. I just realized I should have**  
5 **gotten us on the same page for terminology before I**  
6 **asked that question.**

7 **A No worries.**

8 **Q But when I say -- for the future, when I**  
9 **say Plan 8019, do you recall that is the plan that**  
10 **the legislature passed and that the Governor vetoed,**  
11 **it was the primary --**

12 **A I don't --**

13 **Q -- primary map.**

14 **A I don't have any reason to believe that's**  
15 **not the number.**

16 **Q Okay.**

17 **A I'm not sure, but I just don't have it in**  
18 **front of me.**

19 **Q Right.**

20 **Were you aware that some Republicans --**  
21 **let me strike that question and ask a better**  
22 **question.**

23 **Sitting here today, are you aware that**  
24 **some Republicans in the Florida House had complained**  
25 **that the legislature's draft plans were too**

1       **favorable to Democrats?**

2           A       No.

3           **Q       Okay.  So you don't remember hearing**  
4       **anything about that?**

5           A       No.

6           **Q       Did you ever perform your own analysis of**  
7       **the legislature's draft plans?**

8           A       Analysis of what?

9           **Q       Yes, I was going to ask you:  Did you**  
10       **perform any analyses on them?**

11          A       I mean, there's a lot of things you can  
12       analyze for -- equal population check; so yeah, I  
13       made sure they were equal population.

14          **Q       What else did you look at?**

15          A       Are you talking about the plan we  
16       enacted -- or which plan are you talking about?

17          **Q       No, I'm talking about the legislature's**  
18       **draft proposals.  Did you ever take any of the**  
19       **legislature's draft proposals when you started your**  
20       **work and run any reports on them or --**

21                   MR. JAZIL:  I'm going to give you the  
22       Marsh instruction, but I note that you did get  
23       into some of the stuff in your legislative  
24       testimony.  To the extent you did, you can  
25       answer.

1           A       The legislature provided committee  
2     packets, public reports, things of that nature. So  
3     I took a look at things like compactness scores,  
4     cities/counties split, again population.

5     BY MS. FORD:

6           **Q       Did you generate any new analyses that the**  
7     **legislature hadn't done?**

8           A       No.

9                    I'm sorry, I guess -- you mean of their  
10    plans?

11          **Q       Of their proposed plans, right.**

12          A       No, no.

13                   MS. FORD: Just to get a sense of time,  
14    I'm going to go off the record, Sandi.

15                   THE STENOGRAPHER: Okay.

16                   (Discussion off record.)

17    BY MS. FORD:

18          **Q       Did you conduct your own functional**  
19     **analysis on any of the plans this cycle?**

20          A       No.

21          **Q       And maybe, let's get on the same page**  
22     **about what a functional analysis means.**

23                   **When I say "functional analysis," what**  
24     **does that mean to you?**

25          A       A functional analysis to me, a political

1 scientist ultimately is going to have to look into  
2 electoral history of a proposed district and look  
3 for essentially cohesiveness of voting blocs within  
4 the district, to determine some kind of analysis  
5 about that cohesiveness, likelihood to elect.

6 **Q Okay. Why didn't you do any functional**  
7 **analyses this cycle?**

8 MR. JAZIL: I'm going to give you the  
9 Marsh instruction. If you can talk about this  
10 without getting into any internal  
11 communications that weren't shared outside, go  
12 ahead and answer.

13 A Well, and I had to -- or I don't know if I  
14 had to, but I did testify to this point. In  
15 committee this question came up in different --  
16 several different forms in committee. Essentially I  
17 had no reason to, I had no need to do a functional  
18 analysis.

19 BY MS. FORD:

20 **Q Why not?**

21 MR. JAZIL: Same instruction. Go ahead.

22 A Generally speaking, just broadly?

23 BY MS. FORD:

24 **Q Yeah.**

25 A Generally speaking, I was able to -- we

1 were able to rely on the functional analysis done by  
2 the legislature.

3 **Q Did you receive data from the House and**  
4 **Senate on the functional analyses that they had**  
5 **performed?**

6 A No.

7 **Q Did you speak with the House and Senate**  
8 **about the conclusions they had reached from their**  
9 **functional analyses?**

10 A Publicly in committee.

11 **Q Sorry, what does that mean? You spoke**  
12 **with them publicly in committee or you watched their**  
13 **public?**

14 A No, I was testifying in committee, and the  
15 committee chairs -- one of the committees had two  
16 chairs, committee chairs; some of the members,  
17 staff, had open dialogue in the committee about the  
18 work the legislature had done to do a functional  
19 analysis.

20 **Q When did you personally start drawing maps**  
21 **in the Governor's Office?**

22 A It would have been in the two or three  
23 weeks prior to the submission of our office's second  
24 map, so I'm not -- I don't recall that date, but if  
25 you back up two to three weeks, somewhere in that

1 range.

2 **Q Okay. My memory is that a second plan was**  
3 **submitted February 14th. So we're talking like late**  
4 **January, early February?**

5 A Yeah, that would be fair.

6 **Q Why did you start drawing maps?**

7 MR. JAZIL: I'm going to give you the  
8 Marsh instruction. You can answer based off of  
9 what you've already shared with third parties,  
10 including but not limited to the legislature.

11 Go ahead.

12 A I started to draw because I saw  
13 opportunities to clean up a lot of the county and  
14 city boundaries in the visual compactness of the  
15 map.

16 BY MS. FORD:

17 **Q When you say you saw improvements, as**  
18 **compared to the legislature's plans or as compared**  
19 **to the plans that the Governor's contract map drawer**  
20 **had been drawing?**

21 A What I mean is I saw holistic improvements  
22 that I could make actually compared to the map, the  
23 original map that our office had submitted and also  
24 the maps that the House and Senate had.

25 **Q Okay. And just for terminology for the**

1 record, when you say the "first map your office had  
2 submitted," you thought you could make improvements  
3 on Plan 0079, I think it was?

4 A That sounds right. That sounds like the  
5 number, yes.

6 Q Okay. And that was -- for the purpose of  
7 the record again, that was the plan that the  
8 Governor's contract map drawer Adam Foltz had drawn?

9 A Yes.

10 Q And when you started drawing maps in late  
11 January, early February, were you working off of  
12 Plan 0079?

13 A I was both working off that plan and at  
14 that point had looked more closely at the House and  
15 Senate proposals for the Congressional map, and so I  
16 was looking at all three; or I think the House and  
17 Senate at that time still had multiple -- I don't  
18 remember exactly, but I think they still had  
19 multiple proposals at that time.

20 Q When you started drawing a plan, though, I  
21 assume you probably downloaded a plan to start with,  
22 right, and you worked off of that plan?

23 A I don't know if I did or didn't. I don't  
24 recall if I -- I don't recall if I worked off of one  
25 of those or started fresh.

1           **Q     And when you started to draw these maps,**  
2           **what goals or sort of instructions were you given?**

3                   MR. JAZIL: Let me give you the Marsh  
4           instruction.

5           A     The only way I can answer that question  
6           would be to talk about internal office  
7           conversations.

8           BY MS. FORD:

9           **Q     How many maps would you estimate that you**  
10          **drew?**

11          A     Me, personally?

12          **Q     Uh-huh.**

13          A     Just by myself?

14          **Q     Sure, let's start with that.**

15          A     Wholly by myself -- well, and I guess I  
16          should use the caveat, the ultimate Enacted Map,  
17          because 10 of the districts were drawn by the  
18          legislature, so technically that wouldn't actually  
19          count towards your question because 10 of those  
20          districts were drawn by the legislature, not me.

21                   But wholly unto myself, two to three  
22          maybe.

23          **Q     Okay. Were any of those plans submitted**  
24          **to the legislature?**

25          A     A map that I drew wholly myself, no.

1           Q     And when I say "submitted," I guess I mean  
2     shared. I'm not sure what the technical word  
3     "submitted" means here in this conversation.

4                     Were any of those maps shared with the  
5     legislature?

6           A     I'll take your question to mean both  
7     formally and informally, no.

8           Q     When I say if any map was sort of drawn by  
9     yourself, I didn't mean to exclude the Enacted Map  
10    because I didn't realize 10 of the districts are the  
11    legislature's?

12          A     Okay.

13          Q     I mean, those were incorporated. I guess  
14    I just mean -- I'm referring to part of your  
15    testimony, whether it was for the House or the  
16    Senate, where you said you drew some maps with  
17    Mr. Foltz and you drew some that were just on your  
18    own. And I think in your testimony before the  
19    legislature you represented that the Enacted Map you  
20    drew yourself, right?

21          A     Yes.

22          Q     That's what -- that's what I mean.

23          A     That --

24          Q     Understanding that the --

25          A     -- I myself drew those 18 districts.

1 Q Yes.

2 A Yes.

3 Q Okay. Thank you.

4 So you drew other maps by yourself without  
5 the assistance of Mr. Foltz throughout the process?

6 A I recall drawing at least one or two,  
7 yeah.

8 Q Okay. And that would have been in like  
9 February or March of '22?

10 A Yes.

11 Q Okay. What were the -- did those draft  
12 plans have titles or names?

13 A Any plan that I drew or Mr. Foltz drew or  
14 we drew collaboratively would have had a number for  
15 a numbering system.

16 Q What number -- for the ones you drew  
17 yourself, what numbers were those?

18 A I would have to go back and look. I don't  
19 know.

20 Q My understanding is that there's a -- we  
21 have received a full range of redistricting plans  
22 from 001W to all the way up to 14B.

23 Did you draw 14B by yourself?

24 A I'm trying to remember, is 14B the Enacted  
25 Map?

1           **Q     No, 14A is the Enacted Map.**

2           MR. JAZIL:  Christina, do you have --

3           THE WITNESS:  Yeah, if you have --

4           MR. JAZIL:  -- the maps, you could show  
5           him?

6           MS. FORD:  Yeah.

7           (Discussion off record.)

8   BY MS. FORD:

9           **Q     So this is Exhibit 12.  I will represent**  
10          **that these are the shapefiles that we received in**  
11          **discovery from the Governor's Office that are**  
12          **converted into map format and the -- to be clear,**  
13          **the Governor's Office did not produce these specific**  
14          **images of the Foltz plans.  These were generated by**  
15          **our expert, Dr. Stephen Ansolabehere, but they have**  
16          **just been converted to image form.**

17                 MR. JAZIL:  So the record's clear, the  
18                 indentations on the right that shows I assume  
19                 Republican/Democratic vote share was not  
20                 created by the Governor's Office.

21                 MS. FORD:  We did not receive this  
22                 document from the Governor's Office, correct.

23                         (Exhibit 12 was marked for  
24                 identification.)

25                 MS. FORD:  But we did receive the

1 shapefiles of Mr. Foltz's drafts.

2 BY MS. FORD:

3 **Q Can we flip to the second to the last**  
4 **page, which says "Foltz 14B."**

5 A Uh-huh.

6 **Q Did you draw this draft?**

7 A You don't have a version with the county  
8 lines, do you?

9 **Q I don't. This is the best I have.**

10 A Okay. Can I see a version with the county  
11 lines?

12 **Q Because 14B wasn't enacted, I don't have**  
13 **like -- I don't have something like this of 14B.**

14 **Is there something that would help you**  
15 **know whether or not this was a draft that you drew?**

16 A I drew districts very, very adherent to  
17 county lines and a very geographic approach, and so  
18 county lines are helpful, tremendously helpful. I'm  
19 not trying to be difficult, but that's how I looked  
20 at the maps.

21 **Q Okay. So sitting here right now, you**  
22 **aren't able to say whether or not you drew 14B?**

23 A I'm not comfortable representing that  
24 unless I can see a map that looks some remote  
25 similarity to the way I drew it.

1           **Q     Okay.  If we flip back a page and go to**  
2     **Foltz 14A, my understanding is that this is the**  
3     **Enacted Map.**

4           **Is that your understanding?**

5           A     14A rings a bell, but I mean, if you have  
6     a better depiction of this, I've never looked at the  
7     maps this way.  I can see no county lines.  I can't  
8     see a single county name.  I'm missing a lot of  
9     detail, and so in deposition there's simply no way  
10    I'm going to look at a map in this form and say that  
11    this is what I drew.

12          **Q     Okay.  Maybe the images aren't helpful**  
13    **then.  We can put this away.**

14                   MS. FORD:  What did you say this was,  
15     Sandi?

16                   THE STENOGRAPHER:  That was 12.

17                   MS. FORD:  Thanks.

18    BY MS. FORD:

19          **Q     Do you remember the names of any of the**  
20    **plans that you drew?**

21           A     14 sounds like the number that we finished  
22    on, so that sounds like where we finished.  So if  
23    that -- if that is where we finished, I just, off  
24    the top of my head, I don't know if that's literally  
25    the number.  I'd have to go back through all the

1 files and really explicitly review them to say this  
2 is definitely mine, this is definitely mine.

3 **Q So are there any others, other than you**  
4 **think 14, that you drew that you can recall?**

5 A Not by number, but like I said, I believe  
6 there was at least one, two, three others that the  
7 total work of the map is my product.

8 **Q Okay. Did you use the Florida**  
9 **redistricting website to draw your plans?**

10 A Yes. The one the legislature created,  
11 yes.

12 **Q That's what I mean.**  
13 **Did you use any other mapping software?**

14 A No.

15 **Q What sort of data did the Florida**  
16 **redistricting website have for you to consult when**  
17 **you were drawing the plans?**

18 A Census data, the -- obviously a lot of  
19 geographic features, pretty detailed geographic  
20 features. Demographic data was available through  
21 the tool. Had a lot of data through their tool.  
22 Yeah.

23 **Q Did you have access to any other data --**  
24 **any data that was outside the Florida redistricting**  
25 **website that you consulted in drawing your plans?**

1 A No.

2 Q So we talked earlier about how Plan 0079  
3 was -- that was Mr. Foltz's plan, correct?

4 A Yes.

5 Q Do you happen to remember what Foltz draft  
6 that was titled in the sequence from 1 to 14?

7 A No.

8 Q Okay. And then you testified before the  
9 Florida legislature that you worked with Mr. Foltz  
10 on Plan 0094; is that correct?

11 A That sounds right, yes.

12 Q Do you remember what plan that was in the  
13 sequence between 1 through 14?

14 A No.

15 Q All right. Let's go back to the draft  
16 that you said you drew on your own, and  
17 unfortunately, it sounds like we're not able to give  
18 any of those drafts a name, but you did a few; is  
19 that correct?

20 A Yes.

21 Q Who saw your drafts?

22 MR. JAZIL: I'm going to give you the  
23 Marsh instruction. So you can answer to the  
24 extent that some third party saw your drafts.

25 A Uh...

1 MS. FORD: Can we back up, Mo, just so I  
2 can get it on the record?

3 MR. JAZIL: Sure.

4 BY MS. FORD:

5 **Q Did you show other individuals in the**  
6 **Governor's Office your draft maps?**

7 MR. JAZIL: I give you the Marsh  
8 instruction, attorney/client privilege.

9 A I'm going to follow the guidance of my  
10 counsel.

11 BY MS. FORD:

12 **Q Did you share your draft maps with**  
13 **attorneys?**

14 A Yes, our attorneys.

15 **Q Who saw the drafts, which attorney saw the**  
16 **drafts?**

17 MS. FORD: I don't believe that's  
18 privileged. I just asked who.

19 MR. JAZIL: Just go ahead and answer who  
20 among the lawyers saw the drafts.

21 A Just broadly which attorneys saw the  
22 draft?

23 BY MS. FORD:

24 **Q Yes.**

25 A Any draft?

1           **Q     Yeah.**

2           A     Uh...Ryan Newman, James Uthmeier -- and  
3     let me clarify, are you talking during the process  
4     of drawing, or are you referring to even in the  
5     process of producing documents for this case?

6           **Q     I'm not sure I understand your question.**

7           A     In other words, our Office of the General  
8     Counsel takes the lead in producing the documents  
9     for a case like this, so there are probably  
10    attorneys in that office -- Chris DeLorenz, who  
11    primarily leads on collecting public records for our  
12    office, he had no involvement in --

13          **Q     Right.**

14          A     -- the redistricting process, but  
15    certainly by this point he has certainly seen the  
16    draft maps because he probably --

17          **Q     Yeah.**

18          A     -- provided them to you.

19          **Q     Yeah. Thank you for your question.**

20                   **I do not mean who saw it at the end of the**  
21    **day --**

22          A     Okay.

23          **Q     -- in the public records process. I mean**  
24    **at the time you were drawing these and shared them,**  
25    **which attorneys saw it at that point?**

1           A       Sure. Sure. Ryan Newman, James Uthmeier.  
2                    I'm not sure who else in our office would  
3 have seen draft maps. I know that Dan Nordby saw a  
4 couple draft maps.

5           Q       Okay. And I'll get to that, I was just  
6 asking about the Governor's Office for the moment.

7           A       I'm sorry, I had clarified saying "any  
8 lawyer," and you said, "yes."

9           Q       Oh, I'm sorry, I thought you meant any  
10 lawyer with the Governor's Office.

11                   What about Mr. Torchinsky, did he see  
12 draft maps?

13           A       I don't know.

14           Q       What about Mr. Foltz, did he see your  
15 draft maps?

16           A       Yes.

17           Q       Why did Mr. Foltz see -- or why did you  
18 send them to Mr. Foltz?

19                   MR. JAZIL: I'm going to give you the  
20 Marsh instruction. You talked about  
21 Mr. Foltz's role in the legislative process.

22           A       Yeah. Adam and I collaborated, so we  
23 collaborated and shared work back and forth.

24 BY MS. FORD:

25           Q       And did Mr. Foltz provide any input on

1     **your drafts?**

2           A     I mean, part of the collaboration, yeah.

3           **Q     What was the input he provided?**

4           THE WITNESS: Do I have to get into purely  
5     internal conversations on his input?

6           MR. JAZIL: I'm going to go back to the  
7     Marsh instruction. I believe you testified in  
8     front of the legislature that you collaborated.  
9     I think she's trying to get to what that means.  
10    At least you can answer that.

11  BY MS. FORD:

12           **Q     Yeah, let me rephrase that question and**  
13    **ask at a broad level.**

14                   **When you say you told the legislature you**  
15    **collaborated with Mr. Foltz, can you talk me through**  
16    **what that meant?**

17           A     Sure. We both drafted maps. We were  
18    trading ideas back and forth, talking to each other  
19    about each other's maps. He was very complimentary  
20    of my final work.

21           **Q     Did you share any of your drafts with**  
22    **Thomas Bryan?**

23           A     I know that Tom -- I know Tom Bryan did  
24    get to see some of the drafts.

25           **Q     And what was the purpose of sharing your**

1       **drafts with Mr. Bryan?**

2                   MR. JAZIL: I'm going to give you the  
3       Marsh instruction.

4       A       Yeah. Tom was earlier on the process  
5       looking at the maps for citizen voting-age  
6       population, which I didn't have access to the  
7       legislature's tool -- didn't have access to citizen  
8       voting-age population.

9                   MR. JAZIL: And I'll note for the record  
10       that the citizen voting-age population issue  
11       came up in discussions with the House, so he's  
12       not --

13       A       That's why --

14                   (Simultaneous crosstalk.)

15       BY MS. FORD:

16               **Q       What was the -- what was the reason that**  
17       **you felt like you needed citizen voting-age**  
18       **population or needed an analysis on citizen**  
19       **voting-age population?**

20                   MR. JAZIL: I'll give you the Marsh  
21       instruction again. To the extent you can  
22       answer...

23       A       There was no conversation outside our  
24       office about why we felt like we needed that, so I  
25       don't really have any way to answer that without

1 talking about internal conversations.

2 BY MS. FORD:

3 **Q Well, I thought -- maybe I misunderstood,**  
4 **but I thought you said the issue came up with the**  
5 **House?**

6 A It did.

7 **Q What was the issue?**

8 A The House brought the conversation up  
9 about our use of citizen voting-age population data.

10 **Q What was the House's concern?**

11 MS. LUKIS: I'm going to object on behalf  
12 of the House. He is being asked to speculate  
13 about the motivations or internal thoughts of  
14 House conversations.

15 A Sure. I can just -- I don't know the  
16 internal motivations, so I can only say what was  
17 said to me, which was that -- that the House  
18 represented the legislature was not using citizen  
19 voting-age population data for this process.

20 BY MS. FORD:

21 **Q And they represented to you that they felt**  
22 **that they should?**

23 A No. No, the House represented to us that  
24 they were not using citizen voting-age population  
25 data. Therefore, they wouldn't -- they wouldn't

1 factor in whether we were using it.

2 **Q I see. I see. What were they using**  
3 **instead?**

4 A They weren't using something in the -- to  
5 my knowledge, anyway -- at least what was  
6 represented to me, they weren't using something in  
7 the absence of citizen voting-age population data.

8 **Q Okay. So Mr. Bryan's role then was to**  
9 **provide some analysis of -- I'm sorry, I'm not sure**  
10 **I understand.**

11 **Can you explain to me then what**  
12 **Mr. Bryan's role was in reviewing your plans?**

13 A Sure. He literally added a column to the  
14 spreadsheets that had citizen voting-age population  
15 data for each district.

16 **Q Okay. Do you know who -- I'm going to**  
17 **mispronounce his name -- know who Eric Wienckowski**  
18 **is?**

19 A I'm not familiar with that name.

20 **Q Did Mr. Bryan have an assistant or**  
21 **subcontractor who was working with him to your**  
22 **knowledge?**

23 A Not to my knowledge.

24 **Q So you mentioned previously that the**  
25 **Senate and the House -- or you did not say the**

1 **House, I'm sorry -- that Senate attorneys were given**  
2 **copies of some of your draft maps; is that correct?**

3 A I know that Dan Nordby -- yes, Dan Nordby,  
4 yes, definitely.

5 Q **What was the -- why did you share your**  
6 **drafts with the House -- I'm sorry, with the Senate?**

7 A We were meeting and -- and as I was  
8 answering that before, too, I didn't get to Andy  
9 Bardos, but we were meeting with the House and  
10 Senate, sharing some draft concepts with them.

11 Q **Was that, like, throughout the spring of**  
12 **2022?**

13 A No.

14 Q **When was it?**

15 A That would have been in April of 2022.

16 Q **Okay. When you said you were meeting to**  
17 **discuss some concepts, what concepts were you**  
18 **discussing?**

19 A The map for what ultimately became the  
20 special session map.

21 Q **Did they see -- did House and Senate --**  
22 **sorry, bad question.**

23 **Did you provide any earlier copies of**  
24 **drafts, like beyond those that became the Enacted**  
25 **Map, with the House and Senate? Did you share any**

1       **drafts with them?**

2           A       Like earlier in the legislative process,  
3       is what you're asking me?

4           **Q       Yeah, I'm saying before the Enacted Map**  
5       **came to be, did you have any drafts that you shared**  
6       **with the House and Senate?**

7           A       We had the maps that we published and  
8       shared with them that way. I don't recall if we  
9       shared a draft of what we were about to publish with  
10      them in advance. But we definitely shared the ones  
11      that we published.

12                   Not to get too technical, just so  
13      you're --

14           **Q       Yeah.**

15           A       -- asking a draft, a draft may have been  
16      the --

17           **Q       I know --**

18           A       -- exact same thing --

19           **Q       -- might have been published.**

20           A       -- that was published. So I don't know if  
21      we -- we gave them the courtesy heads-up, I don't  
22      know.

23           **Q       Okay. So just for clarity for the record,**  
24       **the Governor's Office published Plan 0079, right?**

25           A       Yes.

1 Q And it published 0094, right?

2 A Right.

3 Q And then there was the Enacted Map, which  
4 was Plan 109.

5 Outside of that, do you know if any draft  
6 plans were shared with the House and Senate?

7 A When -- what I referenced earlier, meeting  
8 in April prior to the special session, yeah.

9 Q Okay. So those were drafts that you had  
10 worked on earlier in the process before -- I call it  
11 Plan 14A, but there's a million names for this.

12 A Yeah.

13 Q So what did the House and Senate receive  
14 before the special session?

15 A We brought two drafts -- two drafts to the  
16 meeting.

17 Q Okay. And those are both drafts that you  
18 drew?

19 A Those were mine, yes.

20 Q Okay.

21 So one of them I assume went on to become  
22 the Enacted Plan?

23 A Yes.

24 Q And you can't remember the name or number  
25 of the other one at all?

1           A     I wouldn't feel comfortable saying that I  
2 do. I'd want to see, you know, the plan in front of  
3 me.

4           **Q     How did the two drafts differ?**

5           A     Do you have a copy of my drafts?

6           **Q     To my knowledge I wasn't provided with the**  
7 **other copies.**

8           A     Okay.

9           **Q     So I don't know what it is.**

10           MS. FORD: Do you know, Mr. Jazil, if it  
11 was provided in discovery?

12           MR. JAZIL: So during the course of  
13 discovery we obviously provided everything  
14 which was in Adam Foltz' Google Drive, which  
15 has every map that was ever created by anyone  
16 either working directly with or contracting  
17 with the Executive Office of the Governor. And  
18 we provided Mr. Kelly's personal file to the  
19 extent that --

20           THE WITNESS: Uh-huh.

21           MR. JAZIL: -- you know, Judge Marsh took  
22 out some materials in his in-camera review.  
23 But the Google Drive should have every plan  
24 that was shared with anyone. And to the extent  
25 that there was a physical copy in Alex Kelly's

1 personal folder, it would have been provided as  
2 well.

3 So I think you have it. And I guess the  
4 trouble we have is figuring out which one --

5 MS. FORD: Which one it is.

6 MR. JAZIL: -- was the other map that we  
7 shared --

8 MS. FORD: Yeah.

9 MR. JAZIL: -- with the legislature in  
10 April.

11 BY MS. FORD:

12 **Q Do you think that's something that you**  
13 **could fairly figure out this evening if you were to**  
14 **go back and reference like what the -- just what the**  
15 **name and the number was?**

16 A Yeah. And I want to be clear, I'm not  
17 saying that what you've provided, isn't it. Just --

18 **Q Right, you just -- I understand that.**  
19 **There were a lot of plans.**

20 A -- working back and forth, I just -- you  
21 know, heaven forbid that I tell you it's 14 this and  
22 it turns out it's 15 that.

23 **Q Right. That makes sense.**

24 **Okay. Well, why don't we return to that**  
25 **tomorrow? We'll come back to the House and Senate**

1 tomorrow.

2 Outside of the House and Senate, did  
3 anyone else see any copies of the drafts that you'd  
4 worked on?

5 A No.

6 Q Throughout the process, did you receive  
7 any input from members of Congress about the  
8 Congressional plan?

9 A No.

10 Q Did you receive input from anyone outside  
11 of the Governor's Office or the House and Senate?

12 A No.

13 MS. FORD: Do you mind if we take a break?  
14 We're about two-thirds of the way through.

15 MR. JAZIL: Sure.

16 MS. FORD: That's pretty good.

17 MR. JAZIL: Ten minutes?

18 MS. FORD: Yeah. Great.

19 (A recess took place from 12:44 p.m. to  
20 12:54 p.m.)

21 MS. FORD: And before I forgot, I just  
22 want to clarify something for the record.

23 Is it Ms. Lukis?

24 MS. LUKIS: Yes.

25 MS. FORD: Are you representing Ms. Kelly

1 in her individual capacity?

2 MS. LUKIS: Yes, and the House.

3 MS. FORD: So you're representing her in  
4 her individual capacity just a public citizen  
5 and her capacity as a former staffer for the  
6 House?

7 MS. LUKIS: I think that's accurate.

8 MS. FORD: Okay. Thank you.

9 MS. LUKIS: Her job title isn't married to  
10 Mr. Kelly. She is, but, yes, I represent her.

11 MS. FORD: Okay. Do we have the 20 -- the  
12 new Enacted Plan as an exhibit yet?

13 I think not. Let's grab that.

14 THE STENOGRAPHER: That'll be 13.

15 MR. JAZIL: Thanks.

16 (Exhibit 13 was marked for  
17 identification.)

18 BY MS. FORD:

19 **Q All right, Mr. Kelly, this is Exhibit 13.**  
20 **It's labeled CS/SB 2-C, signed into law April 22,**  
21 **2022. I got this from the Florida Senate committee**  
22 **on their website.**

23 **Does this appear to be a fair and accurate**  
24 **copy of the enacted -- current Enacted Map?**

25 **A Yes.**

1           **Q**     **So this is the same as Plan 109 that was**  
2     **submitted from the Governor's Office to the**  
3     **legislature?**

4           A     Yes.

5           **Q**     **Okay.**

6                     **All right. I think we established this,**  
7     **but you drew this plan, correct?**

8           A     Yes.

9           **Q**     **Did anyone assist you in drawing this**  
10    **plan?**

11          A     No one assisted me in drawing this, of  
12    course, with the caveat that 10 of these districts,  
13    the legislature drew them.

14          **Q**     **Okay. Did anyone provide input or**  
15    **feedback on this plan?**

16                     MR. JAZIL: I'll give you the Marsh  
17    instruction.

18          A     Yes.

19    BY MS. FORD:

20          **Q**     **Who?**

21          A     A lot of people very publicly, two  
22    committee meetings, pretty considerable amount of  
23    very public feedback.

24          **Q**     **Outside of the committee -- committee**  
25    **process, did you receive other feedback on this**

1 **plan?**

2 A Yes.

3 MR. JAZIL: You can answer as to third  
4 parties.

5 A Yes.

6 BY MS. FORD:

7 **Q From whom?**

8 A From the House and the Senate.

9 **Q Did the Governor himself provide any**  
10 **feedback on this plan?**

11 MR. JAZIL: I'm going to direct you not to  
12 answer.

13 A I'm going to follow the advice of my  
14 counsel.

15 BY MS. FORD:

16 **Q How long would you estimate it took you to**  
17 **draw this plan?**

18 A Probably 40 to 60 hours.

19 **Q And you gave a presentation to the House**  
20 **and Senate redistricting committees about this plan**  
21 **last April, right?**

22 A Yeah, April 2022.

23 **Q Okay. I have a few questions about that**  
24 **presentation.**

25 **Feel free to set this aside, but I will**

1       **probably come back to it.**

2           A       Sure.

3           **Q       You were not under oath for your**  
4       **presentation to the House and Senate, correct?**

5           A       Correct.

6           **Q       Did you have a conversation with anyone**  
7       **before your presentation about whether or not you**  
8       **should be under oath for it?**

9                   MR. JAZIL: I'm going to give you the  
10           Marsh instruction. To the extent you had a  
11           conversation with someone at the legislature or  
12           elsewhere, go ahead and answer.

13           A       I would have to talk about internal office  
14           conversations to answer that question.

15           BY MS. FORD:

16           **Q       Did you have a conversation though with**  
17       **any member of the House or Senate about whether you**  
18       **would be under oath for the presentation?**

19           A       No.

20           **Q       During your presentation, several**  
21       **Democratic members did ask that you be put under**  
22       **oath, right?**

23           A       Yeah, in both committees, I believe. Yes.

24           **Q       But the chairs of the committee decided**  
25       **you should not be under oath, right?**

**1**                   **Or they didn't ask you to go under oath?**

**2**           A       I believe that's accurate. The chairs  
**3**       made that decision.

**4**           **Q       Did you volunteer to go under oath?**

**5**           A       No.

**6**           **Q       Why not?**

**7**           A       The appearance forms that the House and  
**8**       Senate have you fill out cite the perjury statute on  
**9**       them, so if you were to not tell the truth  
**10**      knowingly, you would be committing perjury -- to my  
**11**      knowledge they do. At least I know they used to, so  
**12**      it seemed like a useless exercise to essentially go  
**13**      under oath a second time, in layman's terms.

**14**          **Q       In your presentation to the House on**  
**15**      **April 19th, you were asked by Representative**  
**16**      **Skidmore why the Governor's plan changed**  
**17**      **18 districts instead of just fixing the issue that**  
**18**      **the Governor had mentioned in vetoing the plan. By**  
**19**      **that, I'm going to refer you to CD-5.**

**20**                   And you responded to her, "It's no secret  
**21**      that there were other preferences in the rest of the  
**22**      map."

**23**                   **What preferences were you referring to?**

**24**          A       The Governor had made statements publicly  
**25**      about other portions of the map. There were

1 numerous portions of the map that could be cleaned  
2 up and improved upon.

3 **Q When you say the Governor had made public**  
4 **statements about other portions of the map, what was**  
5 **the, you know, the basic thrust of what those**  
6 **statements were?**

7 A I recall the Governor making statements  
8 about the use of county boundaries, adherence to --  
9 essentially adherence to county lines and reducing  
10 county splits. I'm sure you could go back to the  
11 public account of exactly what he said, but I  
12 remember him talking about that.

13 **Q Were there any other preferences other**  
14 **than county splits that you're aware of?**

15 MR. JAZIL: I'll give you the Marsh  
16 instruction, but go ahead and answer if you  
17 shared other preferences publicly or not shared  
18 other preferences publicly.

19 A I'm sorry, I'm going to ask, who -- whose  
20 preferences?

21 BY MS. FORD:

22 **Q So I'll read you your quote. We can pull**  
23 **it up if you'd like to see it.**

24 **You said, "There is no secret that there**  
25 **were other preferences in the rest of the map."**

1                   **So I'm just asking, what were the other**  
2 **preferences, other than fixing CD-5, which I think**  
3 **is pretty obvious?**

4           A       I've answered that question. I mean, the  
5 Governor publicly talked about use of county  
6 boundaries in the map. To my best recollection, he  
7 did.

8           **Q       Can you recall any other preferences that**  
9 **you would have been referencing here?**

10          A       Whose preferences?

11          **Q       I don't know. You said there were other**  
12 **preferences in the rest of the map, so I'm just**  
13 **asking what preferences are you talking about?**

14          A       I've answered the question twice.

15          **Q       All right. I believe that you said that**  
16 **the Enacted Plan -- you described it as a compromise**  
17 **between the legislature and the Governor's Office?**

18          A       Yes.

19          **Q       Can you explain what you meant by that?**

20          A       Sure. So the plan attempts to take some  
21 of the concepts from the maps that we at the  
22 Governor's Office submitted, take those concepts and  
23 take some of the better -- best -- I'd say best  
24 practice concepts from the House and Senate maps,  
25 and mesh them together and reconcile them.

1           Q     Okay. Did you have an active discussion  
2 with anyone from the legislature about what portions  
3 would be merged?

4           A     Did I?

5           Q     Uh-huh.

6           A     Yes.

7           Q     And that was kind of a vague question.

8                     What I mean by that is, I mean I  
9 understand that you had a meeting with the House and  
10 Senate right before the special session to sort of  
11 like go over --

12          A     Uh-huh.

13          Q     -- plans the Governor's Office had worked  
14 on, right?

15          A     Yes.

16          Q     Prior to that meeting, did you -- did you  
17 have a discussion with, you know, the House and  
18 Senate on what portions of their map would be  
19 included into the Governor's plan?

20          A     Prior to -- prior to the -- like, what  
21 time period are you talking about?

22          Q     So I don't know the date of the meeting  
23 with the House and Senate before the special  
24 session. I think it was -- do you remember?

25          A     No.

1           **Q**     -- around April, so I'm going to guess  
2     **somewhere around April 10th to 13th range.**

3           A     Yeah, that's fair, somewhere -- maybe even  
4     a little earlier, but somewhere after the conclusion  
5     of the session and --

6           **Q**     **Right, before the --**

7           A     -- before the special session.

8           **Q**     **Yeah. All I mean is before you showed up**  
9     **to that meeting and sort of presented the Governor's**  
10    **plans, had there been a dialogue between the**  
11    **Governor's Office and the legislature about what**  
12    **portions of their plan would be incorporated to the**  
13    **Governor's plans?**

14                   MR. JAZIL: This is the meeting before the  
15                   special session?

16                   MS. FORD: Yeah.

17           A     No, I don't -- I don't recall giving them  
18     any sort of heads-up as to what we were walking into  
19     the meeting with.

20           BY MS. FORD:

21           **Q**     **Okay. So when you say it was a sort of,**  
22    **like, collaboration or compromise with the**  
23    **legislature, what you mean is by the time this was**  
24    **enacted, we had included some ideas from the**  
25    **legislature?**

1           A       Yeah, the map, the Enacted Map  
2 incorporates some of the concepts and ideas that the  
3 legislature -- House and Senate -- had and meshes  
4 those concepts with ideas that our office had. And  
5 then obviously 10 of the districts are literally the  
6 House and Senate's.

7           **Q       How did you start drawing this Enacted**  
8 **Map? Back to Exhibit 13.**

9           MR. JAZIL: I will give you the Marsh  
10 instruction. To the extent you talked through  
11 that with the legislature, you can answer it.

12          A       How did I begin?

13 BY MS. FORD:

14          **Q       Yeah, all I'm asking here is: If you have**  
15 **to start with something, like, what do you start**  
16 **with?**

17          A       I mean, I certainly talked publicly about  
18 looking at the maps that we, the Governor's Office,  
19 had submitted and looking at the -- not just final  
20 map the legislature initially passed, but also some  
21 of the House and Senate maps leading up to that  
22 point as well, so I looked at and compared those.

23          **Q       Okay. In your testimony, your**  
24 **presentation to the House and Senate during that**  
25 **special session, you said that you worked off the**

1 legislature's primary plan, 8019.

2 Is that correct, you started by uploading  
3 that plan and working off of it, or did I not  
4 understand what you were telling the legislature?

5 A Certainly worked off of it. I have to  
6 think about whether I actually uploaded it.

7 Q And to be clear, I'm not actually sure you  
8 said that you uploaded it.

9 A I don't -- I don't --

10 Q You said you worked off of it.

11 A I don't know that I literally uploaded it  
12 because there's -- in the application the  
13 legislature provided -- I don't recall now, but  
14 there's a way that you could, if you really liked or  
15 wanted to use a specific district that was drawn in  
16 let's say the legislature's map, you could literally  
17 copy and paste it into yours through a series of  
18 mouse clicks.

19 So I don't recall whether I literally  
20 uploaded their map. I may have said that in my  
21 testimony, but either way I was obviously -- where I  
22 finished, I obviously utilized 10 of the districts  
23 that the legislature enacted or initially passed.

24 Q Okay. I was -- actually perfect timing, I  
25 was about to just get that on the record.

1                   **So 10 of the districts in the Enacted Map**  
2                   **are exact copies of districts from the legislature's**  
3                   **Plan 8019, correct?**

4                   A        Yes.

5                   **Q        And those are Districts 1, 2, 20 through**  
6                   **25, 27, and 28; is that right?**

7                   A        Yes.

8                   **Q        Why were these districts left alone?**

9                   MR. JAZIL: I'll give you the Marsh  
10                  instruction, but go ahead, if you can answer.

11                  A        I certainly testified to some of these  
12                  points about -- and was asked questions about why  
13                  these districts were left alone. I don't ever think  
14                  though I would use the phrase "left alone" as much  
15                  as the legislature had done good work in these  
16                  districts.

17                  There was legal merit to the way the  
18                  legislature had drawn these districts. They're  
19                  different. They are not similarly situated, but  
20                  overall, the legislature had done a reasonably good  
21                  job of using redistricting criteria to draw those  
22                  10 districts.

23                  BY MS. FORD:

24                  **Q        Okay. And the new districts that the**  
25                  **Governor's Office put forward were 3 through 19 and**

**1 then District 26, correct?**

2 A Correct.

**3 Q Why did you choose to alter those**  
**4 districts?**

5 MR. JAZIL: The same Marsh instruction.

6 To the extent you talked to third parties like  
7 the legislature about it, go ahead and answer.

8 A I don't know that it's any different than  
9 what I've said before, which is I was looking at the  
10 two maps our office had already prior submitted. I  
11 was looking at different maps that the  
12 legislature -- not just the initial one they passed,  
13 but some of their penultimate and near penultimate  
14 maps that they had close at the end of their  
15 different processes -- was trying to reconcile in a  
16 way that would encapsulate the best of the different  
17 maps.

18 You know, I think maybe the only thing I  
19 would add is I saw opportunities just to go through,  
20 and while doing that, also just reconciling some  
21 county boundaries, cleaning up some of the  
22 compactness of some of the districts.

23 BY MS. FORD:

**24 Q And was it your decision alone to change**  
**25 these districts?**

1 MR. JAZIL: Same Marsh instruction.

2 A Yes.

3 BY MS. FORD:

4 Q So you said just now that in drawing this,  
5 you drew out some concepts from earlier draft plans.

6 Could we just clarify for the record  
7 what -- you know, what draft plans you were drawing  
8 from?

9 A The ones that our office submitted, of  
10 course. In the legislative process, there were some  
11 specific plans and then there were also some types  
12 of drawing that the House and Senate used  
13 throughout, too. So there was some consistent ways  
14 in which they drew the maps. So some of it's  
15 specific to actual exact maps and some of it is the  
16 way the House or Senate went about their drawing the  
17 maps.

18 Q And when you say 'how they went about it,'  
19 can you explain what that means?

20 A Yeah. Sure. I can give an example, might  
21 be the easiest way.

22 Q Yeah, that would be great.

23 A So one of the things that the House made  
24 clear was that they never factored in Census  
25 Designated Places -- now sometimes a city is also a

1 Census Designated Place, and in that case they  
2 viewed it from the lens of being a corporate  
3 municipality, but they never factored in as they  
4 were drawing their maps whether -- that something  
5 was a total or split Census Designated Place. It  
6 was not actually incorporated in government in any  
7 way. It's not, you know, a significant recognized  
8 political/geographical boundary line.

9 And so, knowing that, I did not then -- in  
10 drawing this map, I did not factor in Census  
11 Designated Places -- unless, again, unless they also  
12 happened to actually be in an incorporated  
13 municipality.

14 **Q Okay. That makes sense. Any other**  
15 **general approaches to map drawing that you were**  
16 **trying to in encapsulate from the House and Senate?**

17 A Sure. I can give a Senate example. The  
18 Senate, in their maps, they were very -- they were  
19 very goal-oriented for statistically using a large  
20 number of well recognized boundaries, whether it be  
21 a county line, a city line, a major roadway, a major  
22 waterway, a major railway. I might be missing one,  
23 but the Senate really was, through their process was  
24 very -- and you could see it in their map -- they  
25 were very interested in whether they were

1 statistically using a large number of well  
2 recognized boundaries. So in doing this map, I was  
3 more observant of those actual statistics.

4 **Q Okay. Any other examples that are**  
5 **notable?**

6 A Sure. I've talked about -- so the Central  
7 Florida districts and how -- what I did here  
8 ultimately in this map blended some ideas from the  
9 House and Senate maps. The House -- or different  
10 maps that they had.

11 The House, until sort of its penultimate  
12 map, had a more, very compact sort of middle of  
13 Orange County, almost downtown Orlando, although  
14 that's not a perfect description because I think  
15 Winter Park and Maitland are included in the  
16 district, but you get the general idea, downtown  
17 Orlando-ish district. They had drawn a district  
18 like that; however -- however, going over to the  
19 east, the House's map took their district that  
20 encapsulated all of Brevard County and brought that  
21 district into Volusia.

22 And the Senate drew that Orange County,  
23 entirely encapsulating Orange County district pretty  
24 differently. They went up to Apopka, that area,  
25 couple other cities, and into that district.

1     However, the Senate stopped the Brevard -- all the  
2     Brevard County district, they stopped it at the  
3     Brevard/Volusia line. And I found by taking the  
4     House's Orange County, nice, compact, almost like a  
5     brick in Orange County, entirely in one county  
6     district; however, encapsulating the Senate's  
7     concept of holding the Brevard/Volusia line actually  
8     allowed a -- almost sort of a spinning of the wheel  
9     in terms of that move there actually allowed me to  
10    keep -- to reduce a Marion County split, reduce a  
11    Volusia County split, clean up the compactness in  
12    several ways of the districts around it just by  
13    essentially taking their two concepts and putting  
14    them together.

15           **Q     Okay. Thank you. And we can come back to**  
16    **Central Florida in a little bit. I just have more**  
17    **general questions for now.**

18                   (Discussion off record.)

19                   THE STENOGRAPHER: This one is 14.

20                   (Exhibit 14 was marked for  
21                   identification.)

22    BY MS. FORD:

23           **Q     Okay, Mr. Kelly, this is Exhibit 14. This**  
24    **is --**

25           **A     Uh-huh.**

1           Q     -- a letter that Mr. Newman, counsel for  
2     the Governor, submitted to Senator Rodrigues on  
3     April 13th -- April 13th, 2022, basically in support  
4     of --

5           A     Uh-huh.

6           Q     -- the Governor's plan.

7                     Does this look like a fair and accurate  
8     copy of that letter?

9           A     Yes, this looks familiar.

10          Q     And you've read this letter before. Do  
11     you need an opportunity to read it now?

12          A     It wouldn't be bad to refresh myself.

13          Q     Sure. Why don't you go ahead and just  
14     read it. Let me know when you're done.

15          A     (Examining document.)

16          Q     I'm not going to ask you any questions  
17     about the chart, but you can look at them if you  
18     would like.

19          A     Good.

20          Q     Okay. Can you please go to the second  
21     paragraph here on this first page --

22          A     Uh-huh.

23          Q     -- and the second to the last sentence,  
24     starting with, "But the proposal."

25                     Could you please read that sentence for

**1 the record?**

2 A "But the proposal adjusts the  
3 Congressional districts in and around the Tampa  
4 region to align more closely with the proposed by  
5 the Executive Office of the Governor Plans P000C0079  
6 and P000C0094, and in the Orlando region the  
7 proposal aligns more closely with the map referred  
8 out of the House Congressional Redistricting  
9 Subcommittee."

**10 Q Thank you.**

**11 Do you agree with Mr. Newman that the**  
**12 Tampa Bay districts in the Governor's plan, the**  
**13 Enacted Map, align with the districts that the**  
**14 Governor's Office had previously submitted in Plans**  
**15 0079 and 0094?**

16 A I agree with the way this is written,  
17 which is more closely -- yeah, more closely.

**18 Q More closely than I guess Plan 8019?**

19 A More closely than -- well, essentially  
20 it's a departure from Plan 8019, moving closer to  
21 the plans that the Governor's Office had previously  
22 submitted.

**23 Q What concepts in Tampa Bay from Plans 79**  
**24 and 94 were you attempting to replicate in the**  
**25 Enacted Map?**

1 MR. JAZIL: And I'm going to give you the  
2 Marsh instruction. To the extent you talked  
3 about the Tampa region with the legislative  
4 committee --

5 A Yeah, and I think I answered a lot of  
6 questions on the record about this.

7 The Governor's concept, the maps that we  
8 had previously submitted and ultimately the Enacted  
9 Map were considerably more adherent to county lines,  
10 considerably more visually compact. Ultimately,  
11 also worked on in a way -- and I testified to  
12 this -- were done in a way that actually allowed  
13 better uses of county boundaries to the north and  
14 south of the Tampa region. So you go from Citrus  
15 County, I believe all the way down through Lee  
16 County really, up to the Lee County area -- a better  
17 use of county boundaries north to south.

18 So the manner in which this Enacted Map  
19 draws the Tampa Bay region has a ripple effect, and  
20 so the ripple effect in the ultimate Enacted Map has  
21 several improvements up and down the coast.

22 BY MS. FORD:

23 Q Okay. Well, I have a couple of images to  
24 help you.

25 MS. FORD: I'm going to lose track of what

1 maps are in front of me.

2 THE STENOGRAPHER: 15.

3 (Exhibit 15 was marked for  
4 identification.) 92

5 MS. FORD: This is Exhibit 16?

6 THE STENOGRAPHER: Yes.

7 (Exhibit 16 was marked for  
8 identification.)

9 BY MS. FORD:

10 **Q Okay. So for the record, I have in front**  
11 **of me Exhibit 13, which is the Enacted Plan; I have**  
12 **Exhibit 15, which is Plan 79 --**

13 A Uh-huh.

14 **Q -- and I have Exhibit 16, which is**  
15 **Plan 94.**

16 **Mr. Kelly, you have all of these in front**  
17 **of you as well?**

18 A Yes.

19 **Q Okay. Great.**

20 **So here -- what would you say these three**  
21 **plans have in common in the Tampa Bay region?**

22 A The Plan 0079 in particular, compared to  
23 the plan, the Enacted Plan, only splits --

24 Do you have -- I'm sorry, I should have  
25 used this a little more closely. My apologies.

1           **Q     Yeah, it does have county lines in here.**

2           A     Oh, okay, okay.

3           **Q     Okay.**

4           A     Yeah, I just had to zoom into the  
5 regional. My apology.

6                     I'm sorry. Anyway, overall, in terms of  
7 the similarities really across all three, you have a  
8 wholly Pinellas -- or near wholly Pinellas district  
9 in all three. There's a district that essentially  
10 the vast majority of all the population comes in  
11 Pinellas. There's a district that is sort of  
12 connecting the Tampa Bay community. There's a  
13 district that's pretty significantly represented by  
14 Manatee County residents, although differs, as you  
15 can see in the maps, because two of the maps keep  
16 Manatee whole; one of them -- well, actually all  
17 three keep Manatee whole, but how they do so is  
18 different.

19                    But there's a district that's rooted out  
20 of Manatee County and goes into southern  
21 Hillsborough, and then there's a district that in  
22 different ways is rooted out of the northern --  
23 northern-central and northeastern portions of  
24 Hillsborough and goes into Pasco, again with some --  
25 some differences when you dive into the details.

1           **Q**     **Okay. And I'm looking at Exhibit 15,**  
2     **Plan 79 here.**

3           A     Uh-huh.

4           **Q**     **I think you said that there was a district**  
5     **that was pretty wholly Pinellas County. You're**  
6     **referring to District 13?**

7           A     Yes.

8           **Q**     **Okay. But that district also includes**  
9     **portions of Hillsborough, portions of Manatee, it**  
10    **looks like?**

11          A     It includes a little portion of -- two  
12    little portions of Hillsborough. That bottom piece  
13    that looks like it's Manatee, that's actually a  
14    waterway that's actually in Hillsborough County.

15          **Q**     **It's not Hillsborough?**

16          A     Yes, Hillsborough County has a trailing  
17    leg.

18          **Q**     **Okay.**

19                 **All right. And you said there's a**  
20    **district here on all these maps that connects Tampa**  
21    **Bay.**

22                 **What do you mean by that?**

23          A     District 14 is a fairly compact, centrally  
24    located seat in all these maps.

25          **Q**     **So the Governor's Office had preference**

**1 for this general setup of Tampa Bay?**

2 MR. JAZIL: I'll give you the Marsh  
3 instruction.

4 A The general goal that I believe I  
5 testified to is that we were trying to get to a map  
6 that was more adherent to county lines and compact  
7 in the Tampa Bay area. I also talked at length in  
8 the committee too about that Tampa area shouldn't be  
9 drawn in a way that puts districts to the north and  
10 south of it at the mercy of the Tampa Bay area, and  
11 so that was an issue that we were trying to  
12 reconcile as well.

13 BY MS. FORD:

**14 Q Okay. And let me see if it's worth**  
**15 keeping these exhibits out or if we can put them**  
**16 away.**

**17 Let's set these aside for at least the**  
**18 moment.**

**19 Can you go back to this April 13th letter**  
**20 from Mr. Newman to Mr. Rodrigues?**

21 A Sure.

**22 Q And you read it before. Can you just read**  
**23 this last sentence that starts with "In the Orlando**  
**24 region"?**

25 A Sure.

1                    "And In the Orlando region, the proposal  
2 aligns more closely with the map referred out of the  
3 House Congressional Redistricting Subcommittee Plan  
4 H000C8011."

5            **Q        Okay. And you started to get into this**  
6 **before, but can you explain what concepts from**  
7 **Plan 8011 in the Orlando region you were referring**  
8 **to here, or that this letter refers to?**

9            A        Sure --

10                    MR. JAZIL: I'll give you the Marsh  
11 instruction, but go ahead.

12            A        Sure.

13                    That House plan that the subcommittee  
14 approved, that House plan drew the Orange  
15 County-based seat, entirely based on Orange County,  
16 almost in the middle of the county; albeit the  
17 county does take sort of a chimney stack to it. The  
18 county is not a square block, but to the extent that  
19 it's relatively squared off, the county, that plan  
20 drew a seat basically in the middle of the county  
21 for all intents and purposes, much like a block,  
22 with the minor deviations in it being issues of  
23 where the Seminole/Orange line meets or issues where  
24 cities like Winter Park, Maitland, Belle Isle,  
25 Edgewood, Ocoee, some of these cities border either

1 in or out of the district, so it was a very clean,  
2 compact, block-like-looking district.

3 BY MS. FORD:

4 **Q So you felt it was an improvement over the**  
5 **version of Central Florida on Plan 8019?**

6 MR. JAZIL: I'll give you the Marsh  
7 instruction, but go ahead.

8 A As the plan that was ultimately enacted,  
9 the plan enacted, yes, is an improvement over the  
10 work that we, the Governor's Office, originally  
11 submitted in Plan 0079.

12 BY MS. FORD:

13 **Q I'm sorry, my question was bad.**

14 **You felt that the Central Florida region**  
15 **in the Enacted Plan was an improvement over the**  
16 **version of Central Florida in the Plan 8019?**

17 MR. JAZIL: I'll give you the Marsh  
18 instruction, but you can answer to the extent  
19 you already discussed this with the  
20 legislature.

21 A Significant improvement.

22 BY MS. FORD:

23 **Q Okay. Let's pull these maps back up for a**  
24 **quick question, 7994 and the Enacted.**

25 **It's Exhibits 15 -- 13, 15, and 16.**

1 A 13, 15, and 16?

2 Q Yes, unfortunately they don't go in  
3 chronological order.

4 A Oh, sorry -- sorry -- sorry. Gotcha.  
5 Sorry.

6 Q 7994 and then --

7 A I had misordered them, but gotcha.

8 Q Were there any other concepts from Plan 79  
9 or 94 that you drew on or incorporated in the final  
10 plan?

11 MR. JAZIL: I'm going to give you the  
12 Marsh instruction, but go ahead and answer to  
13 the extent you discussed this with the  
14 legislature.

15 A Well, they are two entire maps, so, yes,  
16 there are elements of both. And the maps represent  
17 a progression and improvement upon themselves as  
18 well.

19 BY MS. FORD:

20 Q Can you tell me about North Florida? I'm  
21 looking here at Districts 3 and 4 in Plan 79,  
22 Districts 3 and 4 in 94, and then District 4 and 5  
23 in the Enacted Plan.

24 A Uh-huh.

25 Q Do you agree with me here that you just --

1     **you replicated the districts that were drawn in 79**  
2     **and 94 in the final Enacted Plan for these**  
3     **districts?**

4                   MR. JAZIL: I'll give you the Marsh  
5                   instruction, but answer --

6           A     I gave some details to the changes that  
7     were made in committee for the Enacted Plan, two  
8     probably key points.

9                   The Enacted Plan -- that line between  
10    where -- it's St, Johns County, between District 5  
11    and District 6, that line there is the exact line  
12    that the legislature passed in its plan that the  
13    Governor vetoed, so I adopted the line the  
14    legislature passed right there.

15                   The additional thing that I did -- you  
16    have to zoom in to see this -- but I would say the  
17    difference between 4 and 5 is it follows the  
18    St. Johns River. But at some juncture, of course,  
19    you have to get equal population.

20                   It doesn't work out perfectly. Where maps  
21    79 and 94 -- I don't recall if they were literally  
22    exactly the same with each other, but where 79 and  
23    94, generally speaking, equaled out population, they  
24    did so I want to -- probably by the Mayport naval  
25    base in Duval County.

1           What I did instead was I tried to keep the  
2 river as much as possible, and where I couldn't,  
3 there's a road coming out of Nassau County, and I  
4 think it might be the Arlington Expressway, which  
5 comes across -- because I needed about, give or  
6 take, like 1000 or 1500 people to get to the equal  
7 population number. That was the delta when you use  
8 the river as the dividing line.

9           So District 4 had to come over into 5. So  
10 I used these two major roadways to -- one, the other  
11 side of the river into where District 5 is, I used  
12 these two major roadways, one -- like both bridges  
13 and then they meet, literally. I used that to  
14 become my area where I equalized population between  
15 the two districts. And I discussed that in the  
16 committee.

17 BY MS. FORD:

18           **Q     Okay. So here you just talked about how**  
19 **the southern boundary of -- I think it's District 5**  
20 **in the Enacted Plan -- you adopted the legislature,**  
21 **like, cut off the end of that district?**

22           **A     Yes.**

23           **Q     Is that fair?**

24                   **And then you talked about -- how it sounds**  
25 **like there was some changes in where you got equal**

1     **population from across the river?**

2           A     Yeah.

3           **Q     Other than that, would you agree with me**  
4     **that District 4 and 5 in the Enacted Plan are**  
5     **essentially the same as 3 and 4 in these earlier**  
6     **plans from the Governor's Office?**

7           A     They're very similar.

8           **Q     Okay.**

9                   **Are there any other concepts from Plan 79**  
10    **and 94 that you drew on when you drew this final**  
11    **plan?**

12           A     From Plan 79 -- again 79 evolved into 94.  
13    But throughout -- throughout the map drawing  
14    process, we were trying to keep counties whole,  
15    cities whole. We were looking at the legislative  
16    product and trying to make improvements in that way.  
17    And so when you look at 79 to 94, to then ultimately  
18    the Enacted Map, you continue to see improvements in  
19    terms of county boundaries or city boundary usage,  
20    compactness.

21           **Q     Okay. We can set this aside for now.**

22                   MS. FORD: And, Michael, let me know if  
23    there's an update on lunch.

24                   (Discussion off record.)

25

1 BY MS. FORD

2 Q So we already talked about -- I don't  
3 think I've asked too many questions about this --  
4 that the legislature had some particular purpose to  
5 Tier 2, like the Senate trying to adhere to  
6 statistical boundaries.

7 In your presentation to the legislature,  
8 you mentioned that the legislature and the  
9 Governor's Office had different approaches to Tier 2  
10 and that you sort of had a discussion with the  
11 legislature about how to adopt their approach.

12 Is that what you meant before, the  
13 adhering more to statistical boundaries?

14 A I was definitely referring to what I  
15 mentioned before about Census Designated Places.

16 Q Okay.

17 A Yeah, yeah, we did have a discussion at  
18 some point about statistical boundaries as well.

19 Q Okay. And when you mentioned that the  
20 legislature and the Governor's Office had a  
21 different approach to Tier 2 compliance, is there  
22 anything else that the Governor's Office and  
23 legislature had a different approach to?

24 A Uh...

25 Q Just in terms of how they evaluated Tier 2

1 **compliance.**

2 A Oh, just how they evaluated it?

3 Q **Yeah, or approached to try to comply with**  
4 **Tier 2.**

5 A Nothing comes to mind at this moment.  
6 Something might as we're talking about this come to  
7 mind, but nothing at this exact moment.

8 Q **Okay. If you think of anything, let me**  
9 **know.**

10 So you provided some basic statistics to  
11 the legislature when you gave them your presentation  
12 in April comparing Plan 8019 and the Governor's  
13 plan. And I would just like to go over a few of  
14 those to get them on the record.

15 It might be helpful actually to have your  
16 presentation to the legislature.

17 A Sure, that would be great.

18 THE STENOGRAPHER: This will be 17.

19 MS. FORD: Looks like we printed this on a  
20 couple of slides.

21 (Discussion off record.)

22 THE STENOGRAPHER: This is 17.

23 (Exhibit 17 was marked for  
24 identification.)

25

1 BY MS. FORD:

2 Q So, Mr. Kelly, this is a copy of your  
3 presentation that you gave to the legislature in the  
4 special session, just sort of going --

5 A Uh-huh.

6 Q -- through the Enacted Plan --

7 A Yes.

8 Q -- and comparing it to Plan 8019.

9 A Uh-huh.

10 Q Does this look like a fair and accurate  
11 copy of that presentation?

12 A Yes.

13 Q I just thought it would be helpful to have  
14 it here for reference. I don't have any specific  
15 questions on it at the moment.

16 When looking at the map as a whole --

17 A Uh-huh.

18 Q -- in terms of county splits, the Enacted  
19 Map -- I'm sorry. Let me start my question over  
20 again.

21 When you look at the map as a whole on  
22 county splits, the Enacted Map eliminates one county  
23 split --

24 A Uh-huh.

25 Q -- as compared to Plan 8019, right?

1           A       I believe that's correct, yes.

2           **Q       It goes from 18 counties split in 8019 to**  
3   **17 split in the Enacted Map?**

4           A       Yes.

5           **Q       Okay. Polk County was kept whole in**  
6   **Plan 8019, right?**

7           A       Yes.

8           **Q       And in drawing the Enacted Map, you talked**  
9   **about how you made a trade where you split Polk, but**  
10 **you were able to make Sarasota and Citrus County**  
11 **whole; is that correct?**

12          A       Correct.

13          **Q       Why did you make that trade?**

14                 MR. JAZIL: I'll give you the Marsh  
15         instruction.

16          A       And I talked about this a lot in the  
17         committee meeting. Different iterations, including  
18         the final iteration of the legislature's map made a  
19         decision -- decisions to keep Polk whole, Osceola  
20         whole, Brevard whole.

21                 The functional result of that is that  
22         that's a big wall through most of the middle of the  
23         state. And so that -- those three decisions have  
24         significant implications for where you're going to  
25         put district lines throughout a large portion of the

1 map; because physically, the only way that you can  
2 adjust up and down the county -- the district  
3 boundaries is suddenly in the Tampa Bay area.

4 So the legislature's ultimate decision to  
5 pass the map as they did -- I mean, there's nothing  
6 wrong with keeping Polk, Osceola, or Brevard whole,  
7 nothing wrong with any of those divisions and those  
8 decisions in isolation. However, it was  
9 significantly consequential in the decisions that  
10 the legislature otherwise left itself in the Tampa  
11 Bay region.

12 And so when you are drawing up -- you're  
13 drawing a map, you're oftentimes, in terms of  
14 figuring out how you're going to, let's say, keep a  
15 county whole and pick well recognized  
16 political/geographical boundaries, county lines are  
17 probably the best recognized lines.

18 When you're going to do that, and you all  
19 of a sudden decide that there's a band across  
20 three-quarters of your map that is solid and whole,  
21 your push and pull in the map, and how you're  
22 ultimately going to situate districts to the north  
23 and south of the Tampa region and the Tampa region  
24 itself is at the mercy -- good or not, it's at the  
25 mercy of those other three decisions.

1           Opening up Polk County allowed me as the  
2 drawer to have a large number of other decisions  
3 available to me, a large number of other options  
4 available to me to keep more counties whole, keep  
5 more cities whole, and even some counties that were  
6 already split, just split them fewer times.

7           So I was able to -- not just going from 18  
8 to 17, but I was able to also then reduce the number  
9 of total splits of counties. But obviously large  
10 counties are going to be split. You can't help it.  
11 But I was still able to reduce the number of splits  
12 in those counties throughout the map. And I was  
13 able to pick more clearly compact lines -- in  
14 several cases statistically compact lines, but even  
15 just pulling back and looking at that map, more  
16 clearly compact lines, I was able to do so in a way  
17 to use significantly more well recognized roadways,  
18 waterways; because, again, as I mentioned before,  
19 taking the Senate approach to more use, greater use  
20 of well recognized political and geographical  
21 boundary lines.

22           So basically that one decision to split  
23 one county allowed me to keep two more whole and  
24 created a ripple effect of positive improvements  
25 throughout the map.

1 BY MS. FORD:

2 Q Okay. So when you say splitting Polk  
3 County allowed you to keep two counties whole, you  
4 mean Sarasota and Citrus?

5 A Yes.

6 Q Okay. And keeping Sarasota whole also  
7 required you to split Longboat Key, correct?

8 A Correct. Longboat Key is I think one of  
9 four cities in the state that's split between two  
10 counties. It's split between Manatee and Sarasota.

11 Q Okay. So in splitting Polk, you gained an  
12 additional whole county, but you also split an  
13 additional city, correct?

14 A I mean, I couldn't view it in isolation  
15 like that. There were -- there was a trade of three  
16 cities for three cities. There were three cities in  
17 the Enacted Map that were newly kept whole in  
18 exchange for three cities that in the legislature's  
19 8019, that were kept whole in there, so it was a  
20 trade of three to three.

21 Q Yes, sir. I wasn't trying to say you  
22 split an additional city as compared to the  
23 Plan 8019. I just mean in the decision to split  
24 Polk, you gained an additional whole county, but you  
25 split an additional city to do that, right?

1           A     It's related to it, yeah. Yes. But  
2     the -- the decision to split Longboat Key is more a  
3     function of -- the decision to split Longboat Key  
4     specifically is more a function of while keeping  
5     Manatee and Sarasota whole; that doesn't work in a  
6     singular district. So by keeping them both whole,  
7     you have to divide Manatee and Sarasota from each  
8     other, and that results in the Longboat Key effect.

9           **Q     So that's -- overall, I'd say that you**  
10    **were expressing a preference for keeping a county**  
11    **whole versus keeping a city whole in making that**  
12    **decision?**

13          A     Yes.

14          **Q     So the Fair District -- do the Fair**  
15    **District Amendments value counties over cities?**

16          A     Yes.

17          **Q     And what's your understanding of where**  
18    **that comes from?**

19                 MR. JAZIL: If you can answer that --

20          A     Yeah.

21                 MR. JAZIL: -- pursuant to the Marsh  
22    instruction, go ahead.

23          A     Counties are often regarded as a proxy for  
24    compactness, so to keep a county whole is  
25    essentially both satisfying the use of a county

1 boundary and it's equally satisfying the compactness  
2 at the same time.

3 BY MS. FORD:

4 Q In the Governor's plan and Plan -- I'm  
5 sorry, I have the Governor's plan in my outline, but  
6 I think you preferred Enacted -- Enacted Plan; is  
7 that helpful?

8 A Sure.

9 Q I'll try to use that when I remember.  
10 The Enacted Plan and Plan 8019 split the  
11 same number of cities, correct?

12 A Yes.

13 Q 16 cities?

14 A Yes.

15 Q So overall there was no -- there were no  
16 cities splits improvement as compared to Plan 8019  
17 and the Enacted Plan?

18 A Just comparing city splits to city splits,  
19 yes.

20 Q And the legislature's plan, Plan 8019,  
21 split Cape Coral, Plant City, and Port Orange?

22 A Yes.

23 Q The Enacted Plan splits Lakeland,  
24 St. Petersburg, and Longboat Key, to the extent they  
25 are different; is that correct?

1 A Yes.

2 **Q Why did you make those trades?**

3 MR. JAZIL: I'll give you the Marsh  
4 instruction, but go ahead and answer if you  
5 already discussed it with third parties,  
6 including the legislature.

7 A They're all their -- they're all each  
8 their own different -- they all -- they're each a  
9 different question.

10 BY MS. FORD:

11 **Q All right. What did you -- what were you**  
12 **able to accomplish by splitting Lakeland?**

13 MR. JAZIL: I'll give you the Marsh  
14 instruction, but go ahead.

15 A Sure.

16 The Lakeland split had more to do with  
17 what line, knowing that I was making the split to  
18 Polk County as a whole, and it was -- if I'm going  
19 to do so, how was I going to do so in a meaningful  
20 manner that still otherwise adopted other Tier 2  
21 standards and made that a sound decision.

22 What I identified is that I could probably  
23 use Interstate 4 -- and ultimately, largely I did  
24 use Interstate 4. I could probably use Interstate 4  
25 in Polk County as a divider.

1           Now there's an issue of some cities -- I  
2    want to say Polk City might be one. There's an  
3    issue of some cities that cross over -- I'm trying  
4    to picture these cities in my head -- but there's an  
5    issue with some cities that cross over Interstate 4,  
6    and so as you look at what I did with Interstate 4,  
7    you'll see that in some cases that there was like an  
8    arm of the city that jumped across the Interstate.  
9    I tried to keep that arm whole to the greatest  
10   extent possible.

11           Lakeland is the one city in that county  
12   that just so significantly goes across Interstate 4.  
13   If you're using that as the major boundary between  
14   those two districts, I think 18 and 11, between 18  
15   and 11; Lakeland goes so far over the Interstate  
16   that it's just really difficult otherwise to  
17   encapsulate all of Lakeland and have it look  
18   compact.

19           The district would have kind of an arm at  
20   the top. So it made more sense with Lakeland itself  
21   to be more adherent to Interstate 4. I had to do a  
22   lot of zero population work along the Interstate  
23   because of the issues of some of these cities.

24           Auburndale was one of them going across  
25   Interstate 4. So when you dive in, you'll see a lot

1 of my zero pop right there along the Interstate, but  
2 it was a logical line to use because Interstate 4 is  
3 a very clear tier to an Interstate, and it's a very  
4 well recognized demarcation in Polk County. It  
5 created aesthetically, too.

6 I had to figure out -- with District 11, I  
7 was turning District 11 almost on sort of some sort  
8 of an axis compared to what the legislature did  
9 because, if you think about what I did -- I  
10 apologize for the lengthy explanation as all these  
11 things interplay.

12 BY MS. FORD:

13 **Q No, I understand.**

14 A As I pushed up along the Nature Coast,  
15 which is -- goes up to Citrus County, to keep Citrus  
16 County whole, I had to then -- and wanted to create  
17 something of a wall to where this intersects with  
18 District 11, and also whatever was in Marion County,  
19 so I could create more of a flat squared-up  
20 appearance to the best extent possible.

21 These roads obviously aren't all perfect  
22 straight lines, but to the extent possible that I  
23 could use major county boundaries, major roadways, I  
24 was turning District 11 to create more of a  
25 partially circular, partially squared-up piece.

1           To do that, I had to really factor in what  
2 does the southern border of District 11 really look  
3 like, just visually as you pull back from the map.  
4 And you're just trying to say is this a relatively  
5 logical squared-up compact shape.

6           The Interstate gave me the best option  
7 possible. So it is a matter of pushing up in the  
8 Tampa Bay region to the Nature Coast, turning up the  
9 dial on 11 creates the flat bottom -- there's other  
10 things that I did to intersect with them where 11  
11 goes into Orange County and, again, to try to create  
12 a clear, visible wall.

13           So it's almost like the turning of gears.  
14 And as you turn the gears, you start to see,  
15 depending on where you pick the border, you can get  
16 more squared-up, compact-looking shapes.

17           **Q     Okay. Thank you.**

18           **And we talked about Longboat Key. What**  
19 **did you accomplish by splitting St. Petersburg?**

20           A     Pinellas kind of has to be split  
21 somewhere. It's larger -- it's larger than a  
22 district, obviously, so you have to split it  
23 somewhere.

24           You can either split Pinellas County in  
25 the northern part of the county, relatively

1 speaking, or you can split it in the southern part  
2 of the county, relatively speaking, and still  
3 otherwise, either way, have a sort of squared-up  
4 looking block of a district, fairly compact  
5 district.

6           What I realized about St. Pete was that it  
7 offered U.S. 19. That's just a very north-to-south,  
8 clean, crisp boundary line.

9           Now, I didn't take that boundary all the  
10 way into Manatee County, but visually it creates a  
11 clear cohesiveness with where that district  
12 intersects then with the district to the east of it.  
13 And it allowed me at the same time -- and this is a  
14 part, as you go through the map drawing process and  
15 you're just looking at the actual population numbers  
16 because obviously you have to get the zero pop  
17 correct -- it allowed me to say, well, if I'm going  
18 to whole Manatee/Sarasota, I need a district from  
19 Manatee that's going to go up north into -- into  
20 Hillsborough County.

21           I could in theory also take that district  
22 over into St. Pete as well. I could block it off,  
23 but I didn't feel like that was the decision -- that  
24 taking a district from Manatee and southern  
25 Hillsborough and going into St. Pete didn't feel

1 like a logical decision.

2 That said, I was still trying to create a  
3 juncture between these districts that created some  
4 nice, square, clean lines -- clean and compact lines  
5 using well recognized boundaries.

6 And so it was a matter of trying to figure  
7 out which boundaries, which population-wise gave me  
8 the right ways to make that connection. To do that,  
9 to hold that line that -- have that U.S. 19 coming  
10 out of St. Pete, I had to get my zero pop -- it  
11 might have been the Feather Sound area. It was  
12 somewhere in that little unincorporated area  
13 there -- a little unincorporated area a little above  
14 St. Pete -- to get my zero pop right there.

15 But nonetheless gave me a clean line. And  
16 it was a matter of trial and error in thinking --  
17 what I really -- what I really wanted where all  
18 these districts intersect in Hillsborough is I  
19 really want one clean, crisp intersection point  
20 where, no matter how you're coming at it, from the  
21 north from Pasco, if you're coming east to west from  
22 Polk, if you're coming south to north from Manatee,  
23 you would see that clean intersection point.

24 That was a lot of work to do that. I  
25 achieved that -- basically, I think -- I think it

1 was 14 -- I think 14 is using the -- I think that's  
2 301. I think it basically just rides down 301, to  
3 have that nice, clean boundary, and then that 14,  
4 16, and 15, I want to say that intersection is  
5 between 301 and State Road 60 probably -- yeah,  
6 State Road 60.

7 So it creates this nice, clean line, nice  
8 blocked-off shapes, just chunk, compact district;  
9 chunk, compact district; chunk, compact district;  
10 chunk, compact district.

11 And overall, in terms of figuring just  
12 what the sort of ripple effect -- because the ripple  
13 effect there that you do -- the decisions you make  
14 there, as I described earlier when I was describing  
15 Brevard, Osceola, and Polk, they're felt around the  
16 map. And so making sure that that decision there is  
17 split along 19 had positive benefits elsewhere.

18 Going north to south in Pinellas is a big  
19 deal because that allowed me then to not have -- you  
20 have two choices: If you're going to come from  
21 Hillsborough, you're going to have an arm to the  
22 district. If you're going to come from Pasco,  
23 you're going to have a trailing leg for the  
24 district, if you're going -- if you're going south  
25 to north -- so in other words, St. Pete up.

1           But if you're going north to south, so  
2    come starting at Tarpon/Dunedin -- if you go north  
3    to south, hold that Pinellas/Pasco line, that allows  
4    you then to go up and have that Citrus County kept  
5    whole. And as I mentioned earlier, kind of turning  
6    the dial, turning that, that allowed me then keeping  
7    Citrus whole -- that actually at the same time  
8    allows me to create something of a wall with county  
9    lines and major roadways between that and  
10   District 11.

11           So all of these things are pushing and  
12   pulling on each other to create a better result in  
13   several ways.

14           **Q     Okay. Thank you.**

15           MS. FORD: Okay. Thank you. We've got a  
16   good breaking point for lunch here.

17           Does that work for you, Mr. Kelly?

18           THE WITNESS: Yes. I'm pushing back, yes.

19           MS. FORD: All right. Let's go off the  
20   record.

21           Thanks, Sandi.

22           (A recess took place from 2:00 p.m. to  
23   2:48 p.m. and continues in Volume 2.)

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CERTIFICATE OF OATH

STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, the undersigned authority, certify that  
James Alexander Kelly personally appeared before me  
on June 7, 2023, and was duly sworn.

SIGNED AND SEALED on June 10, 2023.



SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
snargiz@comcast.net  
Commission #HH239213  
EXPIRES: APRIL 18TH, 2026

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CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, SANDRA L. NARGIZ, Registered Professional Reporter, certify that I was authorized to and did stenographically report the deposition of James Alexander Kelly; that a review of the transcript was requested, and that the foregoing transcript, pages 1 through 190, is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED on June 10, 2023.



SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
Notary Public in Florida  
snargiz@comcast.net

1 June 10, 2023

2 MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com

3

4 RE: Black Voters Matter, et al. vs.  
Cord Byrd, et al./Common Cause, et al. v. Byrd  
5 Case No. 2022 CA 000666/4:22-cv-109-AW-MAF  
Deposition of James Alexander Kelly  
6 on June 7, 2023

7 Dear Counsel:

8 The transcript of the above proceeding is now  
available and requires signature by the witness.  
9 Please e-mail fl.production@lexitaslegal.com for  
access to a read-only PDF transcript and  
10 PDF-fillable errata sheet via computer or use the  
errata sheet that is located at the back of the  
11 transcript. Once completed, please print, sign, and  
return to the email address listed below for  
12 distribution to all parties. If you are in need of  
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13

If the witness does not read and sign the transcript  
14 within a reasonable amount of time (or 30 days if  
Federal), the original transcript may be  
15 filed with the Clerk of the court. If the witness  
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16 the witness sign in the blank at the bottom of this  
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17

Very truly yours,

18

19 Sandra L. Nargiz, RPR, RMR, CRR, CRC, CCR-GA  
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I do hereby waive my signature.

22

23 \_\_\_\_\_  
James Alexander Kelly  
24 Job No. 311409

25

1 ERRATA SHEET - VOLUME 1

2 DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

3 In Re: Black Voters Matter, et al. vs.  
4 Cord Byrd, et al./Common Cause v. Byrd  
5 Case No.: 2022 CA 000666/4:22-cv-109-AW-MAF  
6 James Alexander Kelly  
7 June 7, 2023

8	PAGE	LINE	CHANGE	REASON
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19 Under penalties of perjury, I declare that I have  
20 read the foregoing transcript of the above  
21 proceeding and I hereby swear that my testimony  
22 therein was true at the time it was given and is now  
23 true and correct, including any corrections and/or  
24 amendments listed above.

25 Signature of Witness: \_\_\_\_\_  
Dated this \_\_\_ day of \_\_\_\_\_, 2023.  
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Black Voters Matter Capacity Building Institute, Inc.

vs.

Cord Byrd, et al.

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Deposition of:

James Kelly

June 07, 2023

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Vol 2



IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY  
BUILDING INSTITUTE, INC.,  
et al.,

Plaintiffs,

vs.

CASE NO. 2022 CA 000666

CORD BYRD, in his official  
capacity as Florida Secretary  
of State, et al.,

Defendants.

\_\_\_\_\_/

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

COMMON CAUSE FLORIDA, et al.,

Plaintiffs,

vs.

CASE NO. 4:22-cv-109-AW-MAF

CORD BYRD, in his official  
capacity as Florida Secretary  
of State,

Defendant.

\_\_\_\_\_/

DEPOSITION OF JAMES ALEXANDER KELLY  
(Volume 2, Pages 195 - 267)

Wednesday, June 7, 2023  
2:48 p.m. - 4:26 p.m.

LOCATION:

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK  
119 South Monroe Street, #500  
Tallahassee, FL 32301

STENOGRAPHICALLY REPORTED BY:

SANDRA L. NARGIZ  
RPR, CM, CRR, CRC, CCR

Job No. 311409

1 APPEARANCES:

2

3 ON BEHALF OF THE PLAINTIFFS BLACK VOTERS MATTER,  
4 et al.:

5 ELIAS LAW GROUP, LLP  
6 10 G Street NE  
7 Washington, DC 20002  
8 202.968.4490

9 BY: JOSEPH POSIMATO, ESQUIRE  
10 jposimato@elias.law

11 BY: CHRISTINA FORD ESQUIRE  
12 cford@elias.law

13

14 ON BEHALF OF THE PLAINTIFFS COMMON CAUSE, et al.:

15

16 PATTERSON BELKNAP WEBB & TAYLOR  
17 1133 Avenue of the Americas  
18 New York, NY 10036  
19 212.336.2817  
20 BY: CATHERINE J. DJANG, ESQUIRE  
21 cdjang@pbwt.com

22

23 ON BEHALF OF THE DEFENDANT SECRETARY OF STATE:

24

25 HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIK  
119 South Monroe Street, #500  
Tallahassee, FL 32301  
850.508.7775

BY: MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com

BY: ROBERT MICHAEL BEATO, ESQUIRE  
mbeato@holtzmanvogel.com

26

27

28

29

30

31

32

1 APPEARANCES: (Continued.)

2 ON BEHALF OF THE DEFENDANT FLORIDA SENATE:

3 SHUTTS AND BOWEN  
4 215 S. Monroe Street, #800  
5 Tallahassee, FL 32301  
6 850.241.1717  
7 BY: DANIEL E. NORDBY, ESQUIRE (Via Zoom.)  
8 dnordby@shutts.com

9 THE FLORIDA SENATE  
10 302 The Capitol, #404S  
11 Tallahassee, FL 32399  
12 850.487.5237  
13 BY: KYLE EDWIN GRAY, ESQUIRE (Via Zoom.)  
14 gray.kyle@flsenate.gov

15 ON BEHALF OF THE DEFENDANT FLORIDA HOUSE OF  
16 REPRESENTATIVES:

17 GRAY|ROBINSON  
18 301 S. Bronough Street, #600  
19 Tallahassee, Florida 32301  
20 850.577.9090  
21 BY: ASHLEY H. LUKIS, ESQUIRE  
22 ashley.lukis@gray-robinson.com

23 ALSO PRESENT:

24 Nicholas Meros, Office of the Governor  
25 Michael Halper, Common Cause Florida  
Taylor Meehan (Via Zoom.)  
David Rosenthal (Via Zoom.)

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1 The following continued from Volume 1 at 2:48 p.m.:

2 CONTINUED DIRECT EXAMINATION

3 BY MS. FORD:

4 Q Mr. Kelly, when we broke, we had started  
5 to talk about your presentation to the legislature  
6 in the special session. And we just talked about  
7 some differences in the county splits and the city  
8 splits. So I want to talk about compactness just a  
9 little bit.

10 In your presentation, you mentioned that  
11 the average compactness was largely equivalent  
12 between Plan 8019 and the Enacted Plan; that is  
13 correct?

14 A Yes.

15 Q We already -- you have the presentation in  
16 front of you, you have Exhibit 17?

17 A Yes.

18 Q Did you prepare this?

19 A Yes.

20 Q Okay. And to the best of your knowledge  
21 you believe the statistics to be accurate?

22 A Yes.

23 Q Okay. I wanted to go page 6, which is  
24 going to be -- you can see a little tiny 6 here, the  
25 one titled Tier 2, comparing SB 2-C Plan 109 to

1 **SB 102. Actually they all have that title. That's**  
2 **no help. Look at this one.**

3 A I got it.

4 **Q Here you report three measures: Reock,**  
5 **Polsby-Popper, Convex Hull.**

6 **Why did you choose these three measures to**  
7 **report?**

8 MR. JAZIL: I give you the Marsh  
9 instruction. If you can, go ahead and answer.

10 A Those were the measures that the House and  
11 Senate in the legislative redistricting map maker --  
12 it was a better title than the one I just gave it --  
13 but in the redistricting application that the  
14 legislature used, those are the three measures that  
15 the legislature used.

16 BY MS. FORD:

17 **Q Okay. But there's other measures of**  
18 **compactness that exist in the world, right?**

19 A Yes, there are many.

20 **Q Did you use any of the other three**  
21 **measures in drawing your plans or evaluating plans?**

22 A The other three?

23 **Q Sorry, any other measure other than those**  
24 **three when you were working on the plans?**

25 A Sure. The visual compactness, I just

1 visually inspect the map, which you might call the  
2 intraocular test, just eyeballing it, does it  
3 actually look compact. And then I noted earlier, I  
4 considered keeping a county whole as a proxy for  
5 compactness.

6 **Q Okay. But as far as other like**  
7 **mathematical statistical measures of compactness,**  
8 **you weren't using any other measures other than**  
9 **these three to draw your map?**

10 A Correct, no other statistical measures.

11 **Q Okay. To your memory, these three**  
12 **measures -- Reock, Convex Hull and Polsby-Popper --**  
13 **these are the three that the Florida Supreme Court**  
14 **relied on on that cycle?**

15 A I am not a hundred percent certain if  
16 these are the three they relied on.

17 **Q Okay. So just for clarity of the record,**  
18 **for all of us who are not compactness experts, when**  
19 **we are talking about these measures, Reock, Convex**  
20 **Hull, Polsby-Popper, they range from zero to one?**

21 A Yes.

22 **Q Closer to one is considered better?**

23 A Yes.

24 **Q More compact, I should say?**

25 A Correct.

1 Q So in your presentation, you showed that  
2 the average Reock score for the legislature's plan  
3 in Plan 8019 was .18, and that the Enacted Map was  
4 .47, is that correct?

5 A I think you meant .48 and .47?

6 Q Yes. What did I say?

7 A You said .18.

8 Q I am sorry. .48 versus .47?

9 A Yes.

10 Q This means that the enacted map was  
11 slightly less compact on the Reock measure, right?

12 A On the Reock measure, yes.

13 Q In your presentation, you showed that the  
14 average Convex Hull score for Plan 8019 was .82, and  
15 that the average Convex Hull measure for the Enacted  
16 Map was .81, correct?

17 A Correct.

18 Q So this means the Governor's or the  
19 Enacted Map is slightly less compact on the Convex  
20 Hull, correct?

21 A Correct.

22 Q And then finally, in the presentation you  
23 show that the average Polsby-Popper for Plan 8019 is  
24 .42, and then in the Enacted Map the Polsby-Popper  
25 is .43, correct?

1           A       Correct.

2           **Q       Here the Enacted Map is slightly more**  
3 **compact on this measure, right?**

4           A       Correct.

5           **Q       Okay. Like we said before, you considered**  
6 **this to be basically equivalent on compactness on**  
7 **the map as a whole?**

8           A       For this statistical compactness, yes.

9           **Q       In here you mentioned on the same page**  
10 **that the primary Plan 8019 has the least**  
11 **mathematically compact district for CD 14, which has**  
12 **a Polsby-Popper of .17, you know that's below .2,**  
13 **and that the Governor's plan, the Enacted Map -- I**  
14 **am sorry -- makes reference such that all districts**  
15 **are above .2 on Polsby-Popper, correct?**

16          A       I think you might have advertently, when  
17 you said that question, I think you meant to say  
18 CD-4. I think you referenced CD-14 when you are  
19 referring to the legislature's Plan 8019.

20                   But, yes, yes, the Enacted Plan, all of  
21 the districts, in terms of Reock and Polsby-Popper  
22 scores are .2 or higher. That was the first map of  
23 any map that the legislature considered that that  
24 statement is true.

25          **Q       So when we talk about the least compact**

1 district in the legislature's plan as CD-4, we are  
2 talking about CD-4 in North Florida, right, from the  
3 legislature's plan?

4 A Yes.

5 Q Okay. So the Governor's Office, from your  
6 perspective, the Governor's Office perspective, you  
7 believe that you made significant compactness gains  
8 in North Florida, correct?

9 A Correct.

10 Q And the South Florida districts between  
11 the Governor's plan and the legislature's plan were  
12 the same, right; so no difference there?

13 A The districts you mentioned earlier, 20 to  
14 25, and 27 and 28, were the same.

15 Q Okay. So on average, if the Governor's  
16 plan made compactness improvements in North Florida,  
17 significant gains there, and there is no change in  
18 South Florida, and you end up with basically the  
19 same compactness scores as Plan 8019, do you agree  
20 with me that what that means is that the compactness  
21 scores of the Enacted Map in Central Florida and in  
22 Tampa Bay must be on average worse than Plan 8019?

23 A No.

24 Q You don't agree with that?

25 A Correct, I don't agree.

1           **Q     Okay.**

2                     (Exhibit 18 was marked for  
3                     identification.)

4                     (Exhibit 19 was marked for  
5                     identification.)

6   BY MS. FORD:

7           **Q     So Plan 8019 is Exhibit 18, instead of 19.**  
8           **Let's look at Exhibit 18, which is the district**  
9           **compactness report for Plan 109, which is the**  
10          **Enacted Map. You have that in front of you,**  
11          **Mr. Kelly?**

12          A     Yes, Plan 109, Exhibit 18?

13          **Q     Yes.**

14          A     Yes.

15          **Q     I got this from the Florida redistricting**  
16          **website, I just pulled it straight off the website.**  
17                     **Does this look like a fair and accurate**  
18          **copy of what that district compactness report looks**  
19          **like?**

20          A     Probably. It looks -- the way that's  
21          coded, it's looks like from the website.

22          **Q     And then Exhibit 19, for the record, is**  
23          **the district compactness report for Plan 8019 from**  
24          **the legislature. Again, I pulled this straight from**  
25          **the Florida redistricting website just a few days**

1 ago.

2 Does this look like a fair and accurate  
3 copy of what the website generates to report  
4 compactness numbers?

5 A Yes.

6 Q Let's set these aside. I want you to have  
7 them for reference.

8 (Exhibit 20 was marked for  
9 identification.)

10 BY MS. FORD:

11 Q Mr. Kelly, this is a comparison chart that  
12 I put together. These are the exact numbers the  
13 Florida redistricting website reports for  
14 compactness across Reock, Convex Hull and  
15 Pilsby-Popper.

16 The Florida districting website does not  
17 do this comparison that I am aware of, so I put it  
18 together myself. But I used the same numbers they  
19 reported and I double-checked it, but you should  
20 feel free to double-check if you would like.

21 In here, I have used Microsoft Excel to  
22 sum and average the numbers it reports so that I  
23 wouldn't be relying on my own math skills.

24 Assuming these numbers report out the ones  
25 that the Florida legislature generates, do you have

1     **any reason to doubt the reliability of these**  
2     **numbers?**

3           A     If I could just have a minute or two.  
4     (Examining document.)

5           Q     **Sure. I am happy to state on the record**  
6     **to the extent I made a math error here, obviously we**  
7     **can correct it later.**

8           A     Okay. Thank you.

9           Q     **Would you agree with me that Districts 6**  
10    **through 18 fairly comprise the Tampa Bay and Central**  
11    **Florida districts?**

12          A     It goes beyond the Tampa Bay and Central  
13    Florida districts.

14          Q     **What districts would you say go beyond**  
15    **that?**

16          A     6 and 18 would go beyond what I would  
17    consider to be Tampa Bay and Central Florida.

18                 12 goes beyond what I would consider to be  
19    Tampa Bay.

20                 17 as well goes beyond what I would  
21    consider to be Tampa Bay or Central Florida, Tampa  
22    Bay or Central Florida.

23          Q     **Would you agree with me that the**  
24    **Governor's plans changed all of these districts from**  
25    **6 to 18 in the core of the state?**

1           A     Yes.

2           **Q     When we compare these districts that,**  
3     **let's say, go all the way from Putnam County, St.**  
4     **Johns County, 6 all the way down to 18, which**  
5     **runs -- 18 runs from Polk to Hendry -- that these**  
6     **are the districts that we are talking about here?**

7           A     Yes.

8           **Q     Okay. At least on a comparison of these**  
9     **measures, would you agree with me that the**  
10    **legislature's plan performs better on average on a**  
11    **Reock measure?**

12                   MR. JAZIL: Object to form.

13                   You can answer.

14           A     Yes, just comparing the statistics on the  
15    sheet, yes.

16    BY MS. FORD:

17           **Q     That's a .495 for the legislature's plan**  
18    **as compared to .47 for the Enacted Map on districts**  
19    **CD-6 through CD-18?**

20           A     For the Reock?

21           **Q     For Reock.**

22           A     Yes.

23           **Q     Okay. Would you agree with me that on**  
24    **average, the legislature's Districts CD-6 to CD-18**  
25    **perform better on a Convex Hull measure than the**

**1 Enacted Map?**

2 MR. JAZIL: Object to form.

3 You can answer.

4 A They are more statistically compact than  
5 Convex Hull.

6 BY MS. FORD:

7 Q .835 as compared to .82?

8 A Yes.

9 Q Okay. And then for fairness, on average,  
10 the Governor's districts performed slightly better  
11 on the Polsby-Popper score, where the legislature's  
12 plan -- sorry -- than the legislature's plan for  
13 Districts 6 through 8, correct?

14 A 6 through 18.

15 Q 6 through 18, thank you.

16 A The Enacted Plan has a statistically  
17 higher Polsby-Popper compactness score than the plan  
18 the legislature originally passed.

19 Q Just for the record, that would be a  
20 comparison of .437 for Plan 8019 and .446 for the  
21 Enacted Map when we compare Districts 6 through 18,  
22 right?

23 A Yes.

24 Q Okay. So at least considering this core  
25 region of Florida, the Governor's plan does not make

1 overall statistical improvements to the  
2 legislature's plan, right?

3 MR. JAZIL: Object to the form. You can  
4 answer.

5 A In terms of statistical compactness, the  
6 Enacted Map does improve one of the three measures  
7 and it does not improve the other two measures in  
8 just these districts by themselves, just looking at  
9 statistical compactness.

10 BY MS. FORD:

11 Q Okay. You mentioned visual compactness  
12 before. Would you agree with me that visual  
13 compactness is subjective?

14 A Well, that's a good theory question. I  
15 don't know.

16 Q What is the test for visual compactness?

17 A Plain sightedly, does the district have  
18 the appearance of a shape that's similar to a  
19 square, rectangle, circle, a plain sighted compact  
20 shape.

21 Q Okay. Would you agree with me though that  
22 saying something is visually compact, opinions could  
23 differ?

24 A Opinions by their nature can differ;  
25 that's why they are called opinions.

1 Q Let's move on to something else.

2 In your presentation before the  
3 legislature, slide 5, just right above the  
4 compactness one, talking about political and  
5 geographic boundary lines.

6 A Back on Exhibit 17?

7 Q I was about to say we are back on  
8 Exhibit 17, slide 5. So here you mentioned that the  
9 Enacted Map produces reliance on nongeographic and  
10 nonpolitical boundaries from 12.5 percent to  
11 11.5 percent, is that correct?

12 A Yes.

13 Q This is a decrease of -- I can do this  
14 math -- 1 percent. That's not a significant  
15 difference, correct?

16 A 1 percent? 1 percent is a small  
17 difference. It's smaller than 2 percent, and so  
18 forth.

19 Q Okay. In your testimony before the  
20 legislature, you at least characterized it as not a  
21 significant difference?

22 A It's improvement.

23 Q Was reducing reliance on these boundaries  
24 something that the Governor's Office had prioritized  
25 in the past with its other two submissions?

1                   MR. JAZIL: I give you the Marsh  
2                   instruction. To the extent you can answer,  
3                   answer.

4                   A     Sure. As I noted in my presentation, this  
5                   greater adherence to recognized political  
6                   geographical boundary lines was a feature that the  
7                   Senate focused very much on in looking at their  
8                   maps. And so the final Enacted Map that I drew  
9                   adopted that Senate approach. When having to -- all  
10                  districts have to have boundaries somewhere, there  
11                  is always difficult choices with zero population,  
12                  and so forth. When making those decisions, I  
13                  adopted the Senate's approach.

14                  And so I don't recall the exact numbers  
15                  for the prior maps that our office submitted, but  
16                  this was a pretty notable improvement for the maps  
17                  that our office submitted and jumped past the map  
18                  that the legislature had ultimately originally  
19                  passed.

20                  (Exhibit 21 was marked for  
21                  identification.)

22                  BY MS. FORD:

23                  **Q     This is Exhibit 21, which is a boundary**  
24                  **analysis for Plan 79. I got this -- actually I did**  
25                  **not get this from the Florida redistricting website.**

1     **This was produced by the House in the discovery**  
2     **process.**

3             **Does this look like a fair copy of a**  
4     **boundary analysis that the Florida legislature would**  
5     **have generated for Plan 79?**

6             A     This looks like the format of the analysis  
7     that the legislature would have produced.

8             Q     Do you agree with me that it reports that  
9     the reliance on nonpolitical or geographic  
10    boundaries was 15.07 percent in Plan 79?

11            A     Yes.

12                    (Exhibit 22 was marked for  
13     identification.)

14    BY MS. FORD:

15            Q     This is Exhibit 22, it is once again a  
16    document that the House produced to us in discovery.  
17    It's a boundary analysis for Plan 94, which is the  
18    Governor's Office second plan they submitted to the  
19    legislature.

20                    Does this look like a fair copy what the  
21    legislature generates for a boundary analysis?

22            A     Yes.

23            Q     Do you agree with me that it reports that  
24    reliance on nonpolitical or geographic boundaries  
25    was 13.11 percent in Plan 94?

1           A     Yes.

2           Q     Okay. Great. So you agree that the  
3 legislature's Plan 8019 at least beat the Governor's  
4 two prior proposals on adherence to political and  
5 geographic boundaries?

6           A     Oh, so when comparing use of nongeographic  
7 and political boundaries?

8           Q     Yes.

9           A     The plan that the legislature adopted, the  
10 plan the Governor vetoed, that plan had a better use  
11 of political and geographic boundaries than our  
12 office's first two plans.

13          Q     Okay. You can set those aside. I am done  
14 with those.

15                   What I have left -- there is a lot that we  
16 already covered, so give me patience while I cross  
17 some topics out.

18                   But -- and I will start high level. Going  
19 back to your presentation to the legislature, you  
20 described the Gulf Coast region as a hybrid between  
21 some of the legislature's plans and some of the  
22 Governor's submissions. And I don't think we  
23 specifically talked about the Gulf Coast region as a  
24 hybrid before.

25                   Can you tell me what you meant by that?

1 MR. JAZIL: I give you the Marsh  
2 instruction but go ahead.

3 A We -- I think we covered some of it.

4 BY MS. FORD:

5 **Q We may have.**

6 A When I talked about the Gulf Coast region,  
7 when I covered drawing districts from Citrus County,  
8 keeping Citrus County whole, down to keeping  
9 Sarasota County whole, where those districts  
10 intersect and Lee and that part of the state, that  
11 was the same conversation that we had earlier.

12 **Q Okay. Were there any specific ideas that**  
13 **were taken from the legislature's plans for this**  
14 **Tampa Bay region?**

15 A Well, one thing that, as we noted, the  
16 Senate did do in their maps is when they made those  
17 decisions between district boundaries, they were  
18 more adherent to consistent use of political,  
19 recognized political and geographical boundary  
20 lines, the ones that would generate the scores we  
21 have gone over.

22 So not just through the Gulf region but  
23 throughout the map, I adopted that approach that the  
24 Senate took when finalizing boundary lines. Making  
25 those difficult decisions about roadway, waterway,

1 whatever it may be, county line, city line, I  
2 adopted the Senate approach. And that would apply  
3 to these counties up and down throughout the Gulf  
4 portions of the state.

5 I am trying to think about anything else  
6 in specific, but that comes to mind.

7 **Q Okay. I am done on this. Something we**  
8 **have talked about in your presentation to the**  
9 **legislature --**

10 A I am sorry, I think, too, I left out, from  
11 a point of view -- I mentioned it earlier, but from  
12 the feedback that I mentioned earlier I got from the  
13 House where the House did not use census designated  
14 places.

15 To give you an example, concrete example  
16 what that would mean. If you would look at  
17 Exhibit 16, which was Plan 0094, and you would look  
18 at then ultimately the Enacted Map, if you look at  
19 District 15, in both cases the district that is  
20 largely a Hillsborough and Pasco County seat, when  
21 you look at Plan 0094, where you see that sort of  
22 extension at the western end of the district, what I  
23 was doing specifically in 0094 there was, I was  
24 attempting to keep the entire census designated  
25 places whole.

1           So in terms of making the sort of  
2   finishing end decisions and in Enacted Map --  
3   because I got that feedback that the legislature,  
4   the House specifically, wasn't factoring in census  
5   designated places, I abandoned using that and I  
6   stuck -- you will see -- if you zoomed in, you will  
7   see it more adhered to very specific roadways rather  
8   than unincorporated census designated place.

9           **Q     Okay. Thank you.**

10          A     Sure.

11          **Q     In your presentation to the legislature,**  
12   **you discussed that you reduced splits in**  
13   **Hillsborough from four to three, is that right?**

14          A     County splits? Yes.

15          **Q     County splits. And I think we talked**  
16   **about before, because of Hillsborough's population**  
17   **which, don't quote me, but I think it's around**  
18   **1.5 million, you have to mathematically split it**  
19   **into more than one district, right?**

20          A     Yes.

21          **Q     We talked about Polk County briefly**  
22   **before. Polk County does not technically need to be**  
23   **split, correct?**

24          A     Correct, it's smaller than a district.

25          **Q     And Hillsborough County and Polk County**

1 are right next to each other, right?

2 A Correct.

3 Q So your plan reduces Hillsborough County  
4 splits from four to three, but then it splits Polk  
5 into four different districts, right?

6 A I believe you are correct. I believe it  
7 is four, yes.

8 Q I have down Districts 18, 15, 11, and 9,  
9 does that sound right?

10 A Yes.

11 Q So in terms of intercounty splits in this  
12 particular region, they get worse, right?

13 A I think you are blocking out the whole  
14 rest of the state as though it doesn't exist, if you  
15 make a statement like that.

16 Q Do you agree with me though in this,  
17 looking at this particular -- I am just asking this  
18 region.

19 A Well, not this region, this one county,  
20 Polk County. So, no.

21 Q The --

22 A The region doesn't get worse. Polk County  
23 is split more in exchange for splitting counties  
24 around it less.

25 Q You mentioned to the legislature that you

1 could -- I will quote from here -- you can see the  
2 legislature had an intent to draw a seat wholly in  
3 Pinellas County, is that right?

4 A Yeah.

5 Q And that you wanted to honor that. By  
6 that, I assume you wanted to make sure there was one  
7 district that was entirely compromised in Pinellas  
8 County?

9 A Yes.

10 Q And in your presentation to the  
11 legislature, you said you did that for moving east  
12 to west across Pinellas County?

13 A Both east to west, but also north to  
14 south. So starting, as I mentioned earlier,  
15 starting at that Pinellas/Pasco line, moving south  
16 as well and then, yes, also west to east -- I think  
17 you said east to west -- west to east.

18 Q It is also possible to create a wholly  
19 Pinellas County district by moving south to north,  
20 correct?

21 A Yes.

22 Q One more question on Pinellas County.  
23 On February 18, 2022, I think that might  
24 have been the day Mr. Popper testified. I can't  
25 remember.

1                   **Anyway, that was the day that the House**  
2     **Redistricting Committee said it had a specific**  
3     **intent to keep one district whole within Pinellas**  
4     **County. The House also talked how it drew the**  
5     **district to connect, quote, the remaining portion of**  
6     **county over land to another county rather than over**  
7     **water.**

8                   **I am wondering whether you took that**  
9     **preference into account?**

10                  MR. JAZIL: I give you the Marsh  
11                  instruction.

12                  A     I don't recall that specific testimony, so  
13     I wasn't factoring that in. I don't recall that  
14     specific statement.

15                  BY MS. FORD:

16                  **Q     Did you watch Mr. Popper's testimony to**  
17     **the Florida House?**

18                  A     Yes.

19                  **Q     Were you there that day?**

20                  A     No, I was watching from my office.

21                  **Q     All right. And by the way, I have a copy**  
22     **of your testimony or your presentation to the**  
23     **legislature, so if you want to reference it at any**  
24     **time, just let me know.**

25                  A     Sure.

1           **Q**     **As you told them -- still on Tampa Bay --**  
2     **you told the legislature that you continued to just**  
3     **work my way east as I built District 14 again,**  
4     **seeking to utilize as clean, clear, distinguishable**  
5     **municipal boundary lines.**

6                   **And I am wondering what municipal boundary**  
7     **lines you used to create District 14?**

8           A     Sure. So in District 14, when you -- if  
9     you look at kind of the closer-up view of  
10    District 14, right here is Temple Terrace, and a key  
11    challenge to drawing a -- drawing a district in the  
12    Tampa Bay -- in the Hillsborough County area  
13    specifically, and I should say too, Plant City is in  
14    this part of Hillsborough County here.

15                   MS. DJANG: Can you note for the record,  
16           describe --

17                   THE WITNESS: My apologies.

18           A     So Temple Terrace is a municipality that's  
19    right next to the city boundaries, east of the city  
20    boundaries of Tampa, or east of a portion of them.  
21    Tampa does have this -- if I am Tampa, it has this  
22    arm, a statute of liberty effect basically that goes  
23    above Temple Terrace.

24                   Temple Terrace is right here, largely to  
25    the east of most of the city. And then when you go

1 a little further east, still in Hillsborough County  
2 but into what is generally speaking unincorporated  
3 Hillsborough County, you then get to the city,  
4 incorporated city of Plant City, before you get into  
5 the Hillsborough/Polk border.

6 So when you are drawing a district in  
7 Hillsborough County, that Temple Terrace location is  
8 geographically challenging, something that you have  
9 to work with.

10 The reason being is that if you just sort  
11 of looked at Hillsborough County based on major  
12 roadways, and you just only thought that -- thought  
13 that through about major roadways and kind of just  
14 started clean divisions, the population around  
15 Temple Terrace and some of the incorporated --  
16 unincorporated areas around it, particularly  
17 unincorporated areas of Tampa is massive.

18 So how you pick and choose where you are  
19 going to divide your district, which there are a lot  
20 of major roadways to work from, that's good, but the  
21 challenge is that some of those roadways come  
22 straight through Temple Terrace.

23 Moreover, you can't -- even if you worked  
24 your way around Temple Terrace and back into the  
25 city of Tampa itself, what happens is that when you

1 hit those major roadways again, where you are again  
2 trying to make some decision to say what's a  
3 meaningful place that I am going to finish this  
4 district, I am going to make this linkage, if you  
5 accommodate for Temple Terrace, then you have this  
6 kind of bump in your district.

7 You can't always avoid those sorts of  
8 things in a map if you are going to keep a  
9 municipality whole, but I wanted to try.

10 So what I found was that I needed -- I  
11 needed a means to have that main joint between three  
12 districts south of Temple Terrace, outside of the  
13 city limits, so that Temple Terrace didn't become  
14 the bump in the map one way or the other. And I  
15 still wanted to keep it whole.

16 Tampa is very hard to keep whole because  
17 of the statute of liberty effect; not a lot of  
18 population in the arm, but it's there, so it's very,  
19 very difficult to keep whole. To keep Tampa whole,  
20 you have to do something really exaggerated in the  
21 map. So it's a very difficult city to keep whole.

22 So I wasn't as concerned about that  
23 because of just the shear difficulty doing it, but  
24 Temple Terrace is a relatively small municipality; I  
25 wanted to keep it whole, so I brought the joint

1 where three districts met further south.

2 I had considerations to make about, from a  
3 north-south perspective -- or I should say more of  
4 an east-west perspective -- does 14 become more of a  
5 squared-up block?

6 So basically I could have taken 14 further  
7 to the east and just grab a different north-south  
8 roadway, but the result of that was then some  
9 district was going to have come over top of 14 with  
10 a more exaggerated arm, that would just make the  
11 district over top of it less compact.

12 So it was a constant trade-off of trying  
13 to find that joint in Hillsborough County. And I  
14 was attempting to, at the end, the end product, the  
15 Enacted Map, I was attempting to split Hillsborough  
16 County one less time, so that from a standpoint of  
17 just visually compact districts, keeping as many  
18 cities reasonably whole as I could, adhering to  
19 county lines as much as I could, adhering to well  
20 recognized boundaries, major roadways, as much as I  
21 could, and then also not causing districts around  
22 that to be at the mercy of it to the greatest  
23 reasonable degree, it was essential that I find that  
24 joint between those three districts and sort of  
25 that -- I guess I probably will just call it --

1 almost sort of central spot in Hillsborough County.  
2 That was a very painstaking process to get that just  
3 right and create that nice, clean functional joint  
4 between those three districts.

5 BY MS. FORD:

6 Q Thank you. In your presentation to the  
7 legislature, you also talked about you were  
8 attempting to make compactness in this region,  
9 right?

10 A Yes.

11 Q Did you, in fact, increase compactness in  
12 this region?

13 A Yes, I would say so.

14 Q From a statistical measure?

15 A I don't know if it's from a statistical  
16 point of view district to district in the region to  
17 its south, but it is in my opinion clearly more  
18 compact than any other map that was considered.

19 Q Okay. I would like to pull back up  
20 Exhibit 20, which is this chart. So I have here  
21 Exhibit 20, which is again the sort of compactness  
22 comparisons for certain districts on three measures.

23 This is again an exhibit that I generated,  
24 but I pulled from the numbers that were reported by  
25 the Florida legislature.

1                   **Can you take a look at District 13 for me.**  
2           **Do you agree with me that as compared to CD-13 and**  
3           **Plan 8019, the enacted CD-13 is less compact on both**  
4           **Reock and Polsby-Popper?**

5           A        CD-13 in the Enacted Map has a lower  
6           Reock, a higher Convex Hull and lower Polsby-Popper  
7           score compared to the map the legislature passed.

8           **Q        Can you go to CD-17 for me, please.**

9                   **Do you agree with me that as compared to**  
10           **Plan 8019, the enacted CD-17 is less compact on**  
11           **Reock, on Convex Hull, and on Polsby-Popper?**

12           A        Do you have a copy of -- maybe it's  
13           actually right here in my presentation. I want to  
14           see the Enacted Map. I just want to make sure these  
15           are by number -- what they are really truly  
16           comparing.

17                   Yeah, if you are only reading the  
18           District 17 numbers, but they are almost entirely  
19           different districts.

20           **Q        Can you point me to what page you are**  
21           **looking at?**

22           A        I am looking at page 10 of the  
23           presentation that I gave to the House and Senate  
24           committees. And if you look at the plan the  
25           legislature passed, CD-17 -- it's very small, it's

1 hard for me to tell.

2 **Q We actually -- let's grab it.**

3 A It looks like it's southern Hillsborough,  
4 Manatee, and a slice of Sarasota. The Enacted Map  
5 is all of Sarasota, all of Charlotte, and the --  
6 roughly speaking, the Lehigh Acres, portions of  
7 Lehigh Acres unincorporated area, and Lee County.  
8 So they are very different districts.

9 **Q You agree with me it is a district that**  
10 **encompasses basically the southwest coast of Florida**  
11 **below Tampa Bay?**

12 A Yes.

13 **Q Below Sarasota -- actually, I mean**  
14 **including Sarasota?**

15 MR. JAZIL: What district are you talking  
16 about?

17 MS. FORD: Let's use an image that would  
18 be better and actual county boundaries.

19 (Exhibit 23 was marked for  
20 identification.)

21 BY MS. FORD:

22 **Q This is Exhibit 23, which is a visual**  
23 **image of 8019 which was passed by the legislature**  
24 **and vetoed by the Governor. I got this from the**  
25 **Florida redistricting website. Does this look like**

1     **a fair and accurate copy?**

2           A     Yes, this looks like a map that the  
3     legislature passed.

4           **Q     All right. Give me one second.**

5                    **So I agree with you that these two**  
6     **districts do not include exactly the same counties.**  
7     **But do you disagree with me that this is essentially**  
8     **the district that sits, you know, just below**  
9     **Sarasota, in both seats, on the southwest coast of**  
10    **Florida?**

11                   MR. JAZIL: I object to form. Which  
12    districts are we talking about?

13                   MS. FORD: We are talking about District  
14    17.

15           A     I disagree with you.

16    BY MS. FORD:

17           **Q     Okay. In any event we are comparing -- I**  
18    **accept you disagree with me. But that these are**  
19    **sort of meant to be similar districts. But**  
20    **District 17 is less compact on Reock, Convex Hull**  
21    **and Palsby-Popper as compared to the Enacted Map,**  
22    **correct?**

23           A     They are not the equivalent districts  
24    comparing the maps. They happen to have the same  
25    number, they have some overlapping territory, but a

1 majority of the population in these two districts  
2 are not overlapped.

3 **Q Can you look at CD-14 for me, please, on**  
4 **this comparison chart?**

5 A On which?

6 **Q On Exhibit 20.**

7 A Sure. CD-14.

8 **Q Would you agree with me that CD-14 is more**  
9 **compact in the Enacted Map on the Reock score, but**  
10 **less compact on Convex Hull and Polsby-Popper?**

11 A Yes.

12 **Q For CD-16, would you agree that as**  
13 **compared to the Plan 8019, CD-16 in the Enacted Plan**  
14 **is less compact on Reock, less compact on Convex**  
15 **Hull, slightly more compact on Polsby-Popper?**

16 A To make sure I understand 5correctly, you  
17 were saying that -- I am sorry, repeat it.

18 **Q I may have made a mistake. I am looking at**  
19 **CD-16, and I read this to say that as compared**  
20 **between Plan 8019 and Enacted Map, CD-16 is less**  
21 **compact on Reock, less compact on Convex Hull, and**  
22 **slightly more compact on Polsby-Popper?**

23 A Not dissimilar to the question you asked  
24 before. CD-16 on the legislature's first map they  
25 passed is a district that is almost entirely Polk

1 County.

2 CD-16 on the map that was enacted  
3 ultimately, that the Governor signed into law, has  
4 all of Manatee County and portions of southern  
5 Hillsborough County. These districts hardly  
6 overlap.

7 There is a little sliver north to south of  
8 the southeastern part of Hillsborough County that  
9 overlaps, but that's a small chunk of the district.

10 MS. FORD: I can knock out a few  
11 questions, if you give me just a second.

12 THE WITNESS: Sure.

13 (Short pause.)

14 BY MS. FORD:

15 **Q We talked about Plan 8019 a lot. Did you**  
16 **adopt any ideas from Senate Plan 8060 in the Tampa**  
17 **Bay region?**

18 A Do you have a copy of Plan 8060?

19 **Q Yeah, I think we do. I am running out of**  
20 **images.**

21 (Exhibit 24 was marked for  
22 identification.)

23 BY MS. FORD:

24 **Q This is Exhibit 24, it is an image of Plan**  
25 **8060 as passed by the Senate. And I similarly got**

1     **this from the Florida redistricting website.**

2                   **To your eye, does it look like a fair and**  
3     **accurate copy of Plan 8060?**

4           A     I would say it's been a long time since I  
5     looked at this map. I am sure this is -- I believe  
6     what you are saying, that you printed out Plan 8060,  
7     but I will say it's been quite a long time since I  
8     looked at this.

9           **Q     So the question I had asked before we**  
10    **pulled this out, did you adopt any ideas from Senate**  
11    **Plan 8060 in the Tampa Bay region?**

12                   MR. JAZIL: I will give you the Marsh  
13     instructions, but answer to the extent you can.

14           A     The Senate Plan does keep Citrus County  
15     whole. I can't recall whether that was consciously  
16     influential when I tried to keep Citrus and did keep  
17     Citrus County whole successfully in the final plan,  
18     but that is a common point.

19                   I'd probably have to spend time at a  
20     pretty detailed level otherwise comparing the plans  
21     between these two.

22           BY MS. FORD:

23           **Q     Okay. Would you agree with me that in**  
24    **looking at Districts 13, 14, 15, and 16, those are**  
25    **roughly equivalent to the Districts 13, 14, 15 and**

1     **16 between these two plans?**

2           A     Are you asking between the Senate Plan and  
3     the --

4           Q     Yeah, I am doing a bad job of noting for  
5     the record. I am looking -- I am comparing now the  
6     Enacted Map, Districts 13 through 16, and I am  
7     looking at Senate Plan 8060, comparing that, looking  
8     at 13 through 16.

9                     Would you agree those are roughly  
10    equivalent districts?

11          A     In the --

12          Q     In the areas they are meant to represent.

13          A     I am sorry, what area of the state are you  
14    talking about?

15          Q     Tampa Bay; to the extent you know we  
16    have -- 13 is a predominantly Pinellas County  
17    district, District 14 is predominantly  
18    Tampa/Hillsborough, District 16 is this Manatee  
19    district, and District 15 is like -- obviously to  
20    the east of 14, another Hillsborough based district.  
21    Do you agree with that, with both of these plans?

22          A     These districts have some -- I don't agree  
23    with the total of what you said. These districts  
24    have some similarities. Both of these maps only  
25    split Hillsborough County three ways. Both of those

1 maps keep one district wholly in Pinellas County. I  
2 am sure in a more detailed level there is probably  
3 some additional similarities. But there is  
4 definitely some notable differences too.

5 **Q Are you aware that Senate Plan 8060 beats**  
6 **the Enacted Map on compactness on both Polsby-Popper**  
7 **and Reock in the Tampa Bay region for Districts 12**  
8 **through 17?**

9 A I don't have the benefit of those scores.

10 **Q Would you agree with me that increasing**  
11 **the compactness of Districts 12, 13, 14, 15, 16 and**  
12 **17, what I would call the entire Tampa Bay region,**  
13 **that those would be worthwhile Tier 2 gains --**

14 MR. JAZIL: Object to form.

15 BY MS. FORD:

16 **Q -- if you were able to make them?**

17 A It's a hypothetical. Do we have the data?  
18 If you want me to compare the maps, we can compare  
19 the maps.

20 **Q Yeah. Sure.**

21 (Exhibit 25 was marked for  
22 identification.)

23 BY MS. FORD:

24 **Q This Exhibit 25 is the District**  
25 **Compactness Report for Plan, Senate Plan 8060. This**

1 was again taken from the Florida redistricting  
2 website directly.

3 Does this look like a fair copy of the  
4 District Compactness Report from the Florida  
5 legislature?

6 A Yes.

7 Q I don't have a nice comparison chart for  
8 this one, like I did for the other one, but the  
9 numbers are reported here.

10 I will represent to you that Senate Plan  
11 8060 beats the Enacted Plan on Districts 12, 13, 14,  
12 15, 16, and 17 in the Tampa Bay area. I don't think  
13 it's worth our time to compare them one by one, so I  
14 won't ask you if you agree with that or not.

15 My question for you is simply, did you  
16 consider adopting these districts when you were  
17 trying to make Tier 2 gains as compared to Plan 8019  
18 in the Tampa Bay region?

19 MR. JAZIL: I give you the Marsh  
20 instruction, but answer to the extent you can.

21 A I disagree with some of the statements you  
22 made leading up to that question.

23 Again, I recognize that the legislature  
24 pretty consistently looked at drawing a district  
25 wholly in Pinellas County as this map does. I did

1 exactly the same thing in the final Enacted Map.

2 I attempted to reduce Hillsborough splits  
3 to where the county was only split three times. The  
4 Senate Map 8060 that the Senate originally passed  
5 has that same benefit to it. The Senate map has  
6 some similarities, but again, there are some key  
7 differences too.

8 The Senate map, the configuration chosen  
9 in the Senate map forces the splitting of Sarasota  
10 County, and as I noted a few times, I was trying to  
11 keep Sarasota County whole in the final Enacted Map.  
12 So there is some similarities and there are some  
13 differences.

14 BY MS. FORD:

15 **Q Okay. I guess my question is whether you**  
16 **ever seriously considered adopting this**  
17 **configuration of districts in the Enacted Map?**

18 MR. JAZIL: Object to the form, and I will  
19 give you the Marsh instruction.

20 A I think I answered it three times, that  
21 there are some definite benefits, what the Senate  
22 did, that I picked up in the final Enacted Map. I  
23 can't recall if I was literally looking at this map  
24 thinking consciously about exactly this point in the  
25 map.

1 BY MS. FORD:

2 Q At the time that you drew the Enacted Map,  
3 were you aware that Senate Plan 8060 would have been  
4 more favorable to Democrats in Tampa Bay than the  
5 Enacted Map ended up being?

6 A No.

7 Q That it would have allowed Democrats to  
8 win or at least compete in three districts in Tampa  
9 Bay as compared to only one district in the  
10 Governor's plan?

11 A I am not aware of any of that.

12 Q Slightly different topic on Tampa Bay.  
13 You did not consider any of these districts in Tampa  
14 Bay to be districts where you needed to maintain a  
15 minority group's ability to elect, correct?

16 MR. JAZIL: I going to give you the Marsh  
17 instruction, but to the extent you can answer,  
18 answer.

19 A Correct, I would agree.

20 BY MS. FORD:

21 Q I didn't hear.

22 A Correct, I would agree, I did not consider  
23 any of these districts ones that would require  
24 maintaining the minority community's ability to  
25 elect.

1           Q     So as far as you knew, you did not have  
2     some sort of legal obligation to join any particular  
3     minority communities to make sure they were at a  
4     particular voting strength in the Tampa Bay region?

5           A     Correct.

6           Q     Okay. So there was no legal obligation  
7     for you to join the minority communities of  
8     St. Petersburg with the minority communities of  
9     Tampa like the plan drawn in 2012 did?

10          A     Correct.

11          Q     But nevertheless, that is what the Enacted  
12     Map does, correct?

13          A     I do not know if the Enacted Map does  
14     that.

15          Q     You do not know whether the Enacted Map  
16     joins a minority population of St. Petersburg with a  
17     minority population in Tampa?

18          A     There is a minority population in every  
19     part of the state. Can you be a little more clear  
20     in your question?

21          Q     Sure. We talked about how in 2012, in  
22     that process when this district or the predecessor  
23     district was under federal preclearance, you made an  
24     attempt to join the minority populations across  
25     Tampa Bay to create a district that would perform,

1       **correct?**

2           A       In the 2012 process?

3           **Q       In the 2012 process.**

4           A       That's what we read earlier in the  
5 transcript.

6           **Q       Okay. I am asking you this time around,  
7 your plan also joins St. Petersburg with Tampa and  
8 what I would call a substantial minority population  
9 in Tampa together, correct?**

10           MR. JAZIL: Object to the form. Answer if  
11 you can answer, considering the Marsh  
12 instructions.

13           A       I was asked this question pretty pointedly  
14 in the committee process in the Senate, and I am not  
15 aware of the demographic makeup of these different  
16 districts in Hillsborough and Pinellas County.

17           BY MS. FORD:

18           **Q       Yeah, I remember that from the  
19 legislature's presentation. You said you didn't  
20 know the Black Voting Age Percentage of this  
21 district. And just to be clear, that's not what I  
22 am asking you.**

23                   I am not asking you whether you know what  
24 the specific B-VAP/H-VAP is of this district. I am  
25 just asking you when you drew this district, did you

1 know that you were joining minority communities in  
2 St. Petersburg across the bay with the minority  
3 communities in Tampa?

4 A No.

5 MR. JAZIL: Same objections.

6 A No, I did not. I drew this district  
7 without race as a consideration.

8 BY MS. FORD:

9 Q Is it your testimony today that you do not  
10 know where Black voters in St. Petersburg live? I  
11 am sorry, you do not know where Black voters in  
12 Pinellas County live?

13 A You are asking me in the entire county, do  
14 I know where all the Black voters live?

15 Q No, I am not. I am asking --

16 A I am not sure I understand the question.

17 Q Are you aware that there is a substantial  
18 Black population in St. Petersburg?

19 MR. JAZIL: Object to form. Go ahead.

20 A I do not know the racial makeup of  
21 St. Petersburg.

22 BY MS. FORD:

23 Q At all?

24 A Correct.

25 Q You couldn't even guess?

1           A       That will be wholly inappropriate to guess  
2       in a deposition.

3           **Q       You did know these things in the 2012**  
4       **cycle, correct?**

5           A       Correct, the transcript we went over  
6       earlier clearly identified that.

7                   (Discussion off record.)

8                   (A recess took place from 3:46 p.m. to  
9       4:00 p.m.)

10       BY MS. FORD:

11           **Q       I want to ask you a few questions about**  
12       **Central Florida.**

13           A       Sure.

14           **Q       In your presentation to the legislature,**  
15       **you said that the Governor's Office accepted the**  
16       **position of the House that CD-10 was not subject to**  
17       **the nondiminishment provision, is that right?**

18           A       Yes, correct.

19           **Q       What is your best understanding why the**  
20       **House concluded that CD-10 didn't merit protection**  
21       **under Tier 1?**

22                   MR. JAZIL: Object to form.

23           A       I was asked the question numerous times in  
24       committee, and I essentially said that I took the  
25       position as the House explained it in the process.

1 I don't think that I could do justice to reexplain  
2 what they said.

3 But at that time, looking at what the  
4 House said in their process and their explanation,  
5 it was sound and we accepted that position.

6 BY MS. FORD:

7 **Q And this is an area where the Senate**  
8 **disagreed, correct? It did not agree with the**  
9 **House's assessment about whether CD-10 was entitled**  
10 **to protection from diminishment?**

11 MR. JAZIL: Object to form.

12 MS. FORD: Yeah, I am sorry, that was an  
13 awful question.

14 MR. JAZIL: If you understand, you can  
15 answer.

16 A Correct, there was a clear disagreement.  
17 I think I might have mentioned in my presentation,  
18 there was a clear disagreement between the House and  
19 Senate on this matter.

20 BY MS. FORD:

21 **Q What I was attempting to ask you is to**  
22 **your understanding, the Senate did believe that**  
23 **CD-10 was entitled to protection from diminishment?**

24 A Correct, the Senate articulated that.

25 **Q Did you perform your own functional**

1 **analysis on CD-10?**

2 A No.

3 **Q To your knowledge, did anyone in the**  
4 **Governor's Office perform a functional analysis on**  
5 **CD-10?**

6 MR. JAZIL: I will give you the Marsh  
7 instruction.

8 A I think I testified that we did not  
9 perform any kind of functional analysis on any  
10 district in the map, including CD-10.

11 BY MS. FORD:

12 **Q At any point did you or anyone at the**  
13 **Governor's Office sort of ask the House to see their**  
14 **data to evaluate their conclusions on this issue?**

15 A No.

16 **Q Did you ever look at racial data in this**  
17 **area?**

18 A CD-10?

19 **Q Uh-huh.**

20 A Yes.

21 **Q Why did you do that?**

22 MR. JAZIL: I give you the Marsh  
23 instruction, but answer if you can.

24 A Again, a point that came up in my  
25 committee presentations, it was clear that there was

1 a disagreement between the House and the Senate on  
2 this. And I felt that there was some need to at  
3 least have a basic understanding as to what they  
4 were even disagreeing over. So I looked at -- I  
5 looked at demographic data for that purpose.

6 BY MS. FORD:

7 **Q Okay. So you would have consulted the**  
8 **Black voting populations of CD-10 in the benchmark**  
9 **map?**

10 A Yes, and the Hispanic voting age  
11 population.

12 **Q Did you also consult any election data to**  
13 **see if you agreed with the House's conclusion that**  
14 **CD-10 did not perform for the Black candidate of**  
15 **choice?**

16 A No.

17 **Q My understanding is that the House's**  
18 **conclusion was based on voter turnout data. Is that**  
19 **your understanding?**

20 A I don't recall that. I would imagine if  
21 you reviewed their testimony, I think they were  
22 pretty specific in their comments that would  
23 publicly answer the question.

24 **Q So all you looked at to see -- to**  
25 **understand the disagreement between the House and**

1 Senate was sort of just minority voting age  
2 populations in the district?

3 A Black and Hispanic voting age populations  
4 in the district.

5 Q Okay. Did you consult any other data to  
6 try to understand the disagreement or which body was  
7 right?

8 A No.

9 Q You talked about a little bit of this, so  
10 I will try to eliminate duplication.

11 In your presentation to the legislature,  
12 you said that the Enacted Plan drew on Plan 8011 in  
13 Central Florida.

14 What were you referring to when you said  
15 you drew on concepts from Plan 8011?

16 A Sure.

17 MR. JAZIL: I give you the Marsh  
18 instruction, but go ahead.

19 A Sure. Plan 8011 -- I am looking at  
20 Exhibit 14, it outlines that.

21 Plan 8011, the House's sort of penultimate  
22 plan before they seemingly negotiated the  
23 differences with the Senate, that plan in 8011 had a  
24 district, not an identical but similar to what I did  
25 in the enacted one, where it's effectively almost a

1 brick, compactly located; so working a little bit  
2 around city and county lines, but otherwise very  
3 compactly located in the relatively speaking central  
4 part of Orange County, Maitland, Winter Park area,  
5 with most of the population coming from the city of  
6 Orlando.

7           So I looked at what the House had done,  
8 and they had drawn a very compact district that was  
9 wholly in one county, very respectful of county  
10 lines, very respectful of Orange County; and Orlando  
11 in particular is an interesting crisscross of  
12 diagonal roadways, and some east to west roadways,  
13 so I thought they done a very, very good job of  
14 picking up as many major roadways as possible.

15           So the district that I drew in the Enacted  
16 Plan, it's not the same exact same lines, but it  
17 picks up the spirit of what the House was doing.

18 BY MS. FORD:

19           **Q       Okay. Did you have any concern that the**  
20 **legislature had improperly utilized race in drawing**  
21 **District 10 in Plan 8019?**

22           MR. JAZIL: Object to form, and the Marsh  
23 instruction.

24           A       The legislature, again as a whole, I saw  
25 that the -- I am not sure if you are referring to

1 their maps as they were progressing towards the end  
2 or the final map. I am not sure what specifically  
3 you are referring to.

4 BY MS. FORD:

5 **Q Let me ask a more specific question. I**  
6 **guess just when you looked at District 10 in Plan**  
7 **8019, did you have any constitutional concerns with**  
8 **it?**

9 MR. JAZIL: Let me give you the Marsh  
10 instruction, but go ahead and answer if you  
11 can.

12 A I am not sure I thought about it in that  
13 context. I thought about it in the context that the  
14 House in Plan 8011 drew a great district, they had  
15 it right.

16 And the Senate's reasoning for drawing the  
17 district differently, based on a high level cursory  
18 review of demographic data, didn't make sense.

19 So the House's original position was a  
20 drawing of the district that used sound  
21 redistricting standards and was a better decision.

22 BY MS. FORD:

23 **Q So just to be clear on the record about**  
24 **what plan we are talking about, I am looking back at**  
25 **8019, which is Exhibit 23, if you still have it.**

1           A       Yes.

2           Q       Looking at District 10 here, it was my  
3 understanding, though perhaps I am mistaken, that  
4 sort of in the disagreement between the House and  
5 Senate, the House sort of won out here, that their  
6 provision prevailed when they drew this district,  
7 this version of CD-10. Is that also your  
8 understanding?

9           A       That's incorrect. The Senate's position  
10 is the one that prevailed.

11          Q       I apologize. I misunderstood then.  
12                    Could you pull out Plan 79, which is  
13 Exhibit 15, and the Enacted Plan, which is 13.

14          A       I am sorry, Enacted Plan, which is 13?

15          Q       Exhibit 13.

16          A       Sure, got it.

17          Q       You got both those? Okay.

18                    We already established that Plan 79 was  
19 the Governor's first proposal to the legislature  
20 that it submitted, right?

21          A       Yes.

22          Q       And Adam Foltz was the author of this  
23 plan?

24          A       Yes.

25          Q       If you can just compare these plans for me

1 in the Central Florida area, sort of look at them  
2 side by side.

3 A Yes.

4 Q Do you dispute that the Governor's or the  
5 Enacted Plan bears a striking resemblance to Plan 79  
6 in the Central Florida area?

7 A What do you mean, striking resemblance?  
8 They are similar, but they are not the same.

9 Q Yeah, I don't think they are exactly the  
10 same either. Let me put it this way.

11 In drawing the Enacted Plan, did you draw  
12 on concepts that had been established in Plan 79 for  
13 Central Florida?

14 A It's similar. As I said though, I was  
15 taking ultimately what the House -- what the House's  
16 Map 8011 did, but they are all similar in that they  
17 are a wholly located relatively compact center of  
18 Orange County.

19 Q If you could compare District 9 in both  
20 these maps for me.

21 Do you agree with me that District 9 in  
22 both of these maps are very similar with the  
23 exception that in the Enacted Map, you have taken a  
24 little piece of Polk and sort of filled it in to  
25 make the district line a little bit more regular;

**1 would you agree with me other than that, these**  
**2 districts are very similar?**

3 A The core of the district is all Osceola  
4 County. Osceola County is kept whole; that's the  
5 core of the district.

6 You described correctly that the  
7 difference in Poinciana, which is an unincorporated  
8 area that's partly Osceola, partly Polk. And so as  
9 you said, in the Enacted Map, I filled that in for  
10 District 9 to create that more angled, as you pull  
11 back from that, the more compact looking shape.

12 The differences in Orange County aren't  
13 unimportant. Bell Isle and or Edgewood are included  
14 entirely in District 9 in the way that the Enacted  
15 Map is drawn.

16 Also, as you really look closely at what's  
17 done in Orange County, the adherence to major  
18 roadways is improved upon between -- in the Enacted  
19 Map 10 and 9 and Map 7 and 9 -- 7 and 9, at the time  
20 the Enacted Map 10 and 9, and the Orange County  
21 population is pretty significant. So those  
22 differences aren't unimportant.

**23 Q So do you agree with me that District 7 in**  
**24 Plan 79 and District 10 in the Enacted Map are**  
**25 roughly equivalent districts?**

1           A       No, they are very similar. They have some  
2 similar attributes, but when you have that amount of  
3 population, that small area, those differences are  
4 pretty significant.

5           **Q       Would you agree with me that District 6 in**  
6 **Plan 79 and District 7 in the Enacted Map are**  
7 **similar districts?**

8           A       District -- you said District 6 in Plan 79  
9 and District -- I apologize, you said what plan?

10          **Q       7.**

11          A       -- 7 in the Enacted Map, relatively  
12 speaking, they are fairly similar. Both include all  
13 of Seminole County. The Volusia lines were improved  
14 upon with the Enacted Map.

15          **Q       I think I have one more image; I lied**  
16 **before.**

17                   (Exhibit 26 was marked for  
18 identification.)

19 BY MS. FORD:

20          **Q       This is Exhibit 26. This is just an image**  
21 **that I pulled off of the Florida redistricting**  
22 **website of Plan 8011 from the House. Unfortunately**  
23 **I couldn't find like an official copy produced by**  
24 **the legislature that's quite as nice as these other**  
25 **copies, but hopefully it will work for today.**

1                   **Does this look like a fair copy of Plan**  
2   **8011, what it generally looked like?**

3           A       I am not sure. If you look in the House's  
4   committee packets, you will find a more detailed  
5   iteration of -- because this was a map that was  
6   actually considered and adopted in the committee.  
7   If you look in their committee package, you will  
8   find a detailed map that looks more like these.

9           **Q       Sure, that might exist, but for today,**  
10   **this is what I have. To your memory, does this**  
11   **generally look like Plan 8011?**

12          A       I'm not sure.

13          **Q       Let's assume this is Plan 8011 for today.**  
14   **If I am wrong, then I am wrong.**

15                   **Can you compare Central Florida for me in**  
16   **these sort of three maps?**

17          A       I am not going to assume this is Plan  
18   8011. I have no -- this is not -- I have no means.

19                   I am not saying it's not, but I have no  
20   means -- there is no county lines included in this,  
21   there is no larger visuals of some of the more urban  
22   areas. It would be very difficult to compare  
23   Exhibit 26 to the other exhibits which were way more  
24   detailed.

25          **Q       I am not going to ask you about anything**

1 in particular. My only question for you is whether  
2 you agree with me that Central Florida in the  
3 Enacted Plan looks a lot more like Plan 79 than Plan  
4 8011?

5 MR. JAZIL: Object to form. If you can  
6 answer, answer.

7 A I can't answer the question for the  
8 reasons I already stated.

9 BY MS. FORD:

10 Q In your presentation to the legislature,  
11 you said that you drew upon one concept from Senate  
12 Plan 8060 in Central Florida. I think we talked  
13 about that a bit earlier today.

14 Can you explain what that was, if you  
15 remember?

16 A Sure. I mentioned the specific concept,  
17 although the general point, too, that I made a few  
18 times over is also true; that as I drew the Enacted  
19 Map, as you go through almost any of these  
20 districts, I was more adherent, where necessary, to  
21 major political and geographical boundary lines,  
22 which was a concept the Senate used throughout its  
23 entire map.

24 The specific point that I referenced  
25 earlier today had to do with Brevard County, where

1 the Senate chose to divide in this case in Map 8060,  
2 they chose to divide District 6 and 8 at the  
3 Brevard/Volusia County line.

4 **Q In Plan 8060, District 8 picked up the**  
5 **rest of the population they needed from Orange**  
6 **County?**

7 A Plan 8060, it's all of Brevard, it has  
8 what appears to be all of Indian River, and then it  
9 has a little bit of eastern Orange County.

10 **Q Okay. Then could you look back at Plan 79**  
11 **for me as well, Exhibit 15.**

12 A Sure.

13 **Q Would you agree with me that Plan 79**  
14 **similarly gets extra population from Orange County**  
15 **already?**

16 A For District 8?

17 **Q Uh-huh.**

18 A Yes, Plan 79 -- I did notice, by the way,  
19 one subtle difference.

20 I said I think it appears -- if you go  
21 back to Plan 8060, I said it appears to pick up all  
22 of Indian River County, but I can see in small  
23 detail there, it actually doesn't. There is a  
24 little sliver of Indian River in District 18.

25 But that aside, District 8 in Plan 0079

1 picks up its remaining population -- in effect it's  
2 getting to zero pop in the eastern parts of Orange  
3 County.

4 Q Okay. Can you find Plan 8019, which is  
5 going to be Exhibit 23. You have it?

6 A Yes.

7 Q Okay. I realize this is small, but the  
8 actual like inset of the Orlando region might be  
9 more helpful here to look at Central Florida.

10 So Plan 8019, CD-7 came down to include a  
11 small portion of Orange County here, correct?

12 A CD --

13 Q I am sorry. Let me reask my question. In  
14 Plan 8019, CD-7 came down to include a small portion  
15 of Orange County, right?

16 A Correct.

17 Q Okay. This portion of Orange County  
18 includes University of Central Florida, right?

19 A I don't know whether it definitely does.  
20 I generally know UCF is in that area, but I don't a  
21 hundred percent know if UCF is in that chunk. But I  
22 know it's in the area.

23 Q Okay. And the Enacted Map removes CD-7  
24 from Orange County entirely and instead takes more  
25 population from Volusia County, right?

1 A Correct.

2 MS. FORD: I think that is all the mapping  
3 questions that I have. Very short topic, then  
4 I think we are wrapped up for the day.

5 BY MS. FORD:

6 **Q Were you surprised when the website**  
7 **FiveThirtyEight called your plan one of the most**  
8 **aggressive gerrymanders this cycle?**

9 MR. JAZIL: Object to form and the Marsh  
10 instruction.

11 A I first heard this from you reading it  
12 today.

13 BY MS. FORD:

14 **Q Have you heard criticisms previously that**  
15 **people who called the Florida Congressional plan a**  
16 **partisan gerrymander?**

17 MR. JAZIL: Object to form.

18 A Was called far worse things in committee,  
19 so I heard members in legislative committee  
20 presentations saying terrifying things about me and  
21 the plan.

22 BY MS. FORD:

23 **Q You are aware people have -- legislators,**  
24 **news, what have you, have called your plan a**  
25 **partisan gerrymander. Are you aware of that?**

1           A       They said it to my face.

2           **Q       Were you surprised when you heard that**  
3       **criticism?**

4           A       Was I surprised? No, they were pretty  
5       much saying it before I even explained it.

6           **Q       Were you surprised when this Congressional**  
7       **plan elected 20 Republicans and 8 Democrats?**

8           A       I had no reason to know one way or the  
9       other what this plan was going to do.

10          **Q       I have one more exhibit.**

11                   (Exhibit 27 was marked for  
12                   identification.)

13       BY MS. FORD:

14          **Q       Mr. Kelly, this is a previous subpoena**  
15       **that we served on the Governor's Office for**  
16       **documents. This is at this point from July. If you**  
17       **flip back all the way to the end, last page, records**  
18       **to be produced. This is a subpoena that plaintiffs**  
19       **served on the Governor's Office for documents. Have**  
20       **you seen this before?**

21          A       Yes.

22          **Q       Okay. Were you asked to search for**  
23       **documents responsive to this subpoena?**

24          A       I was asked to search for -- actually I  
25       was asked to provide every document I had on

1 redistricting, so it would more than encompass  
2 anything requested here.

3 **Q Can you describe the process you used to**  
4 **sort of collect documents when you were asked to**  
5 **provide them?**

6 A Sure.

7 MR. JAZIL: Just to be clear, when you are  
8 say you, it's the office as a whole?

9 MS. FORD: Actually I was just asking  
10 about Mr. Kelly.

11 A Sure. Any electronic records, e-mail,  
12 things of that nature, they were automatically  
13 saved, so we don't have to go collect them. If they  
14 hit our e-mail, it just gets pulled in a search, if  
15 we sent or received it.

16 Any other document that I had, I kept it.  
17 I made it easy on myself from the day that I got  
18 involved until the end, I had one folder with  
19 subfolders and kept all my records pretty tidy  
20 organized. And I had a binder that had a printout  
21 of some of those records.

22 So when I was asked for my records, I was  
23 literally able to say this folder, here's my binder.

24 BY MS. FORD:

25 **Q Okay. When you said all of the**

1     **electronic -- the e-mails were in your inbox, did**  
2     **you personally do the search for responsive**  
3     **documents or did someone else do it for you?**

4           A     I did not do it.  Someone else did it.

5           **Q     Someone else would have sort of run the**  
6     **search terms just on your inbox?**

7           A     Right.

8           **Q     Have you ever deleted e-mails concerning**  
9     **redistricting in the -- I will say redistricting for**  
10    **the 2020 cycle?**

11          A     It doesn't matter if we delete them.  If  
12    they hit our inbox, they are, as far as I know, for  
13    good.

14          **Q     It's preserved?**

15          A     Yeah, so you could delete the e-mail, you  
16    could do the whole thing; you could delete -- you  
17    could empty the whole thing; it's there.  If it hit  
18    our inbox or we sent it out of our e-mail, you don't  
19    have to keep it, it's there.  It's -- I don't know  
20    what exactly we use, but you don't have to worry  
21    about it.

22          **Q     Did you use anything other than your**  
23    **e-mail address for the Governor to conduct any**  
24    **business related to redistricting?**

25          A     You mean for e-mail purposes?

1 Q Uh-huh.

2 A No, just my work e-mail.

3 Q Okay. How did you primarily communicate  
4 with Mr. Foltz?

5 A E-mail and phone.

6 Q Okay. By phone, do you mean text  
7 conversations or do you mean -- did you text with  
8 Mr. Foltz?

9 A Yes.

10 Q You also had phone calls with Mr. Foltz?

11 A Yes.

12 Q Do you use any other -- not any other. Do  
13 you use any social media platforms?

14 A LinkedIn.

15 Q Did you have any conversations about  
16 redistricting on LinkedIn?

17 A No.

18 Q That would be strange.

19 A I don't check it but once every four or  
20 six months anyway. I am not too good in keeping up  
21 with it.

22 Q Did you delete any text messages that were  
23 related to redistricting?

24 A If I have any text messages that are  
25 transitory, call me at 11:00, I will see you at

1 5:00, kind of transitory messages, I don't keep  
2 those.

3 **Q Is it possible you deleted text messages**  
4 **related to redistricting?**

5 A Only if it's like a transitory message  
6 like I just described. I am certain I deleted  
7 transitory messages.

8 **Q Were there any sort of documents related**  
9 **to redistricting that you weren't able to find when**  
10 **you sort of set out to do your collection, that you**  
11 **knew, like I know this exists, but I can't find it,**  
12 **anything like that?**

13 A No, I didn't have that problem. I  
14 consciously from the outset, as I said, I had a  
15 folder that I put everything in, I had a binder, and  
16 so I had everything well organized from the start.

17 MS. FORD: I would like to hold this  
18 deposition open based on the objections that we  
19 had today on spousal privilege and based on the  
20 Marsh order and the directions not to answer  
21 based on privilege, to the extent we would like  
22 to follow up with anything here.

23 Otherwise, I don't have any other  
24 questions today.

25 MR. JAZIL: I disagree with the need to

1 keep the deposition open, but I understand your  
2 position.

3 Here's my question for you. If I have  
4 some questions for him on cross, should I wait  
5 until everyone is complete, so that everyone  
6 gets a chance to do redirect, or how would you  
7 prefer that?

8 I think that may be the easiest way to do  
9 it.

10 MS. FORD: Yeah. For today?

11 MR. JAZIL: Yeah, if I have questions, I  
12 just ask him once, and then you guys do  
13 redirect.

14 MS. FORD: Yes.

15 (Proceedings concluded at 4:26 p.m.)

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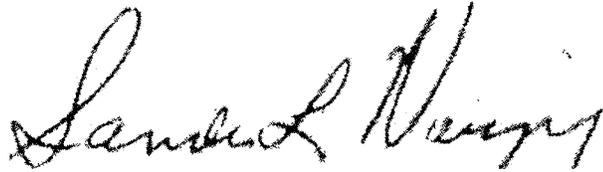
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CERTIFICATE OF OATH

STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, the undersigned authority, certify that  
JAMES ALEXANDER KELLY personally appeared before me  
on June 7, 2023, and was duly sworn.

SIGNED AND SEALED on June 10, 2023.



SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
snargiz@comcast.net  
Commission #HH239213  
EXPIRES: APRIL 18TH, 2026

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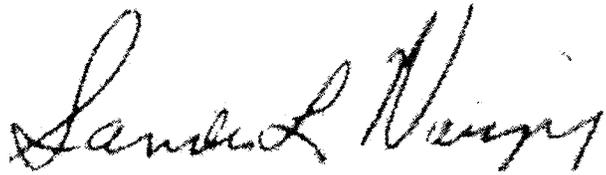
CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, SANDRA L. NARGIZ, Registered Professional Reporter, certify that I was authorized to and did stenographically report the deposition of JAMES ALEXANDER KELLY; that a review of the transcript was requested, and that the foregoing transcript, pages 195 through 261, is a true record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED on June 10, 2023.



SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
Notary Public in Florida  
snargiz@comcast.net

1 June 10, 2023

2 MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com

3

4 RE: Black Voters Matter, et al. vs.  
Cord Byrd, et al.  
5 Case No. 2022 CA 000666  
Deposition of JAMES ALEXANDER KELLY  
6 on June 7, 2023

7 Dear Counsel:

8 The transcript of the above proceeding is now  
available and requires signature by the witness.  
9 Please e-mail fl.production@lexitaslegal.com for  
access to a read-only PDF transcript and  
10 PDF-fillable errata sheet via computer or use the  
errata sheet that is located at the back of the  
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return to the email address listed below for  
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13

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14 within a reasonable amount of time (or 30 days if  
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15 filed with the Clerk of the court. If the witness  
wishes to waive his/her signature now, please have  
16 the witness sign in the blank at the bottom of this  
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18 *Sandra L. Nargiz*  
Very truly yours,

19 Sandra L. Nargiz, RPR, RMR, CRR, CRC, CCR-GA  
Lexitas

20 1551 Forum Place, Suite 200-E  
West Palm Beach, Florida 33401  
21 fl.production@lexitaslegal.com  
I do hereby waive my signature.

22

23 \_\_\_\_\_  
JAMES ALEXANDER KELLY  
24 Job No. 311409

25



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Black Voters Matter Capacity Building Institute, Inc.

vs.

Cord Byrd, et al.

---

Deposition of:

James Kelly

June 08, 2023

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Vol 1



IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY  
BUILDING INSTITUTE, INC.,  
et al.,

Plaintiffs,

vs.

CASE NO. 2022 CA 000666

CORD BYRD, in his official  
capacity as Florida Secretary  
of State, et al.,

Defendants.

---

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

COMMON CAUSE FLORIDA, et al.,

Plaintiffs,

vs.

CASE NO. 4:22-cv-109-AW-MAF

CORD BYRD, in his official  
capacity as Florida Secretary  
of State,

Defendant.

---

REPRESENTATIVE OF THE EXECUTIVE OFFICE OF THE  
GOVERNOR RON DESANTIS AND SECRETARY OF STATE'S  
OFFICE (JAMES ALEXANDER KELLY)

(Volume 1, Pages 1 - 194)

Thursday, June 8, 2023

9:00 a.m. - 2:37 p.m.

LOCATION:

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK  
119 South Monroe Street, #500  
Tallahassee, FL 32301

STENOGRAPHICALLY REPORTED BY: SANDRA L. NARGIZ  
RPR, CM, CRR, CRC, CCR

Job No. 309153

APPEARANCES:

ON BEHALF OF THE PLAINTIFFS BLACK VOTERS MATTER,  
et al.:

ELIAS LAW GROUP, LLP  
10 G Street NE  
Washington, DC 20002  
202.968.4490  
BY: JOSEPH POSIMATO, ESQUIRE  
jposimato@elias.law  
BY: CHRISTINA FORD ESQUIRE  
cford@elias.law

ON BEHALF OF THE PLAINTIFFS COMMON CAUSE, et al.:

PATTERSON BELKNAP WEBB & TAYLOR  
1133 Avenue of the Americas  
New York, NY 10036  
212.336.2817  
BY: CATHERINE J. DJANG, ESQUIRE  
cdjang@pbwt.com

ON BEHALF OF THE DEFENDANT SECRETARY OF STATE:

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK  
119 South Monroe Street, #500  
Tallahassee, FL 32301  
850.508.7775  
BY: MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com  
BY: ROBERT MICHAEL BEATO, ESQUIRE  
mbeato@holtzmanvogel.com

APPEARANCES: (Continued.)

ON BEHALF OF THE DEFENDANT FLORIDA SENATE:

SHUTTS AND BOWEN  
215 S. Monroe Street, #800  
Tallahassee, FL 32301  
850.241.1717  
BY: DANIEL E. NORDBY, ESQUIRE (Via Zoom.)  
dnordby@shutts.com

THE FLORIDA SENATE  
302 The Capitol, #404S  
Tallahassee, FL 32399  
850.487.5237  
BY: KYLE EDWIN GRAY, ESQUIRE (Via Zoom.)  
gray.kyle@flsenate.gov

ON BEHALF OF THE DEFENDANT FLORIDA HOUSE OF  
REPRESENTATIVES:

GRAY|ROBINSON  
301 S. Bronough Street, #600  
Tallahassee, Florida 32301  
850.577.9090  
BY: ASHLEY H. LUKIS, ESQUIRE  
ashley.lukis@gray-robinson.com

ALSO PRESENT:

Nicholas Meros, Office of the Governor  
Michael Halper, Common Cause Florida  
Taylor Meehan (Via Zoom.)  
David Rosenthal (Via Zoom.)

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1 The following proceedings began at 9:00 a.m.:

2 THE STENOGRAPHER: Would you raise your  
3 right hand, please? Do you swear or affirm  
4 that the testimony you are about to give will  
5 be the truth, the whole truth, and nothing but  
6 the truth?

7 THE WITNESS: I do.

8 THE STENOGRAPHER: Thank you.

9 Thereupon,

10 REPRESENTATIVE OF THE EXECUTIVE OFFICE OF THE GOVERNOR

11 RON DESANTIS AND SECRETARY OF STATE'S OFFICE

12 JAMES ALEXANDER KELLY

13 having been first duly sworn or affirmed, as  
14 hereinafter certified testified as follows:

15 DIRECT EXAMINATION

16 BY MS. FORD:

17 Q Good morning, Mr. Kelly.

18 A Good morning.

19 Q My name is Christina Ford. You were here  
20 yesterday, and I don't think it makes sense to do  
21 all of the background work that we did yesterday  
22 on -- on deposition instructions and whatnot.

23 But you understand that you're still under  
24 oath today?

25 A Yes.

1           **Q**     And do you agree with me that while you're  
2     testifying today, you won't exchange communications  
3     either by text, e-mail, or by any means about how to  
4     answer the questions that are asked today in a  
5     substantive manner?

6           A     Yes.

7           **Q**     Okay.

8           MS. FORD: Let's pull up the -- just the  
9     notice of topics.

10          THE STENOGRAPHER: This will be 28.

11          (Exhibit 28 was marked for  
12     identification.)

13     BY MS. FORD:

14          **Q**     Mr. Kelly, this was the notice that we  
15     sent to your office for a corporate representative  
16     to appear on behalf of the Executive Office of the  
17     Governor.

18                   Is it correct that you were chosen as the  
19     designee for the Governor's Office?

20          A     Yes.

21          MR. JAZIL: Counsel, just for the record,  
22     I'd like to interpose an objection.

23                   The stipulation, which is Exhibit 2 to the  
24     deposition, discusses that and says that as it  
25     relates to the Executive Office of the

1 Governor, plaintiffs will only seek the  
2 deposition of two individuals working on behalf  
3 of the Executive Office of the Governor, deputy  
4 chief of staff Alex Kelly and outside  
5 consultant Adam Foltz. I think the corporate  
6 rep deposition would be in conflict with the  
7 stipulation.

8 That said, Mr. Kelly was the point person  
9 for the Executive Office of the Governor, he  
10 has personnel knowledge of almost all the  
11 issues that are identified here, so I don't  
12 think as a practical matter it's a problem, and  
13 so I just want to list the objection for the  
14 record.

15 You can proceed with the questions, and  
16 we'll go from there.

17 MS. FORD: Okay.

18 BY MS. FORD:

19 **Q Do we -- do you understand that your**  
20 **answers today are on behalf of the Governor's**  
21 **Office?**

22 MR. JAZIL: And I'll say this. Anything  
23 he says is on behalf the Governor's Office  
24 because he during this whole time has been  
25 working in his capacity as an agent of the

1 Governor's Office.

2 Anything he says bounds the Governor's  
3 Office. I'll make that representation on the  
4 record as well.

5 A Yes.

6 BY MS. FORD:

7 Q Okay. And when I say "Governor's Office,"  
8 do you understand that I mean the Governor, his  
9 staff, employees, consultants, and any of the  
10 Governor's representatives?

11 A Was does the last word mean,  
12 "representatives"?

13 Q People who officially act on behalf of the  
14 Governor, who were asked to act on his behalf.

15 A That could be people beyond our office and  
16 consultants and lawyers who represent our office.

17 Q Okay. Well, yeah, I'm sure that can be  
18 complicated. Well, let me rephrase the question.

19 When I use the Governor's Office today, I  
20 do mean the governor, his staff, his employees, and  
21 people who the Governor's Office has entered into  
22 contractual relationships with to do work with such  
23 as Mr. Foltz.

24 A Okay. Yes.

25 Q Does that help?

1           A     Yes. Thank you.

2           **Q     Mr. Kelly, can you just flip to page 6 of**  
3     **this notice for areas of inquiry?**

4           A     Sure.

5           **Q     Have you seen this before or read through**  
6     **a copy of these topics?**

7           A     Yes.

8           **Q     Are there any topics here that you feel**  
9     **like you are not prepared to testify on today?**

10          A     Can I just read back through them again?

11          **Q     Sure.**

12          A     (Examining document.)

13                   I'm good. I can testify on these  
14 documents.

15          **Q     Okay. And yesterday you told me that to**  
16     **prepare for yesterday's deposition in your**  
17     **individual capacity you met with counsel and you**  
18     **reviewed a set of documents.**

19                   **Did you do anything additional to prepare**  
20     **for this deposition?**

21          A     No. I watched the videos of myself  
22 present.

23          **Q     I guess I was asking -- I didn't mean --**  
24     **you talked a good bit yesterday about how you**  
25     **prepared.**

**1** **Did you do anything additional?**

**2** A The only thing that just came to my mind  
**3** is I watched the videos of myself present to the  
**4** House and the Senate.

**5** Q Okay. Thanks.

**6** (Exhibit 29 was marked for  
**7** identification.)

**8** BY MS. FORD:

**9** Q Mr. Kelly, so this is an e-mail from  
**10** someone named Willie A. Miller, Jr., to Stephanie --

**11** A -- Kopelousos.

**12** Q Kopelousos. Can you say that again?

**13** A Kopelousos.

**14** Q Kopelousos. I'll probably mess it up.

**15** Thank you.

**16** -- dated September 23, 2021. Who is  
**17** Stephanie Kopelousos?

**18** A Stephanie is the legislative director for  
**19** the Governor.

**20** Q And do you know who Willie A. Miller, Jr.,  
**21** is?

**22** A No.

**23** Q Okay. I will represent to you that  
**24** LinkedIn shows that Willie A. Miller, Jr., is a  
**25** legislative aide in the Florida House.

1                   **Does that ring any bells to you?**

2           A       No.

3           **Q       Okay.  Would you mind reading Mr. Miller's**  
4 **initial question to Ms. Kopelousos and then her**  
5 **response?**

6           A       Sure.  Mr. Miller wrote:  "Good afternoon.  
7 Question, who is the state contracting with to draw  
8 the redistricting maps to present to the  
9 legislature?  I have some ideas about the  
10 Congressional District 20."

11                   Stephanie responded:  "The legislature is  
12 who does the maps."

13           **Q       At the time of this e-mail, which was**  
14 **mid-September 2021, had the Governor's Office**  
15 **already discussed the idea of drawing or submitting**  
16 **maps to present to the legislature?**

17                   MR. JAZIL:  Mr. Kelly, I am going to give  
18 you the Marsh instruction from yesterday which  
19 is do not talk about any internal discussions  
20 and deliberations within the Governor's Office  
21 unless they were made public or shared with a  
22 third party, including but not limited to the  
23 Florida legislature.  I'll continue to refer to  
24 this as the Marsh instruction throughout the  
25 course of the deposition as I did yesterday.

1 To the extent you can answer, answer.

2 A I don't even know what the answer would  
3 be. I have no idea.

4 BY MS. FORD:

5 Q Do you know why a legislative aide would  
6 have been asking the Governor's office in September  
7 of 2021 who they are planning to contract with to  
8 present maps to the legislature?

9 MR. JAZIL: Object to form.

10 You can answer.

11 A You'd have to ask Mr. Miller. I don't  
12 know.

13 BY MS. FORD:

14 Q Did the Governor's Office, in fact, have  
15 any consultants related to redistricting that they  
16 had contracted with by the time of September of  
17 '21?

18 A No.

19 Q And here, Ms. Kopelousos responds that the  
20 legislature will be the entity that draws the maps.

21 Is it correct that that was the assumption  
22 at the time?

23 MR. JAZIL: Marsh instruction.

24 Answer to the extent you can.

25 A Yes. And that's Florida law. The

1 legislature draws the maps.

2 BY MS. FORD:

3 **Q Why did the Governor decide to get**  
4 **personally involved in this redistricting cycle?**

5 MR. JAZIL: I'm going to give you the  
6 Marsh instruction. You can answer to the  
7 extent that it was presented to the public.

8 A The Governor very publicly in our office  
9 provided a series of legal documents and positions  
10 outlining exactly -- literally exactly -- why we got  
11 involved in the redistricting process. I would just  
12 reference all of those.

13 BY MS. FORD:

14 **Q And by that, do you mean, like, the veto**  
15 **memorandum or Mr. Newman's various legal memos?**

16 A Yes.

17 **Q Anything else you're referring to there?**

18 A No.

19 **Q Okay. Did the Governor's Office generally**  
20 **follow the legislature's proposals as they were**  
21 **released by the House and Senate?**

22 A Say that again.

23 **Q Yeah. I'm sorry. And just to refer you**  
24 **back to the instructions, when I say the "Governor's**  
25 **Office," I don't mean just you. I just mean anyone**

1     **you're aware of in the Governor's Office.**

2           A     Anyone?

3           **Q     Did the Governor's Office generally follow**  
4     **the proposals that were being released by the House**  
5     **and Senate through the fall of 2021?**

6           MR. JAZIL: I'm going to give you the  
7     Marsh instruction, but you can answer to the  
8     extent it's public.

9           A     I'm not able to answer that question  
10    without talking about internal conversations.

11   BY MS. FORD:

12           **Q     Can we go to --**

13                     (Exhibit 30 was marked for  
14     identification.)

15           A     Is it fair for me to go back and say that  
16    in January of 2021 -- or 2022, I mean, our office  
17    was pretty public about concerns with the maps. So  
18    to have those concerns, there had to have been a  
19    following of the maps, which is more of a logic  
20    equation.

21   BY MS. FORD:

22           **Q     Thank you.**

23                     **Exhibit 30 is an e-mail that was produced**  
24    **to us from Taryn Fenske to James Uthmeier.**

25                     **Who is Taryn Fenske?**

1           A       Taryn Fenske -- excuse me -- is the  
2       communications director for the Governor.

3           **Q       Okay. And Mr. Uthmeier is the chief of**  
4       **staff?**

5           A       Uthmeier.

6           **Q       Uthmeier.**

7           A       James Uthmeier is the chief of staff for  
8       the Governor.

9           **Q       Thank you.**

10                   **So here Ms. Fenske is forwarding**  
11       **Mr. Uthmeier an article titled, "Congressional Map**  
12       **Proposals Draw Bipartisan Praise in Florida," which**  
13       **I'll represent seems to summarize the fact that the**  
14       **Florida Senate had recently released draft**  
15       **Congressional plans which senators from both parties**  
16       **had supported.**

17                   **Does that appear to be a fair**  
18       **characterization of this article to you?**

19           A       Can I have a chance to read it?

20           **Q       Sure.**

21           A       (Examining document.)

22                   Okay. I've read it. Apologize. What was  
23       your question?

24           **Q       Just if my summary was a fair**  
25       **characterization?**

1           A     I'm sorry. What was your summary?

2           Q     Yeah. I just said that this seems to  
3     summarize that the Florida Senate had recently  
4     released draft Congressional plans and that senators  
5     from both parties had seemed to support the plans.

6                     Does that seem like a fair  
7     characterization?

8           A     Yes.

9           Q     And yesterday we talked a little bit about  
10    news alerts that go around in the Governor's Office.  
11    Does this appear to be one of the news alerts that  
12    was circulated within your office?

13          A     Yes. This is the format the news alerts  
14    come in.

15          Q     Okay. And does everyone in the office get  
16    the news alerts?

17                   MR. JAZIL: To the extent you're asking  
18                   generally, he can answer that. To the extent  
19                   you're asking for specific pieces of  
20                   legislation, that would be covered by the  
21                   legislative privilege.

22                   MS. FORD: I'm asking generally.

23          A     I believe everyone -- to my knowledge,  
24    everyone in the office gets them.

25

1 BY MS. FORD:

2 Q Okay. Thank you. Why did Ms. Fenske send  
3 Mr. Uthmeier this article?

4 MR. JAZIL: I give you the Marsh  
5 instruction.

6 A I wouldn't be able to respond.

7 BY MS. FORD:

8 Q Had Mr. Uthmeier asked to be kept  
9 up-to-date on the status of the legislature's  
10 redistricting plans?

11 MR. JAZIL: I give you the Marsh  
12 instruction again.

13 A I wouldn't be able to respond.

14 BY MS. FORD:

15 Q Mr. Kelly, just for sake of clarity for  
16 the record, when you say you're not able to respond,  
17 can you just clarify whether you're -- you're not  
18 answering at the advice of counsel or whether you  
19 just -- you don't actually know the answer? It  
20 might be helpful for the record.

21 MR. JAZIL: It's under advice of counsel.  
22 I'm directing him not to answer every time I  
23 say "Marsh instruction" because of Judge  
24 Marsh's order and the legislative privilege.

25 A I'm following the advice of counsel on

1 your last two questions.

2 BY MS. FORD:

3 Q Thank you.

4 Could you please go to page 2 and read the  
5 paragraph about halfway down that starts with, "The  
6 initial Senate proposals" --

7 A Sure.

8 Q -- and just read that paragraph, please.

9 A Sure. "The initial Senate proposals would  
10 accommodate the new Polk County Congressional  
11 District by condensing districts to the east around  
12 Orlando and to the west in the Tampa region. The  
13 changes, however, wouldn't vastly alter two  
14 districts, District 7, held by Democrat  
15 Congresswoman Stephanie Murphy, and District 13,  
16 held by Democrat Congressman Charlie Crist, that  
17 have received the most attention from pundits as  
18 potential targets for the Republican-dominated  
19 legislature to help flip U.S. House seats.

20 Q Did anyone in the Governor's Office  
21 express the view that the Senate's proposals were  
22 too friendly or favorable to Democrats?

23 MR. JAZIL: I give you the Marsh  
24 instruction.

25 A Again, I'm not able to answer questions

1 about internal office conversations, so I'm going to  
2 follow the advice of counsel.

3 BY MS. FORD:

4 **Q Okay. Was anyone in the Governor's Office**  
5 **aware that some Republicans had criticized the**  
6 **legislature's plans as being too friendly or**  
7 **favorable to Democrats?**

8 MR. JAZIL: I give you the Marsh  
9 instruction again.

10 A Again, not able to talk about internal  
11 office conversations, so I'm going to follow the  
12 advice of counsel.

13 BY MS. FORD:

14 **Q All right. Let's move on.**

15 (Exhibit 31 was marked for  
16 identification.)

17 BY MS. FORD:

18 **Q Mr. Kelly, this is Exhibit 31. This is an**  
19 **article from the outlet ProPublica, which was**  
20 **published on October 11, 2022, by reporter Joshua**  
21 **Kaplan.**

22 **And I apologize that the title is not**  
23 **included here. I just could not get it to print.**

24 **But the title was: "How Ron DeSantis blew**  
25 **up Black-held congressional districts and may have**

1 **broken Florida Law."**

2 **Have you read this article before?**

3 A I do remember reading the first couple  
4 paragraphs of it.

5 **Q Okay. Could you please read the very**  
6 **first paragraph out loud?**

7 A Sure. "Florida Governor Ron DeSantis was  
8 incensed. Late last year, the state's Republican  
9 legislature had drawn Congressional maps that  
10 largely kept districts intact, leaving the GOP with  
11 only a modest electoral advantage."

12 **Q Thank you.**

13 **Is it true that the Governor was upset**  
14 **with the redistricting plans that the legislature**  
15 **had drawn?**

16 MR. JAZIL: I'm going to give you the  
17 Marsh instruction.

18 A The Governor, our office, published a  
19 number of memos which made it clear that we had  
20 problems with the maps that the legislature was  
21 looking at and detailed those problems pretty  
22 explicitly.

23 BY MS. FORD:

24 **Q And during this period while the House and**  
25 **Senate were putting out draft plans, I guess I'll**

1 call that maybe September of '21 through January,  
2 did the Governor's team ever communicate to the  
3 legislature that the Governor was not satisfied with  
4 their proposals?

5 A Yes.

6 Q How did the Governor's team do that?

7 A We published a number of pretty explicit  
8 detailed correspondence to that effect. Staff  
9 meetings, yes.

10 Q So besides the sort of legal memos that  
11 were published that became part of the -- the sort  
12 of like record of the House and Senate, I'm asking  
13 were there meetings between the House and Senate  
14 during this time in the Governor's Office to sort of  
15 talk about these issues that the Governor had?

16 A Again, what was the period? September to  
17 January, is that what you said?

18 Q I'm trying to get at, you know, well  
19 before the special session in the fall, in the early  
20 winter, were there meetings between the House and  
21 Senate and the Governor's Office for discussions?

22 A Could you be specific on the months?

23 Q Sure. Let's start with just the fall  
24 through the beginning -- or through the end of the  
25 year, so between, say, September of 2021 and

1       **December 31, 2021.**

2           A       No meetings.

3           Q       **Okay. Were there any meetings with the**  
4       **House and Senate in January or February of 2022?**

5           A       Yes.

6           Q       **Okay. Can you tell me about those**  
7       **meetings?**

8           A       There were meetings. What specifically --  
9       tell you what?

10          Q       **Yeah. What was -- what was the purpose of**  
11       **the meetings?**

12          A       To explain our office's concerns with the  
13       maps.

14          Q       **Okay. And who was -- who attended those**  
15       **meetings?**

16          A       I was in a meeting with Mat Bahl, Michelle  
17       Davila, Mo, James Uthmeier. I think that was it.

18          Q       **Just for clarity of the record, who's Mat**  
19       **Bahl?**

20          A       He's the chief of staff, or was the chief  
21       of staff at the time for the Florida House of  
22       Representatives.

23          Q       **Who is Michelle Davila?**

24          A       Michelle worked in the Speaker's office.  
25       I believe her title was deputy chief of staff, but I

1 may be slightly off about that. She had a role  
2 similar to that.

3 Q So is this a meeting just with the House?

4 A Yes.

5 Q There were no representatives of the  
6 Senate present?

7 A Correct.

8 Q Okay. And when did that meeting occur, to  
9 the best of your knowledge?

10 A First week of January 2022.

11 Q Okay. Who set up that meeting?

12 A I'm not sure.

13 Q I guess what I was asking if you remember  
14 is, did the Governor's Office initiate that meeting  
15 to set it up with the House or did the House reach  
16 out to the Governor's Office?

17 A I'm not sure.

18 Q Okay. And why did the Governor's Office  
19 just meet with the House?

20 MR. JAZIL: I give you the Marsh  
21 instruction, but to the extent you can answer,  
22 answer.

23 A I don't know that there was a -- I don't  
24 know that there was a why except that the House was  
25 not as far along in their process. The Senate --

1 Senate's proposed Congressional plan was just  
2 further along in its committee process than the  
3 House's was. I don't know that there was any other  
4 reason beyond that.

5 BY MS. FORD:

6 **Q Okay. So this January meeting with the**  
7 **House, what was the purpose of this meeting?**

8 A As I stated before, to express our  
9 office's concerns with the maps the legislature was  
10 considering, the Congressional maps.

11 **Q And specifically what concerns were raised**  
12 **in that January meeting with the House?**

13 A Concerns over the legislature's violations  
14 of the 14th Amendment, equal protection in their  
15 maps, other concerns outlined in our memorandums,  
16 but the same points that were outlined in our  
17 various memorandum documents.

18 **Q Was any district other than CD-5 discussed**  
19 **in that meeting?**

20 A Of course, the districts that touched CD-5  
21 by implication. I don't recall there's any other  
22 districts discussed in that meeting.

23 **Q What did the Governor's Office ask the**  
24 **House to do? What was the ask of the committee?**

25 A To look at alternatives to what the House

1 and Senate were considering for the Congressional  
2 map.

3 **Q Okay. And did the Governor's team bring**  
4 **any draft maps for the House to consider at that**  
5 **meeting?**

6 A No.

7 **Q Had it otherwise sent them any draft maps**  
8 **to consider at that meeting?**

9 A No.

10 **Q Did the House make any requests of the**  
11 **Governor's Office during that meeting?**

12 A None that I recall.

13 **Q Okay. So was the meeting just purely**  
14 **educational just to inform the House of the**  
15 **Governor's views on CD-5?**

16 A I don't know if it was limited to CD-5 or  
17 not. I really just don't remember. CD-5 was the  
18 main part of the conversation, but I can't say one  
19 way or another whether it was limited to just that  
20 topic.

21 But, yes. It was, you know, not unlike  
22 any other bill where one legislative chamber or the  
23 Governor or however, if any one side of the  
24 legislative process has a concern about somebody  
25 else's bill, there's probably almost any bill,

1 there's an initial sit-down of just explaining:  
2 Here's our concerns. Here's our problems. Let's  
3 collaborate and work together.

4 **Q And did the Governor's Office bring any**  
5 **sort of presentation or materials to that meeting?**

6 A No.

7 **Q Anything else that you remember occurring**  
8 **at that meeting?**

9 A No.

10 **Q Okay. What was the outcome of that**  
11 **meeting?**

12 A I recall it just being a conversation  
13 starter.

14 **Q How did the House respond to the concerns**  
15 **that the Governor was raising?**

16 A At that meeting or --

17 **Q At that meeting, yes.**

18 A At that meeting? Listened, discussed.  
19 The house staff there, Mat and Michelle, heard us  
20 out, heard our concerns out, talked it through with  
21 us.

22 **Q Did they seem receptive to the Governor's**  
23 **ideas about CD-5?**

24 A They seemed open to the discussion.

25 **Q Did the House agree in that meeting to**

1 **draw new plans that would substantially redraw CD-5?**

2 A No.

3 **Q They did not?**

4 A No.

5 **Q Were there any other meetings that**  
6 **occurred in the rest of January with the**  
7 **legislature?**

8 A Just on -- I mean, just the topic of  
9 redistricting?

10 **Q Yes. I'm sorry. I'm just asking about --**

11 A Okay.

12 **Q And I'm just asking about Congressional**  
13 **redistricting.**

14 A Okay. And I asked because --

15 **Q I am sure.**

16 A -- someone like myself would have been in  
17 20 meetings on education, economic development, a  
18 variety of things, let alone --

19 In January, none come to mind.

20 **Q Okay. And when I say "meetings," I'd also**  
21 **include discussions on that. So if the House and**  
22 **the Governor's Office got on a conference call, I'm**  
23 **also asking about that, not just about physical**  
24 **meetings.**

25 A Sure.

1           **Q     Is your answer still the same? You don't**  
2           **remember any that would have occurred in January?**

3           A     I know there was dialogue back and forth.  
4           You know, I don't remember a specific meeting. I  
5           know that there was continued dialogue.

6           **Q     What was the dialogue?**

7           A     Follow-up dialogue from the meeting.

8           **Q     Who was involved in that dialogue?**

9           A     I don't remember like a specific -- I just  
10          know factually there was continued dialogue. I  
11          don't have a specific -- you're asking about a  
12          meeting. I don't know about a specific, like, point  
13          in conversation.

14          **Q     Well, who was taking the lead for the**  
15          **Governor's Office in this dialogue?**

16          A     I don't know that one person was taking  
17          the lead in the dialogue with the legislature.

18          **Q     Okay. Well, who from the Governor's**  
19          **Office was having continued discussions with the**  
20          **legislature about this issue?**

21          A     Lawyers. Our lawyers, their lawyers were  
22          talking to each other; their respective chiefs of  
23          staff talking to each other. It would have been our  
24          lawyers and respective chiefs.

25          **Q     Okay. When you say there was a continued**

1 **dialogue, was this dialogue limited to CD-5?**

2 A No.

3 **Q Okay. What other issues were raised in**  
4 **this?**

5 A Concerns about the map as a whole, not  
6 just CD-5. CD-5 was certainly what we were pretty  
7 public about being a main concern, but the concerns  
8 throughout the map, the map could be improved, or  
9 maps the legislature was looking at could be  
10 improved in a number of ways.

11 **Q What specific improvements was the**  
12 **Governor's Office talking about with the legislature**  
13 **in January? And let's just include February, too.**

14 A Sure. Sure. Somewhere in that point,  
15 we -- somewhere in that juncture we submitted our  
16 office's first map.

17 **Q Right.**

18 A That map may -- depending on how you want  
19 to look at it -- the micro level detail -- hundreds  
20 of changes throughout the map, changes through  
21 almost every part of the state except for,  
22 substantively, down in the Florida Panhandle, the  
23 most western district of the state, didn't change  
24 that much, if at all.

25 If it did, it was de minimis, but the

1 proposal that we put forward made changes throughout  
2 the entirety of the map. If you want to count that  
3 from the census blocks, you're talking tens of  
4 thousands. But to be reasonable here, we're talking  
5 probably hundreds of changes throughout the map. We  
6 published a map with changes.

7 **Q Did the Governor's Office ever meet with**  
8 **the Senate to discuss any of these issues? I'll**  
9 **say, I know there was a special session that**  
10 **occurred; maybe a week or two before special**  
11 **session. I'm talking about prior to that.**

12 **Did the Governor's Office ever meet with**  
13 **the Senate to discuss these issues?**

14 A Yes.

15 **Q Okay. Who attended that meeting?**

16 **Actually, let me back up. Was this one**  
17 **meeting, or were there several meetings?**

18 A Sure. I know that the legal teams had  
19 multiple meetings and conversations.

20 **Q Okay. Did you ever attend any meeting**  
21 **with the Senate?**

22 A Yes. Yes.

23 **Q When would that have occurred?**

24 A During session. Definitely during  
25 session, February or March.

1           **Q     Okay. And who attended that meeting?**

2           A     I was there. I remember Dan Nordby being  
3 there. I know one of our legal team was there, but  
4 I can't place who.

5           **Q     Okay. Was that -- that was just a meeting**  
6 **with the Senate. There was no one there from the**  
7 **House?**

8           A     Correct.

9           **Q     And what was the purpose of that meeting?**

10          A     We were discussing trying to understand  
11 better some of the methodology for how the Senate  
12 drew its maps.

13          **Q     Yesterday you spoke about how the Senate**  
14 **really relied on roadways and sort of roadway**  
15 **boundaries, interstate, stuff like that.**

16                   **Is that what you mean by that?**

17          A     Yes. That's a great example, yes.

18          **Q     Okay. Was CD-5 discussed in that meeting?**

19          A     Not that I recall. I'm not sure if it was  
20 or wasn't, but not that I recall specifically.

21          **Q     Did the Governor's Office make any**  
22 **requests of the Senate in that meeting?**

23          A     Not that I recall.

24          **Q     And did the Senate make any requests of**  
25 **the Governor's Office in that meeting?**

1           A       Again, not that I recall.

2           Q       **Did the Governor's Office bring any sort**  
3       **of physical materials or presentations to that**  
4       **meeting?**

5           A       Yes.

6           Q       **What materials did the Governor's Office**  
7       **bring?**

8           A       I believe we brought our most recent  
9       published map.

10          Q       **Okay. Which would have either been 79 or**  
11       **94 at the time?**

12          A       One of those two.

13          Q       **Okay. Was Adam Foltz at that meeting?**

14          A       No.

15          Q       **Was Adam Foltz at any of the meetings with**  
16       **the House or Senate?**

17          A       No.

18          Q       **Did he ever join a call with the House or**  
19       **Senate?**

20          A       No.

21          Q       **Actually, I think you interpreted it this**  
22       **way, but for clarity of the record, when I say**  
23       **"House," I mean House members, House staff, House**  
24       **attorneys.**

25          A       I've interpreted it that way.

1           **Q     Great.**

2                   **Were any elected officials -- let me**  
3   **clarify the question. House members and Senators**  
4   **are elected officials.**

5                   **Were there any other elected officials**  
6   **that were at any of the meetings that the Governor's**  
7   **Office had with the House and Senate?**

8           A     Other than those who were Representatives  
9   and Senators?

10          **Q     Yes.**

11          A     Okay. No other elected officials.

12          **Q     Okay. And I think you said before there**  
13   **were a couple Senate meetings that occurred before**  
14   **the special session?**

15          A     There were a couple meetings with the  
16   Senate before the special session, yes.

17          **Q     Okay. And to be clear, I am still talking**  
18   **prior to that meeting that I believe you had with**  
19   **the Senate, in which you discussed what would go on**  
20   **to be the final map.**

21          A     Oh, okay.

22          **Q     Which we'll get to in a little bit.**

23          A     There was one meeting that I was in, the  
24   one I just referenced.

25          **Q     You had no other meetings with the Senate?**

1           A     Again, just to establish time frame, you  
2     mean before the special session was the question?  
3     So before the end of the regular session?

4           **Q     Yeah, before the end of the regular**  
5     **session.**

6           A     Sure, sure. One meeting that I was  
7     personally in with the Senate.

8           **Q     Okay. During this time frame, was the**  
9     **Governor's Office continuing to ask the Senate to**  
10    **draw a revised version of CD-5?**

11          A     Yes. And pretty publicly we submitted  
12    two alternative maps and asked both chambers of the  
13    legislature to consider numerous changes throughout  
14    the maps.

15          **Q     What was the Senate's response?**

16          A     The Senate provided that feedback  
17    regarding their line drawing process. The Senate  
18    agreed with the feedback that the House had given  
19    separately regarding the use of census-designated  
20    places.

21                   I posed that question, is that something  
22    they agreed with? They said, yes, that they did not  
23    factor in unincorporated census-designated places,  
24    either. Those examples come to mind.

25          **Q     Before the end of the special session, did**

1     **the House and Senate express to the Governor's**  
2     **Office why they would not redraw CD-5 in the way**  
3     **that the Governor's Office preferred?**

4           A     You said before the end of the special  
5     session?

6           **Q     Yeah.**

7           A     Before the end --

8           **Q     I'm sorry. Before the end of regular**  
9     **session.**

10          A     Did they express why they would not draw  
11     CD-5 in the way that our office had proposed?

12          **Q     Yes.**

13          A     They gave pretty specific testimony in  
14     committee and on the floor, those were probably the  
15     clearest statements that the House and Senate made.  
16     Their floor testimony was way more direct than  
17     anything -- anything ever said to us in a meeting.

18          **Q     Did they -- did the House or Senate**  
19     **express to you -- the Governor's Office is what I**  
20     **mean -- in meetings that they thought that the**  
21     **Governor's plan violated the Fair District**  
22     **Amendments?**

23          A     They never said that so directly.

24          **Q     What did they say if they didn't say it**  
25     **directly?**

1           A       They said they would listen to us, they'd  
2   hear our concerns, they -- sort of the usual thing  
3   the House and Senate do in the legislative process  
4   where they posture and say, "Well, we're this far in  
5   the process," and I don't know if, you know, they --  
6   they kind of do that, frankly, on a lot of bills.

7                   At the end of the day, the maps are  
8   available. They do that in a lot of bills, "Well,  
9   we're this far in the process, I don't know," which  
10   is not really direct or helpful feedback, it's just  
11   posturing because of the process.

12                   A lot of process-oriented comments. Their  
13   comments on the -- on the actual floor and committee  
14   process were very -- way more direct.

15           **Q       I remember at one point in this process**  
16   **during the special session Governor DeSantis tweeted**  
17   **out that he -- that the bill retaining CD-5 was sort**  
18   **of DOA, dead on arrival. I don't have that exhibit.**  
19   **I just remember it happening.**

20                   **Is that something the Governor's Office**  
21   **expressed to the House and Senate in meetings, that**  
22   **he would veto a bill that retained sort of an**  
23   **equivalent Benchmark CD-5 District?**

24                   MR. JAZIL: I'm sorry, are we talking  
25                   about meetings before the regular session or

1 during the regular session?

2 MS. FORD: I'm talking about meetings up  
3 through the end of the regular session, or  
4 discussions.

5 A I know that message was conveyed. I don't  
6 know if it was in a face-to-face meeting. I know  
7 that message was conveyed, though.

8 BY MS. FORD:

9 **Q It was conveyed outside the tweet?**

10 A Yes.

11 **Q Okay. And what was the House and Senate's**  
12 **response?**

13 A Regarding that conveyance that such a plan  
14 would get vetoed?

15 **Q Yes.**

16 A I don't know that the Senate had a  
17 particular response. I remember the House being  
18 upset.

19 **Q What did the House -- can you be more**  
20 **specific about the House's response?**

21 A I don't remember a specific comment. I  
22 just -- I remember the House being upset. I don't  
23 recall a specific comment.

24 **Q Okay. Let me see if I have any more**  
25 **questions on this.**

1                   Were there any more meetings or  
2   discussions that the Governor's Office had with the  
3   legislature between, let's just say the start of the  
4   redistricting cycle and the end of the regular  
5   session, related to Congressional redistricting that  
6   we haven't talked about?

7           A     No.

8           Q     Okay. Let's go back to this ProPublica  
9   article that we just had.

10          A     Sure.

11          Q     On page 2 -- I'm actually going to be --  
12   I'll just -- on page 2, the article reports that on  
13   January 5, 2022, the Governor's team participated in  
14   a Florida redistricting kickoff call with some  
15   out-of-state folks.

16                   Feel free to read through that while I --

17          A     Where is it? I'm sorry.

18          Q     Yeah, I'll grab it.

19                   Do you see the -- maybe like the third,  
20   fourth paragraph down, "A meeting invite obtained by  
21   ProPublica"?

22          A     I see it.

23          Q     Yeah. If you want to just, like, read  
24   that paragraph.

25          A     Okay.

1 (Exhibit 32 was marked for  
2 identification.)

3 BY MS. FORD:

4 Q So this is just the actual public record  
5 that ProPublica's referencing. So this is --  
6 Exhibit 32 is an e-mail titled "Florida  
7 Redistricting Kickoff Call."

8 It looks like it was originally from  
9 Mr. Jazil and then ultimately sent to chief of staff  
10 Mr. Uthmeier and then forwarded to Chris Spencer;  
11 yourself, Alex Kelly; Jason Torchinsky; and  
12 tom@bryangeodemo.com, which I believe to be Thomas  
13 Bryan.

14 Does that sound correct to you?

15 A Yes.

16 Q Okay. Can you please tell me what this  
17 meeting was?

18 MR. JAZIL: I'm going to give you the  
19 Marsh instruction.

20 A It's only internal conversations. I  
21 wouldn't have a way to answer that, so I'm going to  
22 follow the advice of counsel.

23 MS. FORD: Mo, my understanding of the  
24 Marsh order, he says that Mr. Kelly can be  
25 asked about -- he can be questioned about

1 anything that's a matter of public record.

2 And at that point, we have an article  
3 describing the meeting, we have a public record  
4 showing that the meeting took place, so I think  
5 it's fair game to ask questions about this  
6 meeting.

7 MR. JAZIL: I think the fact that the  
8 meeting took place is a matter public record,  
9 but I think discussions about what happened at  
10 the meeting, what was discussed internally  
11 between lawyers at the Governor's Office,  
12 lawyers working for the Governor's Office and  
13 Governor's staff, is protected by the  
14 legislative privilege.

15 It's also protected by the attorney-client  
16 privilege, but the Marsh instruction is the  
17 legislative privilege-based instruction, so  
18 I'll still direct him not to answer.

19 BY MS. FORD:

20 **Q Mr. Kelly, at this point in time, did**  
21 **Thomas Bryan have a consulting contract with the**  
22 **Governor's Office?**

23 A I don't know when his contract was signed.

24 **Q Do you have -- can you provide an estimate**  
25 **for us of when he started working for the Governor's**

1 **Office?**

2 A At some point in January.

3 Q **Okay. Can you say it was prior to this**  
4 **meeting that he was ...**

5 A The answer I've given is that I don't  
6 know.

7 Q **Okay. I would like to clarify who some of**  
8 **the individuals are on this e-mail. So Mr. Jazil is**  
9 **right next to you. He's outside counsel to the**  
10 **Governor, correct?**

11 A Yes.

12 Q **And Mr. Torchinsky is also outside counsel**  
13 **to the Governor's Office?**

14 A Yes.

15 Q **Who's Chris Spencer?**

16 A Chris is the director of the Governor's  
17 Office of policy and budget.

18 Q **And did he play a role in the**  
19 **redistricting process?**

20 MR. JAZIL: I'm going to give you the  
21 Marsh instruction.

22 A I follow the advice of counsel. I'd have  
23 to talk about internal conversations to answer the  
24 question.

25

1 BY MS. FORD:

2 Q Was Mr. Foltz at this meeting?

3 A Clearly he wasn't on the invite. I don't  
4 recall if he was on the call, but clearly he wasn't  
5 on the invite.

6 Q When was Mr. Foltz engaged by your office  
7 to be a consultant or a contract map-drawer?

8 A January.

9 Q Was it prior to or after this meeting?

10 A I'm not sure.

11 Q Can you explain to me -- the title of this  
12 is "Kickoff Call." What exactly was being kicked  
13 off?

14 MR. JAZIL: I'm going to give you the  
15 Marsh instruction.

16 A I could only answer that by talking about  
17 internal conversations, so I'm going to follow the  
18 advice of counsel.

19 BY MS. FORD:

20 Q Did any individual -- were there any  
21 individuals ultimately on this call who were not  
22 part of the Governor's Office or one of the  
23 Governor's outside legal counsel?

24 A No.

25 Q Do you remember anyone attending this call

1 **who's not on this invite list?**

2 A I don't recall any other participants on  
3 the call.

4 Q All right. So you said that Mr. Foltz and  
5 Mr. Bryan you believe were engaged in January?

6 A Yes.

7 Q But you just don't remember exactly when?

8 A Correct.

9 Q Okay. Other than Mr. Bryan and Mr. Foltz,  
10 did the Governor's Office engage anyone else to work  
11 as a consultant on redistricting?

12 MR. JAZIL: I'm going to give you the  
13 Marsh instruction. To the extent that the  
14 information's public, you can answer.

15 A I believe Mr. Torchinsky had a role as  
16 consultant or counsel somehow, the legal team here.

17 BY MS. FORD:

18 Q What was Mr. Torchinsky's role?

19 A What was his specific role? I don't know.

20 Q What was his general role?

21 A I think the same as any of our counsel.

22 Q Did he -- actually, let me go back before  
23 we get too far deep into the lawyers.

24 I believe I asked you this yesterday, but  
25 I apologize, I don't remember your answer. Do you

1     **know who Eric Wienckowski is?**

2           A     No.

3           **Q     Okay.**

4                   MS. FORD: Can we pull up this one?

5                   (Exhibit 33 was marked for  
6                   identification.)

7           BY MS. FORD:

8           **Q     Exhibit 33 is an e-mail chain that was  
9     produced to us by your office from January 18, 2022.**

10          A     Okay.

11          **Q     Obviously some of this is redacted here.**

12          A     Sure.

13          **Q     The chain starts with Adam Foltz, then it  
14     goes to Eric Wienckowski -- I'm sorry if I'm  
15     pronouncing that incorrectly -- and eventually  
16     Mr. Wienckowski is on a chain with Mr. Foltz,  
17     Mr. Torchinsky, and Mr. Bryan. And the subject is  
18     "New Florida Request," and there's some sort of plan  
19     analysis occurring here.**

20                   **Does this ring any bells for you? Do you  
21     still have no memory of Mr. Wienckowski?**

22          A     I don't remember Mr. Wienckowski.

23          **Q     Okay. Do you know if Mr. Foltz had any  
24     subcontractors working for him?**

25          A     No.

1 Q Sorry, that was a bad question.

2 Just for clarity of the record, did  
3 Mr. Foltz have any subcontractors working for him?

4 A I don't know.

5 Q You don't know. Okay.

6 And did Mr. Bryan have any subcontractors  
7 working for him?

8 A I don't know.

9 Q Okay. I assume Adam Foltz would know the  
10 answer to that question?

11 A I would assume.

12 Q And that Mr. Bryan would know the answer  
13 to that question?

14 A I would hope they would both know if they  
15 had subcontractors.

16 Q Okay. So I assume you're not able to  
17 provide information on what Mr. Wienckowski, what  
18 his role was in this process?

19 A Correct.

20 Q You can set this aside.

21 At the time of this January 5 meeting, had  
22 the Governor's Office already drawn any  
23 redistricting plans?

24 MR. JAZIL: I give you the Marsh  
25 instruction.

1           A       No.

2       BY MS. FORD:

3           **Q       When did the Governor's Office start**  
4       **drawing redistricting plans?**

5           MR. JAZIL: I give you the Marsh  
6       instruction again, but to the extent you  
7       discussed it.

8           A       Sure. Sure. Sure.

9           Shortly before the first plan was  
10      submitted by our office. I don't -- you might have  
11      the exact date in front of you.

12      BY MS. FORD:

13           **Q       I don't.**

14           A       I don't have it. But it's sometime before  
15      that.

16           **Q       Okay. At that point in time, was Adam**  
17      **Foltz the only person drawing plans for the**  
18      **Governor's Office?**

19           A       Yes.

20           **Q       So we talked about how the Governor had**  
21      **some outside counsel who were assisting on**  
22      **redistricting. We talked about Mr. Jazil,**  
23      **Mr. Torchinsky.**

24                   **Were there any other outside counsel that**  
25      **the Governor had engaged to work on redistricting?**

1           A     I think you asked the exact same question  
2 about three times now. We kind of talked through  
3 each person's name. So we can go back to the  
4 record. We really talked about every one of them  
5 already.

6           **Q     I'm just asking about outside counsel. I**  
7 **assume it's not a very big group. Was there anyone**  
8 **other than Mr. Jazil and Mr. Torchinsky that you**  
9 **remember assisting the Governor's Office?**

10           MR. JAZIL: I give you the Marsh  
11 instruction. To the extent that the names of  
12 outside lawyers are public -- in the public  
13 record --

14           A     Asked and answered. Same exact question  
15 earlier.

16 BY MS. FORD:

17           **Q     Okay. Can you describe Mr. Torchinsky's**  
18 **role in assisting the Governor's Office on**  
19 **redistricting?**

20           MR. JAZIL: I'm going to give you the  
21 Marsh instruction. He's also answered the  
22 question. He's a lawyer.

23           But to the extent you can answer further  
24 based on those strictures of the Marsh  
25 instruction, you can.

1           A       And you said assisting the office in?

2       BY MS. FORD:

3           **Q       In -- with Congressional redistricting.**

4           A       He was part of the counsel for the office.

5           **Q       Did Mr. Torchinsky review draft plans that**  
6       **the Governor's Office had drawn up?**

7                   MR. JAZIL: I'm going to give you the  
8       Marsh instruction. To the extent that you  
9       discussed this publicly, you can, or discussed  
10      it with the legislature or otherwise, you can  
11      share the information.

12          A       I remember a couple e-mails where he was  
13      on them, a draft plan. So I remember him -- I  
14      remember him being on the e-mails a couple times.  
15      So I'm assuming that he was on those e-mails. He  
16      would have reviewed the plans.

17                  MR. JAZIL: And to be clear, he was on the  
18      e-mails. They're a part of the public records.  
19      We're not waiving privilege or anything.

20                  THE WITNESS: Yes.

21       BY MS. FORD:

22           **Q       Did Mr. Torchinsky ever himself draw any**  
23       **part of redistricting plans for the Governor's**  
24       **Office?**

25          A       No.

1           **Q     Did Mr. Torchinsky make any**  
2           **recommendations to the Governor's Office as to what**  
3           **plans should be put forward?**

4                   MR. JAZIL: I'm going to make the Marsh  
5                   instruction, also attorney-client privilege; to  
6                   the extent that Mr. Torchinsky was talking  
7                   about redistricting or advice related to  
8                   redistricting, that would be protected, so  
9                   Marsh and attorney-client.

10                   So I am going to direct you not to answer.

11           A     I'm going to follow my attorney's  
12           guidance.

13           BY MS. FORD:

14           **Q     For clarity of the question, I'm not**  
15           **asking you specifically what Mr. Torchinsky's**  
16           **recommendation was, the substantive content of it.**  
17           **I'm just asking if Mr. Torchinsky made a**  
18           **recommendation to the Governor's Office of what plan**  
19           **should be put forward?**

20                   MR. JAZIL: That part is covered by the  
21                   Marsh instruction, so I'm going to ask you not  
22                   to answer.

23           A     Again, I'm going to follow my counsel's  
24           guidance.

25

1 BY MS. FORD:

2 Q In the public article that we just set  
3 aside, you can go back to it if you like, but I can  
4 also just --

5 A Sure.

6 Q -- summarize it for you.

7 It mentions that at the same time that  
8 Mr. Torchinsky was advising the Governor's Office on  
9 redistricting plans, he was also serving as general  
10 counsel and senior adviser to the National  
11 Republican Redistricting Trust.

12 Was the Governor's office aware that  
13 Mr. Torchinsky was simultaneously advising the  
14 National Republican Redistricting Trust at the same  
15 time he was advising the Governor's Office in  
16 redistricting?

17 MR. JAZIL: I'm going to give you the  
18 Marsh instruction.

19 To the extent you can answer, answer.

20 A I am going to follow the guidance of  
21 counsel.

22 BY MS. FORD:

23 Q Did Mr. Torchinsky disclose this to the  
24 Governor's Office?

25 MR. JAZIL: Object to form. And I'm going

1 to give you the Marsh instruction.

2 A I am going to follow the guidance of  
3 counsel.

4 BY MS. FORD:

5 **Q Can you describe Tom Bryan's role in**  
6 **assisting the Governor's Officer on redistricting?**

7 MR. JAZIL: I'm going to give you the  
8 Marsh instruction.

9 But to the extent that you touched on some  
10 of this yesterday, you can answer the question  
11 again.

12 A Yeah. I recall Tom would provide  
13 statistics on the CVAP, the citizens voting age  
14 population data, which was not produced by the  
15 legislature's application.

16 BY MS. FORD:

17 **Q And was Mr. Bryan's contract -- or in**  
18 **his -- was he -- do you consider him a consultant?**  
19 **What word would you like me to use here?**

20 A Consultant is fine.

21 **Q Consultant?**

22 A Uh-huh.

23 **Q Was his contract specifically with the**  
24 **Governor's Office?**

25 A I believe the contract was with the

1 Secretary of State's Office on behalf of the  
2 Governor's Office.

3 Q Okay. I guess what I am getting at, was  
4 there a contract with --

5 A I should say, I don't know if he was a  
6 subcontractor of someone else.

7 Q That was what I was about to ask you.

8 A Yeah. That, I don't know.

9 Q Did Mr. Bryan review draft plans that the  
10 Governor's Office had drawn up?

11 A Yes. He provided data based on CVAP data  
12 based on reviewing them.

13 Q But he had the Shapefiles to run the  
14 analysis, I assume?

15 A Yes.

16 Q Did Mr. Bryan himself ever draw any part  
17 of redistricting plans for the Governor's Office?

18 A No.

19 Q And did Mr. Bryan make any recommendations  
20 to the Governor's Office as to what plans should be  
21 put forward?

22 A None.

23 Q And other than sort of gathering CVAP data  
24 and providing analysis to you all, did he serve in  
25 any other role related to redistricting?

1 A None I'm aware of, no.

2 **Q What role did the Governor himself play in**  
3 **the redistricting process?**

4 MR. JAZIL: I give you the Marsh  
5 instruction, but to the extent the Governor's  
6 perspective is clear, you can answer that.

7 A The Governor, through our office and  
8 himself personally, very publicly stated his  
9 thoughts on the redistricting process.

10 BY MS. FORD:

11 **Q Did the Governor review draft plans that**  
12 **were being drawn up by you and Mr. Foltz?**

13 MR. JAZIL: I give you the Marsh  
14 instruction. I direct you not to answer unless  
15 you've already discussed this with third  
16 parties.

17 A Well, he obviously signed the Enacted  
18 Plan, so he reviewed the Enacted Plan.

19 BY MS. FORD:

20 **Q Did he review any other draft that you and**  
21 **Mr. Foltz had drawn up?**

22 MR. JAZIL: Same instruction.

23 A I have to get into internal office  
24 conversations to answer that, so I'm going to follow  
25 the guidance of counsel.

1 MS. FORD: Mr. Kelly, would you like to  
2 take a break, or would you like to jump into  
3 the next set of questions?

4 THE WITNESS: Another coffee would be  
5 great.

6 (A recess took place from 10:10 a.m. to  
7 10:20 a.m.)

8 BY MS. FORD:

9 Q Okay, Mr. Kelly. So I believe you  
10 testified just a few minutes ago that you believe  
11 that Mr. Foltz was engaged as a consultant in  
12 January?

13 A Yes.

14 Q Whose idea was it to hire Mr. Foltz?

15 MR. JAZIL: I give you the Marsh  
16 instruction.

17 A The only way I could answer that would be  
18 to talk about internal conversations. I'm going to  
19 follow the guidance of counsel.

20 BY MS. FORD:

21 Q To your knowledge, was there like an  
22 official engagement letter with Mr. Foltz?

23 MR. JAZIL: I'm going to give you the  
24 Marsh instruction, too.

25 A I don't know.

1 BY MS. FORD:

2 Q Okay. Can you describe at a high level  
3 what he was engaged to do?

4 MR. JAZIL: To the extent you already  
5 talked about it to the legislature, feel free  
6 to answer.

7 A Map drawing.

8 BY MS. FORD:

9 Q What instructions was Mr. Foltz given in  
10 regards to map drawing?

11 MR. JAZIL: I'm going to give you the  
12 Marsh instruction, but I do believe you  
13 discussed some of this with the legislature,  
14 so --

15 A Sure. Yeah.

16 Adam was given instruction to not consider  
17 any partisan data in his map drawing, to use  
18 traditional redistricting criteria, draw compact  
19 districts that followed political geographical  
20 boundary lines, cities, counties.

21 BY MS. FORD:

22 Q Was he given any other instructions?

23 MR. JAZIL: I'm going to give you the  
24 Marsh instruction, but to the extent that you  
25 discussed this with the legislature, you can

1 answer.

2 A No. It tracks my presentations to the  
3 House and the Senate.

4 BY MS. FORD:

5 **Q Was Mr. Foltz asked to start with any**  
6 **particular plan as his baseline plan?**

7 MR. JAZIL: I'm going to give you the  
8 Marsh instruction, but to the extent you talked  
9 about it, you can answer.

10 A I know that at some point publicly -- at  
11 some point publicly when we -- when our office  
12 submitted its first map, I know there was some -- I  
13 know we had some statement to the effect we worked  
14 of -- or Adam worked off of the maps that the  
15 legislature was considering at the time.

16 BY MS. FORD:

17 **Q And do you remember what map that would**  
18 **have been?**

19 A Maps, plural.

20 **Q Several maps?**

21 A Yeah, the legislature looked at several  
22 different maps.

23 **Q Did the Governor's Office consider hiring**  
24 **anyone else instead of Mr. Foltz to be the contract**  
25 **map-drawer?**

1                   MR. JAZIL: I give you the Marsh  
2                   instruction.

3                   A        I'd have to talk about internal  
4                   conversations. I'll follow the guidance of counsel.  
5                   BY MS. FORD:

6                   **Q        Okay. Separately from that, did the**  
7                   **Governor's Office, in fact, reach out to anyone**  
8                   **other than Mr. Foltz to see if they would be**  
9                   **interested in serving as a contract map-drawer for**  
10                   **the Governor's Office?**

11                   MR. JAZIL: I'm going to give you the  
12                   Marsh instruction again.

13                   A        I'm going to --

14                   MS. FORD: Mr. Jazil, I've asked if the  
15                   Governor's Office had contact with a third  
16                   party, who obviously didn't end up joining the  
17                   Governor's Office, so I don't think that could  
18                   fall under the Marsh order, it's contact with a  
19                   third party.

20                   MR. JAZIL: To the extent you know, you  
21                   can answer.

22                   A        I don't know.

23                   BY MS. FORD:

24                   **Q        So I think we've established through all**  
25                   **of yesterday's testimony that you knew how to draw**

1 **redistricting plans yourself, right?**

2 A Yes.

3 **Q Why didn't you just draw the plans from**  
4 **the beginning?**

5 MR. JAZIL: I'm going to give you the  
6 Marsh instruction.

7 A I talked publicly in my presentations  
8 about -- that my role early was just to provide some  
9 guidance and consultation for the process because I  
10 was familiar with the process.

11 BY MS. FORD:

12 **Q Sure. But why didn't you -- are you**  
13 **declining to answer the rest of that question based**  
14 **on the advice of counsel?**

15 A I actually just completely answered your  
16 question.

17 **Q Okay. Well, I guess my question was, and**  
18 **maybe I didn't ask it well, is you obviously knew**  
19 **how to draw maps, and so why did the Governor's**  
20 **Office outsource this to a contractor rather than**  
21 **use someone who was in-house and obviously knew how**  
22 **to do it?**

23 MR. JAZIL: I'm going to give you the same  
24 Marsh instruction.

25 A So you're asking the question -- you're

1 sort of asking the negative -- flipping the  
2 question, you're saying why did the Governor's  
3 Office choose to contract with someone? Or  
4 outsource -- I think "outsource" was the word you  
5 used?

6 BY MS. FORD:

7 **Q Yeah. Rather than have you do it since**  
8 **you knew how to do it?**

9 MR. JAZIL: That Marsh instruction is  
10 still there.

11 A I'd have to get into internal office  
12 conversations, so I'm going to follow the guidance  
13 of counsel.

14 BY MS. FORD:

15 **Q Okay. Mr. Kelly, you don't need to look**  
16 **at Mr. Jazil after every single question.**

17 A I'll look at him if I want to.

18 **Q Okay.**

19 A Thank you.

20 **Q Mr. Kelly, in general -- like I have been**  
21 **letting it go a little bit, but there's like a**  
22 **little bit of coaching going -- involved in you**  
23 **looking at him every single question to get his,**  
24 **like, general feedback to how he feels about the**  
25 **question. You're giving him time to --**

1           MR. JAZIL: Counsel, I disagree with the  
2           characterization that there's coaching going  
3           on.

4           I think he's looking at me to see if I'm  
5           going to object based on the Marsh instruction,  
6           which I think is fair because he's giving me  
7           time to listen to the question and object. So  
8           I just disagree that there's coaching going on.

9           There are no -- just so the record's  
10          clear, there is no hand signals, there's no  
11          verbal ticks, there's no hand gestures --

12          MS. FORD: And I'm not suggesting that  
13          there is.

14   BY MS. FORD:

15          **Q     I'm just suggesting every time you just --**  
16          **you look directly to Mr. Jazil to get his feedback**  
17          **about how he feels about the question, so I'm**  
18          **just -- and I realize there's a lot of privileged**  
19          **material here, but I'm just saying if Mr. Jazil is**  
20          **not objecting, you need to answer the question. If**  
21          **he's not objecting on the basis of privilege, you**  
22          **need to answer the question.**

23          A     I well understand that. I'll look at him  
24          if I want to.

25          **Q     Okay. At the time that Mr. Foltz was**

1 hired, was the Governor's Office aware that  
2 Mr. Foltz had previously drawn redistricting plans  
3 for the Wisconsin legislature in the 2010 cycle?

4 MR. JAZIL: I'll give you the Marsh  
5 instruction again.

6 THE WITNESS: Yes.

7 A I'm sorry, what cycle did you say?

8 BY MS. FORD:

9 Q That he had drawn redistricting plans for  
10 the Wisconsin legislature in the 2010 cycle?

11 A We're aware that he had drawn plans for  
12 the Wisconsin legislature. I don't remember the  
13 particular cycle.

14 Q And when did the Governor's Office become  
15 aware of this? Let me rephrase my question. Was  
16 the Governor's Office aware of this at the time that  
17 they hired Mr. Foltz?

18 A Yes.

19 Q Were you or anyone at the Governor's  
20 Office aware that the plans that Mr. Foltz drew were  
21 found by a federal court to be one of the most  
22 aggressive partisan gerrymanders in the country?

23 MR. JAZIL: I'm going to object to form,  
24 and I'll give you the Marsh instruction.

25 A I'm going to follow the guidance of

1 counsel here. I'd have to talk about the internal  
2 office conversations.

3 BY MS. FORD:

4 Q Well, I'll rephrase my question.

5 Were you aware -- I'm not asking about  
6 conversations, but were you aware while you were  
7 working with Mr. Foltz that a federal court had  
8 found one of his plans to be an aggressive partisan  
9 gerrymander?

10 A No.

11 Q Were you aware that a federal court had  
12 found that Mr. Foltz regularly evaluated his draft  
13 plans on the basis of how likely they would be to  
14 elect Republicans when he was working in Wisconsin?

15 A No.

16 Q Was anyone at the Governor's Office aware  
17 of that, to your knowledge?

18 A I don't know.

19 Q Were you or anyone in the Governor's  
20 Office aware that a federal court had found that  
21 Mr. Foltz's map in Wisconsin improperly diluted the  
22 votes of minority voters?

23 MR. JAZIL: Let me give you the Marsh  
24 instruction. I'll go back to the objection  
25 that I made at the beginning of this deposition

1 on the corporate rep nature.

2 But to the extent you can answer, you can  
3 answer.

4 A I was not aware.

5 BY MS. FORD:

6 **Q Did Mr. Foltz's history in Wisconsin give**  
7 **you pause before hiring him in light of Florida's**  
8 **fair redistrict amendments?**

9 MR. JAZIL: I'll give you the Marsh  
10 instruction.

11 To the extent you can answer, you can  
12 answer.

13 A I just said I wasn't aware of these -- of  
14 the specific details about his history in Wisconsin  
15 that you mentioned.

16 BY MS. FORD:

17 **Q And when you were working with Mr. Foltz,**  
18 **were you aware that he had drawn redistricting plans**  
19 **for Texas in the 2020 cycle?**

20 A I was aware that he had drawn plans for  
21 Texas. The specific cycle -- I testified that he  
22 was -- that I was aware that he was actually drawing  
23 plans for Texas at the time I was testifying. So I  
24 guess that probably would be considered the '20 to  
25 '22 cycle. I'm not sure how they refer to it in

1 Texas.

2 (Exhibit 34 was marked for  
3 identification.)

4 BY MS. FORD:

5 **Q Mr. Kelly, this is Exhibit 34. It is a**  
6 **printout from the -- I think this is the Princeton**  
7 **Gerrymandering Project which gave Texas's final**  
8 **Congressional plan a partisan grade of F.**

9 **And my question is simply whether you or**  
10 **anyone at the Governor's Office was aware that**  
11 **Mr. Foltz's Congressional plan had received a grade**  
12 **of F for partisan fairness by this institution?**

13 MR. JAZIL: I'm going to give you the  
14 Marsh instruction.

15 But you can answer if you can.

16 A Did he draw this plan?

17 BY MS. FORD:

18 **Q To my knowledge, he did.**

19 A I know literally nothing about the details  
20 of the Texas redistricting plan whatsoever.

21 **Q Okay. So you were not aware that Texas'**  
22 **Congressional plans got this sort of feedback?**

23 A I just literally said I was aware of no  
24 details about the Texas redistricting plan. I  
25 worked in Florida, don't know anything about their

1 redistricting plan.

2 Q Okay. Did the Governor's Office receive  
3 any feedback from the legislature or anyone outside  
4 the Governor's Office that hiring Mr. Foltz was a  
5 bad idea?

6 A From the legislature or anyone outside the  
7 Governor's Office?

8 Q I presume Mr. Jazil is going to object on  
9 the basis of privilege if I ask if anyone in the  
10 Governor's Office opposed the idea of hiring Adam  
11 Foltz. So I'm asking you -- trying to better my  
12 question to avoid the privilege objection.

13 Did the Governor's Office receive any  
14 feedback from the legislature or any third party,  
15 for that matter, that hiring Mr. Foltz was a bad  
16 idea?

17 A Not that I am aware of.

18 Q Did the Governor's Office receive any  
19 feedback at all from the legislature, any third  
20 party, about the Governor's Office's decision  
21 working with Mr. Foltz?

22 A Not that I'm aware of.

23 Q Had you met Mr. Foltz before he came into  
24 this role?

25 A No.

1 Q This is the first time you worked with  
2 him?

3 A Yes.

4 Q Had anyone on the Governor's team met or  
5 worked with Mr. Foltz before he came on as a  
6 consultant in Florida?

7 A I don't know.

8 Q So you said before that Mr. Foltz was  
9 engaged to do mapmaking, right?

10 A Yes.

11 Q Did he do anything else?

12 A No.

13 Q Okay. Let's go back to Exhibit 31 which  
14 was the ProPublica article, and go to page 8 which,  
15 I apologize, is not marked.

16 A Is it the page that begins at the top with  
17 the ^^^[indiscernible].

18 Q Yeah. I think that's it. Just give me  
19 one second.

20 Below this chart here in the fifth  
21 paragraph, "A week after the kick-off meeting," do  
22 you see that sentence?

23 A Sure.

24 Q Okay. I'll just read it for the record.  
25 "A week after the kick-off meeting, Torchinsky

1     **scheduled a Zoom call between Kelly, Bryan, and a**  
2     **second consultant, Adam Foltz.**

3             **Did that meeting, in fact, take place?**

4             A     So the second week of January, that sounds  
5     right.

6             **Q     Was that the first meeting that the**  
7     **Governor's team had with Mr. Foltz?**

8             A     I'm not sure.

9             **Q     What was the purpose of that meeting?**

10            MR. JAZIL: I'm going to give you the  
11     Marsh instruction, but you can answer to the  
12     extent --

13            A     Purely internal conversations. I'm going  
14     to follow the guidance of counsel.

15     BY MS. FORD:

16            **Q     Okay. And did anyone else attend that**  
17     **meeting other than who is listed here:**

18     **Mr. Torchinsky, yourself, Mr. Bryan, and Mr. Foltz?**

19            A     If it's the meeting I am thinking of, I  
20     believe Mo was part of that meeting as well.

21            **Q     Anyone outside the Governor's Office?**

22            A     No.

23            **Q     Did you ever have any meetings with**  
24     **Mr. Foltz where there was someone outside of the**  
25     **Governor's Office present?**

1           A       No.

2           Q       So you said in the beginning of the  
3 process only Mr. Foltz was drawing redistricting  
4 plans, and I believe you told the legislature at the  
5 special session, at least, that some point you began  
6 working with Mr. Foltz; and by the time of plan, at  
7 least 94, you were working with him.

8                   How did you work with Mr. Foltz?

9           MR. JAZIL: I am going to give you the  
10 Marsh instruction. To the extent you can  
11 answer, you can.

12          A       I talked in the meetings about  
13 collaborating with Adam on that second plan that the  
14 Governor's Office submitted.

15 BY MS. FORD:

16          Q       My question is just, like, what does the  
17 word "collaborate" mean? Did Adam draw Plan 94, and  
18 you sort of provided feedback? Did you primarily  
19 draw 94, and he provided feedback? What was the  
20 process like?

21          A       We were both map-drawers for Plan 94.

22          Q       Okay. And when the Governor's office  
23 received draft plans from Mr. Foltz, did they  
24 typically come with analysis or data?

25                 MR. JAZIL: I am going to give you the

1 Marsh instruction, but you can answer to the  
2 extent that --

3 A Sure. Sure.

4 Typically, when we received -- our office  
5 received a plan from Adam, there was often data and  
6 the visual map files themselves sent with the plan.

7 BY MS. FORD:

8 Q Okay. And did you typically review the  
9 analysis and the data that would be sent along with  
10 the plans?

11 A Yes.

12 (Exhibit 35 was marked for  
13 identification.)

14 BY MS. FORD:

15 Q Mr. Kelly, this is Exhibit 35. It is an  
16 e-mail that was produced by the Governor's Office in  
17 this litigation. It's an e-mail chain including  
18 Mr. Foltz, Mr. Jazil, and other members of the  
19 Governor's team that we discussed yesterday. It's  
20 dated January 14, 2022.

21 If you scroll to the second page, you'll  
22 see that Mr. Foltz appears to be sending draft maps  
23 to Mr. Jazil who then passes them along to the  
24 Governor's Office.

25 Was Mr. Foltz instructed to send all his

1       **drafts through outside counsel?**

2                   MR. JAZIL: I'm going to direct you not to  
3       answer that based on the Marsh instruction.

4           A       I'd have to get into internal office  
5       conversations to answer the question, so I'm going  
6       to follow the guidance of counsel, but I would  
7       assume you have a large amount of e-mail records  
8       that would answer your question.

9       BY MS. FORD:

10           **Q       And you can see here from the attachment**  
11       **if you look at the very top of this page, there's**  
12       **the attachment called 005A, which I believe to be a**  
13       **draft that Mr. Foltz had drawn.**

14                   **Did the Governor's staff meet directly**  
15       **with Mr. Foltz after this to review his draft plans?**

16                   MR. JAZIL: I give you the Marsh  
17       instruction, but to the extent you can answer,  
18       you can.

19           A       I'd have to talk about internal office  
20       conversation to answer the question. I'm going to  
21       follow the guidance of counsel.

22                   MS. FORD: So we don't waste a lot of  
23       time, I just -- for the record, if I were to  
24       ask questions about who at EOG provided  
25       feedback on the plans, what that feedback was,

1 would you object to all of those on the basis  
2 of the Marsh instruction?

3 MR. JAZIL: I'd object to what the  
4 feedback was, the who provided the feedback.

5 If you have specific e-mails that Judge  
6 Marsh said should be released or that were  
7 already released as part of the public records  
8 request, I think that'd be a little different  
9 because that kind of answers the question  
10 already of who.

11 If you just want him to essentially put on  
12 the record or authenticate for purposes of  
13 trial the correspondence, just to confirm,  
14 that'd be okay.

15 MS. FORD: Okay. Sounds good. We might  
16 get to a couple of those.

17 I'll tell you. There were many e-mails  
18 courting plans. I promise I intend to only ask  
19 about a couple.

20 (Exhibit 36 was marked for  
21 identification.)

22 BY MS. FORD:

23 **Q Mr. Kelly, this is Exhibit 36. It is a --**  
24 **this is produced by your office. It's an e-mail**  
25 **chain between Mr. Jazil, yourself, Mr. Newman,**

1 Mr. Pratt, Mr. Meros. All of them were with the  
2 Governor's Office.

3 The subject line of this is "Files for  
4 Submission." And it was the same -- I'll just  
5 represent that was the same day that Mr. Foltz's  
6 first plan was submitted to the legislature,  
7 Plan 79.

8 So I'm just looking for confirmation here  
9 that when Mr. Jazil is sending files for submission,  
10 that's what this e-mail is. He's sending you all  
11 the files that should be submitted to the  
12 legislature through the portal.

13 A I can't tell based on this if that's what  
14 that was. If you look, the attachment, it's an  
15 XLSX. It's an Excel file.

16 Q Uh-huh. Would that be helpful?

17 A Plan formats wouldn't be in an Excel file.

18 Q Oh, I see what you mean.

19 A It would in, like, a SHC file or THC.

20 A Could be a TXT file.

21 MR. JAZIL: Counsel, you should have the  
22 Excel file. It matches up with this.

23 MS. FORD: Yeah, I do. Just in case.

24 (Discussion off record.)

25

1 BY MS. FORD:

2 Q Mr. Kelly, Exhibit 37 is the attachment to  
3 this January 16 e-mail from Mr. Jazil which was  
4 Exhibit 36. It was titled "All Plans Comparison,"  
5 and it was produced in Excel form, and we just  
6 printed it out in PDF form.

7 Otherwise, we made no edits to it. And  
8 these little two boxes that you see where it says  
9 Plan 005A -- it's a little hidden -- but Plan 5A5,  
10 and there's a tab with Mr. Foltz's name, that was  
11 already embedded in the document when we received  
12 it.

13 (Exhibit 37 was marked for  
14 identification.)

15 BY MS. FORD:

16 Q Was Plan 005A or 005 -- or A5 one of  
17 the -- was one of those the plan that was eventually  
18 submitted to the legislature as Plan 79?

19 A I'm not certain based on looking at this.

20 Q A separate question I have while you're  
21 thinking about it is, I see here there's a Plan A,  
22 B, and C.

23 Do you know what that refers to?

24 A I know Adam had drawn other plans. I  
25 would presume those are some of the other plans.

1           **Q     Okay.  Who chose the Plan 79 as the one**  
2           **that would be submitted to the legislature?**

3                   MR. JAZIL:  I am going to give you the  
4           Marsh instruction, but to the extent you can  
5           answer it, answer it.

6           A     I'd have to talk about internal office  
7           conversations, so I'm going to follow the guidance  
8           of counsel.

9                   MR. JAZIL:  If you want to rephrase the  
10          question and ask whether he discussed which of  
11          these plans to submit with anyone at the  
12          legislature, I think that would be a good  
13          question.

14       BY MS. FORD:

15           **Q     Sure.  Did the Governor's Office discuss**  
16           **with the legislature or any third party what plans**  
17           **that the Governor would submit?**

18          A     You mean specifically about that first  
19          plan?

20           **Q     Yeah, about Plan 79.**

21          A     No.

22           **Q     What about Plan 94?**

23          A     No.

24           **Q     Not specifically related to this exhibit,**  
25           **but in your testimony to the legis- -- or**

1 presentation to the legislature, you said that -- we  
2 discussed here today -- that Mr. Foltz was the  
3 author of Plan 79.

4 Is Mr. Foltz the sole author of that plan?

5 A Yes.

6 Q And how do you know that? Is it just an  
7 assumption?

8 A No.

9 Q Okay. How do you know that?

10 A He was our only map-drawer.

11 Q I guess I'm saying, did you ever ask  
12 Mr. Foltz if he had collaborated or consulted with  
13 anyone else in drawing Plan 79?

14 MR. JAZIL: I'll give you the Marsh  
15 instruction.

16 You can answer if you can.

17 A I'd have to get into internal office  
18 conversations to answer your question. I'm going to  
19 follow the guidance of counsel.

20 (Exhibit 38 was marked for  
21 identification.)

22 BY MS. FORD:

23 Q This is Exhibit 38. Exhibit 38 is a memo  
24 from Senator Rodrigues, who was the chair of the  
25 Senate committee on redistricting, I believe, that

1 he sent out to all senators, but this was generally  
2 made public, to my knowledge, discussing some sort  
3 of policies and procedures for redistricting.

4 Have you seen this memo before?

5 A It does not look familiar.

6 Q Here in the second paragraph, which is the  
7 only part I want to ask you about, Mr. -- or Senator  
8 Rodrigues writes: "Those submitting maps are asked  
9 to list every person, group, or organization they  
10 collaborated with on their map comment or  
11 suggestion."

12 Was the Governor's Office aware of the  
13 legislature's request on this matter when they began  
14 submitting plans to the legislature?

15 A It doesn't look -- this doesn't look  
16 familiar, so I wasn't aware of the memorandum.

17 Q Okay.

18 (Exhibit 39 was marked for  
19 identification.)

20 BY MS. FORD:

21 Q Mr. Kelly, this is Exhibit 39. This is a  
22 copy of the forms submitting Plan 79 to the  
23 legislature in January 2022. It appears to be  
24 submitted by Mr. Newman, who I think we've  
25 established is legal counsel in the Governor's

1 **Office, correct?**

2 A Yes.

3 Q Okay. Here, if you see -- if you go down  
4 to the second box here, it says: "List the name of  
5 every person, group, or organization you  
6 collaborated on your comment, suggestion, or  
7 submitted map below," correct?

8 A I'm sorry. Where are you looking?

9 Q I'm looking right here at the second box  
10 on the first page.

11 A Oh, sure.

12 Q Mr. Newman did not list Mr. Foltz here,  
13 correct?

14 A Correct.

15 Q Why did Mr. Newman not fill out this  
16 information?

17 MR. JAZIL: I'm going to give you the  
18 Marsh instruction.

19 A I'd have to talk about internal office  
20 conversations, so I'm going to follow the guidance  
21 of counsel.

22 MR. JAZIL: And I will add attorney-client  
23 privilege to that, too, so on the basis of  
24 legal advice.

25

1 BY MS. FORD:

2 Q What was the general public's reaction to  
3 Plan 79?

4 A What was the general public's reaction?

5 Q Yeah. Let me back up.

6 What was the legislature's reaction to  
7 Plan 79?

8 A The entire institution?

9 Q Did you receive feedback from the  
10 legislature on Plan 79?

11 A Yes.

12 Q What was that feedback?

13 A The feedback was pretty direct feedback in  
14 a house subcommittee meeting that was on the record  
15 and detailed.

16 Q Did the Governor's Office receive any  
17 feedback about Plan 79 directly from the legislature  
18 not in a subcommittee testimony or something like  
19 that?

20 A Sure. I've gotten feedback that we got on  
21 the first and second plan from the House and Senate  
22 about some of their line drawing practices and  
23 things of that nature; I think the general feedback  
24 that I've talked about before.

25 Q Is it fair to say that the legislature was

**1 not receptive to Plan 79?**

2 A The legislature I don't think ever took a  
3 vote on Plan 79, so I don't think it would be fair  
4 for me to characterize the action of a body that  
5 didn't actually vote on the issue.

**6 Q Is it fair to say that house leadership  
7 was not receptive to Plan 79?**

8 A They didn't consider it. I think that's  
9 the best way I can characterize it, they didn't take  
10 it up for a vote and consider it.

**11 Q And same for the Senate, the Senate did  
12 not take it up or consider it at all?**

13 A Plan 79? Correct.

14 (Exhibit 40 was marked for  
15 identification.)

16 BY MS. FORD:

**17 Q Mr. Kelly, this is Exhibit 40. This is an  
18 e-mail that was produced to us by your office. Once  
19 again, it is from you to Mr. Jazil dated January 18,  
20 2022, which is just two days after your office  
21 submits its first Plan 79 to the legislature.  
22 Subject is "Follow-up" and there's an attachment  
23 here, "rationale."**

**24 What was the document that you provided to  
25 Mr. Jazil here?**

1           MR. JAZIL: I'm going to give you the  
2           Marsh instruction and attorney-client  
3           privilege.

4           A     Do you have the document?

5   BY MS. FORD:

6           **Q     I do not.**

7           A     I don't remember what the document is just  
8           by looking at the name on the e-mail. If you have a  
9           copy of it ...

10          **Q     No. It was redacted. I don't have a copy**  
11          **of it. My question primarily about it was going to**  
12          **be whether that rationale document was sent to the**  
13          **legislature or any other third party?**

14          A     Do you have a copy of an e-mail where it  
15          was? By looking at this, I don't know.

16          **Q     Okay. Was there a general effort after**  
17          **Plan 79 was released to get the House and the Senate**  
18          **to consider it and adopt it?**

19                 MR. JAZIL: I'm going to give you the  
20                 Marsh instruction. Perhaps you can rephrase  
21                 the question to where I don't need to give the  
22                 instruction.

23                 MS. FORD: Sandi, could you reread my  
24                 question?

25                         (The requested portion was read.)

1 BY MS. FORD:

2 Q Did the Governor's Office have discussions  
3 with the House or the Senate to convince them to  
4 support Plan 79?

5 A Yes.

6 Q Were those the exact same meetings that we  
7 had talked about earlier or were those different  
8 meetings?

9 A I referenced phone calls, conversations,  
10 not things that were all formal meetings, but, yes,  
11 I referenced earlier in one of my earlier answers.

12 Q And in those discussions or continuing  
13 conversations, who was the Governor's Office  
14 communicating with on the side of the legislature?

15 A To my knowledge, Mat Bahl.

16 Q Okay. Did Mr. Bahl express that the House  
17 had constitutional --

18 A I should say attorneys, too. Attorneys,  
19 too.

20 Q Okay. Did Mr. Bahl or any of the House or  
21 Senate lawyers express that they had constitutional  
22 concerns about Plan 79?

23 A I don't recall that statement.

24 Q Did they provide any feedback on Plan 79  
25 to you, to the Governor's Office?

1           A       They offered the opportunity for the  
2 office to come to committee and articulate the  
3 concepts behind the map.

4           **Q       Did that ultimately end where Mr. Popper**  
5 **provided testimony to the house redistricting**  
6 **committee?**

7           A       Yes. I think it might have been their  
8 subcommittee, Congressional subcommittee, but  
9 otherwise, yes.

10          **Q       That's what you were referring to?**

11          A       Yes.

12          **Q       Okay.**

13                   (Exhibit 41 was marked for  
14 identification.)

15 BY MS. FORD:

16          **Q       Mr. Kelly, Exhibit 41 is an e-mail chain**  
17 **that was produced to us by -- actually, it was not**  
18 **produced to us by your office, I don't think. I**  
19 **believe it was just a public record that the**  
20 **Governor's Office released to American Oversight.**  
21 **To be clear, I don't think we actually got this in**  
22 **discovery.**

23                   But it's an e-mail from Ryan Newman to  
24 members of the Governor's team, including Mr. Jazil.  
25 It's dated January 24, 2022.

1           **If you can go to the second page, and**  
2           **could you please read the e-mail from Mr. Newman**  
3           **starting with "Mo, the Governor's looking"?**

4           A       Sure. "Mo, the Governor is looking for an  
5           update from the House on their map. CN, can you  
6           please arrange a call with Andy ASAP this morning.  
7           Also, are we still planning to speak with Dan  
8           today?"

9           **Q       I assume here, just for purpose of the**  
10          **record, that Andy is a reference to Andy Bardos from**  
11          **the House and Dan would have been a reference to Dan**  
12          **Nordby from the Senate?**

13          A       I would assume the same.

14          **Q       Okay. What update was the Governor**  
15          **looking for from the House?**

16                   MR. JAZIL: I'm going to give you the  
17                   Marsh instruction.

18                   But to the extent you can answer, answer.

19          A       I would have to talk about internal office  
20          conversations, so I'm going to follow the guidance  
21          of counsel.

22          BY MS. FORD:

23          **Q       Okay. Here later in the e-mail chain it**  
24          **seems that Mr. Jazil did speak with the House about**  
25          **whatever update that the Governor was seeking.**

1                   **So what was that update?**

2           A        Again, I'd have to talk about --

3                   MR. JAZIL: I'm going to give you the  
4           Marsh instruction and attorney-client  
5           privilege.

6           A        I'd have to talk about internal office  
7           conversations, so I'm going to follow the guidance  
8           of counsel.

9           BY MS. FORD:

10           **Q        Well, this was a message that was relayed**  
11           **from the House back to the Governor's Office. And**  
12           **to you-all, I would think that falls outside the**  
13           **Marsh order.**

14                   MR. JAZIL: The fact that there were  
15           conversations held, the substance of those  
16           conversations between the lawyers would fall  
17           outside the legislative privilege portion of  
18           Marsh's order.

19                   What was then relayed to the Governor's  
20           Office and discussed with the Governor's Office  
21           through the Governor's lawyers would be covered  
22           by the attorney-client privilege.

23                   It wouldn't be covered by the legislative  
24           privilege because it's a lawyer's gloss on  
25           conversations and a lawyer's assessment of how

1           that affects the ^Goldsby office, too.

2           The first would be attorney-client  
3           privilege.

4           The second would be attorney-client  
5           privilege and legislative privilege. So I am  
6           going to instruct him not to answer.

7           A     I'm going to follow the guidance of  
8           counsel.

9           BY MS. FORD:

10           **Q     This reference from Mr. Newman: "Are you  
11           still planning to speak with Dan today?"**

12                     **And then it looks like in the next e-mail  
13           Mo says -- Mr. Jazil says: "Dan and George are.  
14           The Senate aren't available."**

15                     **Is that the meeting that you previously  
16           spoke about that you met with Dan Nordby?**

17           A     No.

18           **Q     Did you attend the meeting that they  
19           appeared to be setting up here for late January?**

20           A     No.

21           **Q     Do you know who did attend that meeting?**

22           A     No.

23           **Q     Do you know what was discussed at that  
24           meeting?**

25           A     No.

1           **Q     You can set this aside.**

2                   MR. JAZIL:  What number was this?

3                   MS. FORD:  That was 41.

4                           (Exhibit 42 was marked for  
5                   identification.)

6   BY MS. FORD:

7           **Q     So Mr. Kelly, this is -- Exhibit 42 is a**  
8           **letter from the Governor himself to the Florida**  
9           **Supreme Court.  It's dated February 1, 2022.  This**  
10          **was produced by your office, and it was obviously**  
11          **released publicly.**

12                   **Are you familiar with this letter?**

13           A     Yes.

14   BY MS. FORD:

15           **Q     Did the Governor's Office discuss the idea**  
16          **of submitting an advisory request to the Florida**  
17          **Supreme Court with the House and Senate?**

18           A     Yes.

19           **Q     What was the House and Senate's reaction**  
20          **to that idea?**

21           A     To my recollection, this may have been the  
22          House's idea.

23           **Q     Okay.  Well, let me back up.  I had**  
24          **assumed it was the Governor's idea.**

25                   **Who at the House suggested that the**

1 **Governor seek an advisory opinion?**

2 A I remember Mat Bahl encouraging this.

3 **Q And did the House explain why they thought**  
4 **this would -- the Governor should do this?**

5 A Yes. For the plain reason laid out in the  
6 letter: To get advice from the Supreme Court on a  
7 legal question that was imminent and before the  
8 legislature.

9 **Q Did the House express -- House or Senate**  
10 **express any position that they would need sort of**  
11 **sign off from the Florida Supreme Court to go ahead**  
12 **with what the Governor is asking them to do about**  
13 **CD-5?**

14 A I'm not sure I understood your question.

15 **Q Did the House tell the Governor that they**  
16 **would support his version of CD-5 if he received a**  
17 **favorable opinion out of this advisory opinion?**

18 A I don't recall any commitment being made  
19 like that.

20 **Q Okay. Let's go to page 4 on this letter.**  
21 **I'll just read it for the record, the paragraph**  
22 **starting with "Specifically." I'll just read the**  
23 **first two sentences.**

24 **"Specifically, I ask whether the Florida**  
25 **Constitution nondiminishment standard mandates a**

1 **sprawling Congressional District in Northern Florida**  
2 **that stretches hundreds of miles from east to west**  
3 **solely to connect Black voters in Jacksonville with**  
4 Black voters in Gadsden and Leon Counties (with a  
5 few in between) so that they may elect candidates of  
6 their choice even without a majority. This Court  
7 has previously suggested the answer is yes."

8           And what did the Governor's Office mean by  
9 this when they said: "The Court has previously  
10 suggested the answer is yes"?

11           A     The Florida Supreme Court drew the  
12 benchmark district.

13           **Q     Is it fair to say that the Governor's**  
14 **Office understood that at least under existing**  
15 **Florida precedent on the Fair District Amendments,**  
16 **that retention of CD-5 was required?**

17           MR. JAZIL: I am going to give you a Marsh  
18 instruction and note for the record that there  
19 is a citation in a parenthetical explaining  
20 what suggestion is, so -- in Exhibit 42.

21 BY MS. FORD:

22           **Q     Okay. I'll just restate my question,**  
23 **Mr. Kelly.**

24           **Is it fair to say that the Governor's**  
25 **Office understood that under existing Florida**

1 precedent on the Fair District Amendments that was  
2 in effect at the time of this letter, that retention  
3 of CD-5 was required?

4 A No. The letter plainly asks the question.  
5 (Exhibit 43 was marked for  
6 identification.)

7 BY MS. FORD:

8 Q Mr. Kelly, Exhibit 43 is the February 10,  
9 2022, opinion from the Florida Supreme Court  
10 declining to accept the Governor's request for an  
11 advisory opinion.

12 I assume that you have seen this before?

13 A Yes.

14 Q Okay. And it looks like a fair and  
15 accurate copy of that opinion?

16 A Yes.

17 Q Did the Governor's Office have any  
18 discussions with the House or Senate about this  
19 order when it came down?

20 A I'm not sure.

21 Q I don't want to read through this. But  
22 would you agree with me that the Florida  
23 Supreme Court did not tell the Governor that he was  
24 free to propose or sign a map that eliminated an  
25 existing performing district in this opinion?

1 MR. JAZIL: Object to form, but you can  
2 answer.

3 A It's been quite a while since I've read  
4 this. It's probability been since February of 2022.  
5 Do you mind if I read it again?

6 BY MS. FORD:

7 Q Yeah. Sure.

8 A (Examining document.)

9 Okay. I've read it. I apologize.

10 What was the question?

11 Q In this advisory -- or in this opinion  
12 denying -- sorry.

13 In this February 10 order from the Florida  
14 Supreme Court denying the advisory opinion, the  
15 Florida Supreme Court did not tell the Governor that  
16 he was free to propose or sign a map that eliminated  
17 an existing performing district, correct?

18 MR. JAZIL: Object to form, but you can  
19 answer.

20 A No. No. They made no such comment at  
21 all.

22 BY MS. FORD:

23 Q How did this order affect the Governor's  
24 approach to mapmaking, if at all?

25 MR. JAZIL: I give you the Marsh

1 instruction, but to the extent you can answer,  
2 answer.

3 A I believe in various ways we've  
4 publicly -- because we had to answer media questions  
5 about this. As an office, we publicly stated that  
6 we'll continue to work with the legislature.

7 BY MS. FORD:

8 Q And following the release of this order,  
9 did the Governor's Office have any discussion with  
10 the legislature about whether the legislature would  
11 be willing to change its approach to CD-5?

12 A Yes, very publicly.

13 Q What about privately?

14 A Yes.

15 Q What were those discussions?

16 A Same ones we've covered before.

17 Q Fair to characterize those discussions as  
18 the legislature continued to refuse to draw a plan  
19 that eliminated the existing Benchmark CD-5?

20 A No.

21 Q How would you characterize them then?

22 A The legislature remained willing to  
23 listen, talk, look at, obviously, the subsequent map  
24 submitted, the second map submitted, and continued  
25 conversations. They were pretty public.

1           Q     Did the legislature explain what they  
2 would need to be able to support a map that did not  
3 protect the existing CD-5?

4           A     No.

5           Q     I believe you said before that -- maybe  
6 was it the House asked the Governor's Office to send  
7 a representative to talk about the issue of CD-5; is  
8 that right?

9           A     Yes. The House invited our office to send  
10 our representative to come and explain to their  
11 subcommittee -- I don't recall the exact date. I  
12 think you might have mentioned it before -- but to  
13 explain to their subcommittee the synopsis of the  
14 Governor's legal position.

15          Q     Great. We'll get to that right now, which  
16 was, it was on February 18, 2022, when Mr. Robert  
17 Popper appeared before the House Redistricting  
18 Committee, maybe it was a subcommittee, to talk  
19 about CD-5.

20                   And I assume that you're familiar with the  
21 meeting and testimony that I'm talking about?

22          A     Yes.

23          Q     I know that Mr. Popper is an attorney, but  
24 when he appeared before the House Redistricting  
25 Committee, he was not acting as counsel to the

1 **Governor, correct?**

2 A Correct.

3 **Q Why did the Governor's Office send**  
4 **Mr. Popper just instead of one of the Governor's own**  
5 **legal counsel?**

6 MR. JAZIL: I'm going to give you the  
7 Marsh instruction, but to the extent you can  
8 answer, answer it.

9 A Mr. Popper had a unique professional level  
10 of understanding of redistricting, had, I believe,  
11 been working with the Department of Justice under  
12 both Republican and Democratic administrations and,  
13 of course, had even one of the compactness commonly  
14 used -- one was the House and Senate were using  
15 compactness standards named after him. He had a  
16 unique level of expertise and understanding.

17 (Exhibit 44 was marked for  
18 identification.)

19 BY MS. FORD:

20 **Q Mr. Kelly, this is a document I was**  
21 **provided by the Governor's Office in this**  
22 **litigation. It's dated February 12, 2022. It**  
23 **contains a discussion of the Governor's team**  
24 **attempting to find a witness to appear as a witness**  
25 **for the House.**

1                   **You were not on this e-mail chain. Would**  
2 **you like a moment to read it?**

3           A       Thank you. Yes.

4           Q       **Might actually be helpful to start from**  
5 **the last page and work yourself up.**

6           A       Okay. I've read it. Thank you.

7           Q       **Great.**

8                   **So the Governor's Office first considered**  
9 **other individuals other than Mr. Popper to give**  
10 **testimony to the House, correct?**

11          A       Correct.

12          Q       **John Gore was asked to give testimony?**

13          A       I don't personally know that name, but I  
14 see a John referenced, and I see a Gore referenced.

15          Q       **Okay. So you don't know who John Gore is?**

16          A       No.

17          Q       **Did he have any role that you know of in**  
18 **the Florida redistricting process other than what is**  
19 **captured here in this e-mail?**

20          A       None that I'm aware of.

21          Q       **Okay. This says here, "Guys,**  
22 **unfortunately John will not be able to be a witness**  
23 **for the hearing."**

24                   **Why did Mr. Gore decline to give**  
25 **testimony?**

1           A       I'm not aware.

2           **Q       This e-mail mentions Chris Coates as a**  
3 **possible option. Do you know who Chris Coates is?**

4           A       I know the name. I don't know who he is.  
5 I know the name, though.

6           **Q       Why was he considered to give testimony?**

7           A       Why was he considered? I'd have to talk  
8 about internal conversations to the office.

9           **Q       Did the Governor's Office, in fact, reach**  
10 **out to Chris Coates to see if he would be willing to**  
11 **testify?**

12          A       I believe so. Or someone on our behalf  
13 reached out, one of our counsel, perhaps.

14          **Q       Did he agree to testify?**

15          A       I don't know.

16          **Q       Do you have any information about that**  
17 **follow-up or any of Mr. Coates' response to the**  
18 **Governor's Office when he was asked?**

19          A       No.

20          **Q       The e-mail also mentions Hans -- I'll**  
21 **admit I've never said his name out loud before --**  
22 **Hans von Spakovsky, do you know?**

23          A       I think it's Hans.

24          **Q       Hans, yeah. Let's call him Hans.**

25          A       But I can't do the last name either.

1 Q Okay. Do you know who he is?

2 A I'm familiar with the name.

3 Q Did the Governor's Office, in fact, reach  
4 out to Hans to ask if he would testify?

5 A I believe so.

6 Q And did he agree to testify?

7 A I don't know.

8 Q Do you have any information about the  
9 Governor's Office's conversations with Mr. -- with  
10 Hans about whether he would testify?

11 A No.

12 Q And this e-mail also mentions, at the top  
13 of page 2, Michael Barley. It says: "Michael  
14 Barley was also unable to help."

15 Who is Michael Barley?

16 A I know the name, but I don't know who he  
17 is.

18 Q Okay. Do you know if -- well, this says  
19 he was unable to help. Do you have any information  
20 about why Mr. Barley was not able to testify?

21 A No.

22 Q Do you know at the end of the day why  
23 Mr. Popper was chosen as the witness that the  
24 Governor's Office would send?

25 A For the reasons I mentioned earlier.

1 Mr. Popper has a unique level of understanding and  
2 expertise in redistricting, has the unique  
3 perspective of working at the Department of Justice  
4 in both Democratic and Republican administrations;  
5 again, has a compactness standard actually named  
6 after him. He has a unique level of expertise.

7 **Q To your knowledge, did any other**  
8 **individual at the Governor's Office reach out to**  
9 **agree to testify on behalf of the Governor's Office**  
10 **on this issue?**

11 A Yes.

12 **Q Who did?**

13 A There was a citizen from Clay County  
14 who -- spoken citizen comment, public comment at the  
15 meeting.

16 **Q Do you remember that individual's name?**

17 A No. You could -- if you looked at the  
18 committee record, you could probably discern who  
19 that was. The name I don't remember off the top of  
20 my head.

21 **Q Okay. And did the Governor's Office reach**  
22 **out to anyone we've not discussed who declined to**  
23 **testify on behalf of the Governor's Office?**

24 A I don't believe so.

25 **Q Okay.**

1                   (Exhibit 45 was marked for  
2                   identification.)

3       BY MS. FORD:

4           **Q**     **Mr. Kelly, Exhibit 45 is an e-mail chain**  
5           **that was, once again, produced by the Governor's**  
6           **Office in this litigation. It is an e-mail chain**  
7           **conversation between Mr. Popper, Mr. Newman, and**  
8           **then the Governor's outside counsel and then**  
9           **internal legal counsel. You are not on this e-mail**  
10          **chain.**

11                    **Would you just like a few moments to skim**  
12          **through it?**

13           A     Sure. Thank you.

14                    (Examining document.)

15           A     Okay. Thank you.

16           **Q**     **Based on this e-mail chain, it appears**  
17           **that the Governor's team set up a meeting and spoke**  
18           **with Mr. Popper in advance of his testimony.**

19                    **Is that a fair characterization of this**  
20          **e-mail chain?**

21           A     It looks like that's what they were trying  
22          to do.

23           **Q**     **Did you ultimately end up speaking to**  
24          **Mr. Popper at all? You, yourself.**

25           A     Yes.

1           **Q     Was it in this meeting or another meeting?**

2           A     I don't believe it was this meeting.

3           **Q     So you don't think you attended whatever**  
4 **meeting came out of this?**

5           A     Correct.

6           **Q     Okay. Do you know what was discussed on**  
7 **this call?**

8           A     No, not specifically. I don't know --  
9 also know that this call happened. All I can see  
10 from this is that there was an attempt to set up a  
11 call.

12          **Q     Did the Governor's Office ask Mr. Popper**  
13 **to testify about anything in particular?**

14          A     Yes.

15          **Q     What did they ask him to testify about?**

16          A     His comments to the committee, which were  
17 provided to the committee, lay out exactly that,  
18 regarding the Congressional District 5, the  
19 violation of the Equal Protection Clause, United  
20 States Constitution. His comments were meant to  
21 encapsulate the reason for inviting Mr. Popper.

22          **Q     And you said that you spoke with**  
23 **Mr. Popper, was it in advance of his testimony to**  
24 **the House?**

25          A     Yes.

1           **Q     When was that meeting, to the best of your**  
2 **knowledge?**

3           A     I spoke with him the night before his  
4 testimony.

5           **Q     Was anyone else on that conversation?**

6           A     Yes.

7           **Q     Who else was present?**

8           A     I'm not sure.

9           **Q     Was it generally people from the**  
10 **Governor's Office or outside the Governor's Office?**

11          A     The Governor's Office, yes.

12          **Q     What was discussed on that call?**

13          A     Mr. Popper was coming to testify the next  
14 day, so it was a prep call for his testimony,  
15 talking through the meeting, how it would go,  
16 logistics.

17          **Q     Mr. Popper sent the Governor's Office his**  
18 **planned testimony in advance, correct?**

19          A     Correct.

20          **Q     And did the Governor's Office provide**  
21 **feedback or edits to that testimony?**

22          A     Yes.

23          **Q     What were -- what was the general feedback**  
24 **that the Governor's Office provided to Mr. Popper?**

25          A     I remember providing some feedback about

1 style of just Florida legislative committees. I  
2 don't recall anything else.

3 **Q Did the Governor's Office ask Mr. Popper**  
4 **to testify to anything that Mr. Popper refused to**  
5 **testify about or declined to?**

6 A No.

7 **Q Was Mr. Popper's testimony primarily**  
8 **written by Mr. Popper or was it primarily written by**  
9 **the Governor's team?**

10 A Mr. Popper.

11 **Q Did the Governor's Office agree with**  
12 **Mr. Popper's testimony, what he ultimately gave to**  
13 **the House committee?**

14 A Yes. With the caveat he answered a lot of  
15 questions and answers, and I don't recall everything  
16 that he said in question and answer.

17 But the testimony that he provided and we  
18 gave to the committee in written form in advance of  
19 the meeting, that was the testimony that we were  
20 agreeing to.

21 **Q And I think you said yesterday you didn't**  
22 **attend that meeting, but you did later watch it?**

23 A I watched pretty significant portions of  
24 the meeting.

25 **Q Okay. And what was the House's response**

1     **to Mr. Popper's testimony?**

2           A     The committee was quite hostile to him,  
3     slanderous of him, acted as though they didn't know  
4     why he was there. It was a very unprofessional,  
5     very hostile meeting.

6           **Q     So they were not receptive to Mr. Popper's**  
7     **testimony?**

8           A     Certainly not receptive to him as a  
9     person. I don't know about the testimony itself.

10          **Q     Mr. Kelly, just let me know if you need a**  
11     **break at any point.**

12                   MR. JAZIL: Could I impose on you for a  
13     five-minute break?

14                   MS. FORD: Yeah. Sure.

15                   (A recess took place from 11:34 a.m. to  
16     11:43 a.m.)

17                   (Exhibit 46 was marked for  
18     identification.)

19     BY MS. FORD:

20          **Q     Mr. Kelly, Exhibit 46 is an e-mail chain**  
21     **that was produced by your office from Mr. Newman to**  
22     **Mr. Uthmeier from February 19, 2022. It seems to be**  
23     **passing along a news alert that had been**  
24     **circulated -- or received among the Governor's**  
25     **Office about Mr. Popper's testimony.**

1           And the title, just so the record is  
2 clear, is, "Florida GOP in conflict: DeSantis'  
3 redistricting expert doesn't convince House panel."

4           In general, this article recounts how the  
5 House at that same committee hearing where  
6 Mr. Popper testified went ahead and passed a plan  
7 that retained the Benchmark CD-5 right after  
8 Mr. Popper's testimony.

9           Is that your memory as well?

10          A     You saying that does remind me, yes, they  
11 passed their -- whatever plan they had in front of  
12 them at the time, they passed it that day.

13          Q     Okay. So the House at least did not  
14 change its mind about CD-5 after Mr. Popper's  
15 testimony, correct?

16          A     Correct.

17          Q     You can set that aside if you'd like.

18                 Did the Governor's Office do any outreach  
19 to specific legislators to try to change the  
20 legislature's position?

21          A     Yes.

22          Q     Who did they do outreach to?

23          A     To my recollection, our office called a  
24 vast majority of the legislature.

25          Q     When you say the "vast majority," the vast

1 majority of Republican members? Did they also call  
2 Democrat members?

3 A Yes.

4 Q That question was bad. It was a compound  
5 question.

6 Did the Governor's Office -- let's start  
7 with one half of that question.

8 Did the Governor's Office do outreach to  
9 Democratic legislators to convince them to support  
10 the Governor's version of CD-5?

11 A I'm not sure if it was specific to CD-5.  
12 I know our office reached out to Republican and  
13 Democratic legislators on the Governor's -- our  
14 office's alternative proposals. I don't --  
15 specifically to 5, I'm not sure.

16 Q I'm sorry. What was the last thing you  
17 said?

18 A Specifically to District 5, I'm not sure.

19 Q Thank you.

20 Which Democrats did the Governor's Office  
21 reach out to?

22 A I don't recall.

23 Q Okay. When you said before that the  
24 Governor's Office had contacted the vast majority of  
25 the legislature, who conducted this outreach on

**1      behalf of the Governor's Office?**

2           A       Stephanie Kopelousos, James Uthmeier,  
3      myself. I remember the three of us.

**4           Q       Okay. Were these individual one-on-one  
5      meetings with specific legislators?**

6           A       Yes.

**7           Q       How many meetings do you think you had  
8      like these? By "meetings," I also mean phone calls  
9      or however the meeting took place, conference calls,  
10     physical meetings.**

11          A       How many? In person and phone calls?

**12          Q       Sure.**

13          A       I'm not sure a total, couple hundred.

**14          Q       What would you summarize as the general  
15     pitch the Governor's Office made on these calls to  
16     legislators?**

17          A       Support the alternative map that we have  
18     put forward.

**19          Q       So that would have been either Plan 79 or  
20     Plan 94?**

21          A       Right.

**22          Q       Okay. Did you --**

23          A       Or individually during the special  
24     session. The plan that was finally enacted, too.

**25          Q       Okay. Did you receive any feedback from**

1 **Republican legislators in any of those meetings that**  
2 **they believed the Governor's version of CD-5 was**  
3 **unconstitutional?**

4 A No.

5 **Q What feedback did you generally receive**  
6 **from legislators in these meetings?**

7 A I'm not sure how to characterize general  
8 feedback across --

9 **Q Sure. It may have varied. So give me**  
10 **some examples of feedback you received.**

11 A For the meetings that I specifically am  
12 aware of the feedback, generally most legislators we  
13 talked to wanted to vote for the Governor's  
14 alternative.

15 **Q Did they say why they wanted to vote for**  
16 **the Governor's alternative?**

17 A Because they thought it was  
18 constitutional.

19 **Q Did they in those meetings agree to vote**  
20 **for the Governor's alternative?**

21 A Some did. Some didn't.

22 (Exhibit 47 was marked for  
23 identification.)

24 BY MS. FORD:

25 **Q So, Mr. Kelly, this is Exhibit 47.**

1 Exhibit 47 is a public record from the Governor's  
2 Office. It wasn't produced in this litigation. It  
3 was produced just through the general public records  
4 process. This appears to me to be a vote record --  
5 there's an official name for it -- of the vote on  
6 the bill of the legislature's redistricting plan  
7 that was passed.

8 Have you seen this before?

9 A Yes. If not this literal one, I've seen  
10 the vote count before.

11 Q Yeah. In the colored version, these are  
12 highlighted in yellow. I apologize, today we have  
13 it printed out in black and white. This appears to  
14 me to be a highlighted list of all of the  
15 Republicans who voted no on the legislature's  
16 redistricting plan, the one that was ultimately  
17 vetoed by the Governor.

18 Does that appear to be a fair  
19 characterization of what this is?

20 A Can I just have a quick minute to study  
21 it?

22 Q Sure.

23 A (Examining document.)

24 Sure. Thank you.

25 Yes. That appears to be what this is.

1 Q Okay. Thank you.

2 Was the Governor's Office keeping track of  
3 which Republicans were in support of his plan and  
4 which were not?

5 MR. JAZIL: I give you the Marsh  
6 instruction.

7 A To answer that would require me to talk  
8 about internal conversations. I'm going to take the  
9 advice of counsel.

10 BY MS. FORD:

11 Q Okay. In the meetings that you had with  
12 Republican individual legislators when you were  
13 asking for their support for the Governor's plan,  
14 did the Governor or you or his office promise to do  
15 anything for these legislators if they voted to --  
16 whether they voted to either support the Governor's  
17 plan or to vote this one down?

18 A No.

19 Q Did the Governor -- in your -- sorry. Let  
20 me start the question over.

21 In your meetings with legislators when you  
22 were asking them for their support for the  
23 Governor's plan or to not vote for the legislature's  
24 plan, did you or the Governor's Office suggest there  
25 would be any sort of reprisals for legislators who

1 **voted for it?**

2 A No.

3 Q Did the Governor's Office have any -- in  
4 its outreach, did the Governor's Office meet with  
5 Representative Sabatini?

6 A I don't believe so.

7 Q You don't remember personally meeting with  
8 him?

9 A I've never personally met with  
10 Representative Sabatini.

11 Q Okay.

12 (Exhibit 48 was marked for  
13 identification.)

14 BY MS. FORD:

15 Q Mr. Kelly, this is Exhibit 48. This was  
16 the form that Mr. Newman submitted to the  
17 legislature on February 14, 2022, for Plan 94 from  
18 the Governor's Office.

19 Does this appear to be a fair and accurate  
20 copy of that submission form?

21 A Yes.

22 Q And like the form for Plan 79, Mr. Newman  
23 did not fill out the box that asked him to list the  
24 name of every person, group, or organization that he  
25 collaborated with on the comments, suggestion, or

1       **submitted map, correct?**

2           A       Correct.

3           **Q       Why did he leave that box blank?**

4                   MR. JAZIL: I'm going to ask you not to  
5       answer based on Marsh instruction and  
6       attorney-client privilege.

7           A       We'd only work as the Office of the  
8       Governor.

9                   (Exhibit 49 was marked for  
10       identification.)

11       BY MS. FORD:

12           **Q       Mr. Kelly, Exhibit 49 is an e-mail chain**  
13       **between Mr. Jazil, Mr. Newman, Mr. Pratt, Mr. Meros,**  
14       **yourself, Mr. Beato --**

15                   MS. FORD: Did I pronounce that right?

16                   MR. BEATO: Uh-huh.

17       BY MS. FORD:

18           **Q       And here you'll see that beginning of the**  
19       **chain Mr. Foltz sent Mr. Jazil a spreadsheet, and**  
20       **Mr. Foltz writes: "Per client request, I have**  
21       **reduced the number of plans in the summary to just**  
22       **the more relevant proposals, Plan 13A, Plan 14B,**  
23       **Plan 8019, Plan 8015, and the Benchmark Plan. "**

24                   **My question for you here is: When**  
25       **Mr. Foltz says "per client request," who is the**

1 **client that he's referring to?**

2 A The Executive Office of the Governor.

3 **Q Okay. Who made the decision that these**  
4 **were the relevant proposals to consider?**

5 MR. JAZIL: I'm going to give you the  
6 Marsh instruction, Mr. Kelly.

7 A I'm going to follow the guidance of  
8 counsel since I would have to talk about internal  
9 office conversations.

10 (Exhibit 50 was marked for  
11 identification.)

12 BY MS. FORD:

13 **Q So Mr. Kelly, this is a public record that**  
14 **was produced by the Governor's Office through**  
15 **records requests, I believe, for American Oversight.**  
16 **I got it directly off the Governor's website in**  
17 **response to that request.**

18 **This Plan 13B, is this a plan that you**  
19 **drew?**

20 A I believe this is the same exact thing as  
21 the second map that our office submitted. So I  
22 believe this is the map that Adam and I collaborated  
23 on.

24 **Q Okay. So it's just under a different**  
25 **name?**

1           A     Yes.  Although it says right on the  
2 document "Public Plan 9045."

3           **Q     Maybe I'm just misunderstanding something,**  
4 **but I typically refer to that second plan that you**  
5 **and Mr. Foltz collaborated on as Plan 0094.**

6                     **Did it also have the name Plan 9045?**

7           A     Maybe I'm mixing up the names.  My  
8 apology.  Maybe I'm mixing up the names then.

9           **Q     Okay.  Do you think this is the plan that**  
10 **you and Mr. Foltz collaborated on?**

11          A     You've got me concerned that I'm mixing up  
12 the numbers.  Is it possible that I could see the  
13 second plan that we submitted side by side with  
14 this?

15          **Q     Sure.  Yeah.  I think we have that in**  
16 **these.  It's going to be Exhibit 16.**

17          A     16?  (Examining document.)

18          **Q     Mr. Kelly, to be fair and candid with you,**  
19 **I'm not trying to trip you up or anything like that.**  
20 **We just didn't receive any map file named 13B in all**  
21 **of the files that we received from Mr. Foltz, and I**  
22 **don't know if any public plan named 9045.**

23                     **So I'm just asking if you know what this**  
24 **is.**

25          A     I believe when I look at it -- and

1 obviously, I don't have the zoomed-in detailed  
2 level, but it's very, very similar. And I don't  
3 have any reason to not believe that it's the same  
4 exact thing as the public plan, the second public  
5 plan submitted.

6 **Q Okay.**

7 A It's always possible at a very detailed  
8 level that there could be subtle differences, but  
9 obviously, I couldn't tell by this. And obviously,  
10 that 9045 seemed familiar to me. I suspect they're  
11 the same map.

12 **Q Okay. And I realize you honestly don't**  
13 **have a perfect comparison here, and that's your best**  
14 **guess right now.**

15 **Yesterday, if you remember, we had talked**  
16 **about when you met with the House and the Senate**  
17 **before the special session you brought two plans?**

18 A Yes.

19 **Q One was one that was called 14A, went on**  
20 **to be the Enacted Map.**

21 **Is this the other plan that you brought?**

22 A I don't think -- I don't know -- I don't  
23 know if this was because I do believe this was  
24 probably the -- this was -- looks more like a second  
25 plan that we submitted as an office. I don't

1 believe this was one of the same at all. I believe  
2 this is substantially different.

3 **Q Were you able to find out or clarify last**  
4 **night what was the second plan?**

5 A Yes.

6 **Q Okay. And what plan was that?**

7 A Yes. I believe in comparing my files --  
8 if it's okay, do you mind if I go to that exhibit?

9 **Q Yeah. Sure. That'd be helpful.**

10 A I believe that the two maps you identified  
11 as -- albeit it, I've never seen them in this format  
12 before -- but the two maps you identified as 14A and  
13 14B, I believe those were the two --

14 **Q Okay.**

15 A -- that we brought to that meeting.

16 **Q Okay. That's helpful. Thank you.**

17 I won't ask you -- I'll take a look at it  
18 in a break so we can spare you some time. We'll  
19 find it later.

20 Thank you for looking that up. I  
21 appreciate it.

22 Did the Governor's Office instruct  
23 Mr. Foltz or give him any specific instructions  
24 regarding race, his use of race in drawing  
25 redistricting plans?

1                   MR. JAZIL: I'll give you the Marsh  
2                   instruction, but you can answer to the extent  
3                   you've talked about it.

4                   A       Broadly follow the law, which I talked  
5                   about in committee. I think anything else would be  
6                   internal office conversations, and I'll follow the  
7                   guidance of counsel.

8                               (Exhibit 51 was marked for  
9                   identification.)

10                   BY MS. FORD:

11                   Q       Mr. Kelly, I'll represent to you this was  
12                   produced to us by the Governor's Office. You can  
13                   see the Bates down here. It's -- it was an  
14                   attachment from a March 30 e-mail from Mr. Jazil  
15                   that had been sent from Mr. Foltz to Mr. Jazil, from  
16                   Mr. Jazil to you.

17                               You know what? Maybe we should describe  
18                   the e-mail.

19                               No, I think we actually -- it's already an  
20                   exhibit. Give me one second. If I have the  
21                   exhibit, I'd rather you just see it.

22                   A       Sure.

23                   Q       Yeah, we had just marked it as Exhibit 49.  
24                   You see there's an attachment here that says: "All  
25                   plans comparison"?

1 A Yeah.

2 Q Okay. This is the attachment.

3 A Got it.

4 Q If you open it up, it's just converted to  
5 Excel form. You see it has Plan 13A, Plan 14B  
6 listed here.

7 So you've seen this before? You've seen  
8 analyses like these from Mr. Foltz before?

9 A Yes.

10 Q Okay. If you flip back to the last couple  
11 of pages here. I apologize, there's not a page  
12 number. But Mr. Foltz appears to have provided the  
13 Governor's team with a breakdown of each district by  
14 race, correct?

15 A Which page?

16 Q The one -- see this chart, it's the one  
17 directly after that.

18 A Got it.

19 Q And it's across several plans, but here  
20 it's comparing the benchmark to Plan 8019,  
21 Plan 8015, Plan 13A, Plan 14B.

22 Do you see that?

23 A Yes.

24 Q So the question I'd asked is Mr. Foltz  
25 provided the Governor's team with a breakdown of

1       **each district by race, correct?**

2           A       Race, ethnicity, CVAP.

3           **Q       Why did the Governor's Office ask**  
4 **Mr. Foltz to produce this data for them for every**  
5 **district?**

6           MR. JAZIL: I'm going to give you the  
7 Marsh instruction, but you can answer to the  
8 extent you discussed this with ...

9           A       I'd have to talk about internal office  
10 conversations. I'm going to take the guidance of  
11 counsel.

12 BY MS. FORD:

13          **Q       Okay. Mr. Foltz provided similar analyses**  
14 **like this for essentially all of the draft maps that**  
15 **he produced, correct?**

16          A       Similar, yes.

17          **Q       Okay. And Mr. Bryan also prepared some**  
18 **data for the Governor's Office, right?**

19          A       Yes. He prepared the CVAP data, the  
20 citizens voting age population data.

21                   (Exhibit 52 was marked for  
22 identification.)

23 BY MS. FORD:

24          **Q       Mr. Kelly, this Exhibit 52 was produced to**  
25 **us by the Governor's Office in this case. It was**

1 produced in Excel format and printed in PDF, which  
2 is why you don't see a Bates number on this. The  
3 Governor's Office hasn't put a Bates on the Excel  
4 file.

5 A Gotcha.

6 Q But here we printed it with the title of  
7 the document -- or the title of the spreadsheet, the  
8 worksheet name, such as "Benchmark" here at the top,  
9 and then the author of the metadata.

10 Were these kind of analyses from Mr. Bryan  
11 provided to you? And if it's helpful, there were  
12 many of these in the discovery process. I pulled  
13 what appeared to be the most complete one at the  
14 end.

15 MR. JAZIL: Counsel, the title Plans  
16 Analysis 4-14-22, is that the date that you  
17 found?

18 MS. FORD: That was the title of the  
19 spreadsheet.

20 MR. JAZIL: Is there a date associated  
21 with the spreadsheet?

22 MS. FORD: The date it was created.

23 MR. JAZIL: Was that in the metadata or  
24 elsewhere.

25 MS. FORD: I'm not sure. That's just the

1 name of the Excel sheet.

2 MR. JAZIL: Thank you.

3 A I'm not sure if it was or wasn't. The  
4 format was raw, doesn't look that familiar. I'm  
5 sure the e-mail record would show whether it was or  
6 wasn't. But I can tell you the format doesn't look  
7 that familiar.

8 BY MS. FORD:

9 Q Was this information, then, that would  
10 have been provided to Mr. Foltz, do you think, that  
11 was not provided to you?

12 A I'm not sure.

13 Q Go back to Exhibit 51, I think it was.

14 A Okay.

15 Q Here, there's a -- I'm very sorry that I  
16 can't give you the exact page number, but if you  
17 scroll through it, this provides a breakdown on the  
18 basis of race for Plans 13A and 14B, including by  
19 Hispanic voting age population, Black voting age  
20 population. Would you agree with that?

21 A Yes.

22 Q Okay. And in your testimony before the  
23 legislature, you stated: "I'm actually unaware of  
24 the Black voting age population of District 14.  
25 This was not drawn with any type of racial intent at

1 all. This was not drawn with even looking at racial  
2 data for this district. There was not, to my  
3 knowledge, any reason to do so."

4 Does that sound like your testimony from  
5 the legislature?

6 A Yes.

7 Q But you did, in fact, have access to  
8 racial data provided by Mr. Foltz for a variety of  
9 the plans that you considered, correct?

10 A I have seen numerous spreadsheets like  
11 this.

12 Q I'll keep going to get maybe finished  
13 before lunch.

14 (Exhibit 53 was marked for  
15 identification.)

16 BY MS. FORD:

17 Q Mr. Kelly, this was produced by the  
18 Governor's Office. It's a memo from Ryan Newman to  
19 the House Redistricting Committee from February 18,  
20 which is that same day Mr. Popper testified. And I  
21 am almost 100 percent sure this was made public at  
22 the same time.

23 Have you seen this memo before?

24 A Yes.

25 Q In this memo, Mr. Newman describes what I

1 typically call CD-5, which here was numbered CD-3 in  
2 this proposal, and he says: "This district also  
3 does not respect political subdivisions for  
4 communities defined by actual shared interests."

5 My question for you is, what was the basis  
6 for the belief that the communities in this district  
7 do not have shared interests?

8 A Forgive me. Where -- in the first  
9 paragraph, you said? Or which paragraph?

10 Q I apologize. I should have given that to  
11 you. Here we go. It's on the second page, last  
12 paragraph, third sentence.

13 I'll read it for the record. "Giving the  
14 foregoing considerations, it is evident that  
15 nonracial grounds cannot explain proposed  
16 Congressional District 3 versus the district by  
17 traditional districting principles. Far from  
18 compact, the district requires compacting scores as  
19 low as 0.11 on the Reock test, 0.63 on the area  
20 Convex Hull test, and 0.1 on the Polsby-Popper test.  
21 It also does not respect political subdivisions or  
22 communities defined by actual shared interests."

23 My question for you is, what is the basis  
24 for the statement that communities in this map do  
25 not have shared interests?

1           A       The reference that Mr. Newman was making,  
2   if you look a couple of paragraphs, it -- it  
3   starts -- I guess it really kind of starts on the  
4   second paragraph of the first page, first paragraph  
5   on the second page, he is referring to a quote from  
6   case law.

7           Q       So I understand that that might be a --  
8   whether the district has shared interests might be a  
9   consideration the court takes into effect, but here  
10   the Governor's Office is stating this district --  
11   the communities in this district do not have actual  
12   shared interests.

13                    So I'm just asking you, what was the basis  
14   for that statement?

15           A       The absence of a shared interest that  
16   relates to the quote from case law above.

17           Q       Okay. On page 5, if you look at the  
18   second paragraph -- it's the first full paragraph,  
19   the last sentence, it reads: "Because Congressional  
20   District 3 does not contain a minority group that is  
21   sufficiently large and geographically compact to  
22   constitute a majority, Article 3, Section 20A's  
23   nondiminishment provision does not apply."

24                    What was the Governor's Office basis for  
25   this position?

1           A       As the -- several of our office's  
2 different legal memorandums outline, the district is  
3 extremely noncompact, the statistical noncompactness  
4 was quoted in this letter.

5           **Q       So the part of this that I'm most**  
6 **interested in is the representation that because**  
7 **this district did not constitute a majority,**  
8 **essentially a 50 percent threshold, nondiminishment**  
9 **provision does not apply.**

10                   **What's the Governor's Office basis for**  
11 **that position?**

12           A       Sure. The memo is tying together the  
13 Voting Rights Act, case law 50 percent threshold  
14 that you would use in a Voting Rights Act analysis,  
15 and then the Equal Protection clause of the 14th  
16 Amendment of the United States Constitution.

17                   And the letter is probably better than I  
18 could outlining why the nondiminishment standard  
19 does not apply to this district.

20           **Q       Was the Governor's Office aware that in**  
21 **the last redistricting cycle, the Florida**  
22 **Supreme Court held that there was no numerical**  
23 **threshold that was required for a district to**  
24 **qualify for a diminishment?**

25                   MR. JAZIL: I'll give you the Marsh

1 instruction, but to the extent you can answer  
2 it, you can answer it.

3 A I think we testified in committee the  
4 errors made by the Florida Supreme Court.

5 BY MS. FORD:

6 **Q So the Governor's Office was aware but**  
7 **just believed that the Florida Supreme Court was**  
8 **wrong?**

9 MR. JAZIL: Object to form.

10 But you can answer.

11 A I would reference the very specific  
12 testimony that we gave in committee that the Florida  
13 Supreme Court significantly erred in their ruling.

14 BY MS. FORD:

15 **Q Okay. Eventually, as you know, the**  
16 **legislature went ahead and passed both Plan 8019 and**  
17 **Plan 8015 as a primary map and secondary map, as**  
18 **they called it, to present to the Governor.**

19 **Did the Governor's Office discuss the idea**  
20 **of having two plans, a primary map and secondary**  
21 **map, with the legislature?**

22 A Yes.

23 **Q Okay. Whose idea was that?**

24 MR. JAZIL: I'll give you the Marsh  
25 instruction, but you can answer.

1           A       The Florida House of Representatives.

2       BY MS. FORD:

3           **Q       What was the idea behind that approach?**

4           MR. JAZIL:  And again, to the extent that  
5       it was discussed outside the confines of the  
6       Governor's Office, you can answer.

7           A       The House articulated their "why" on the  
8       floor of The House of Representatives.  I am not  
9       sure I could better say it because that was  
10      literally their words, not mine, on the floor of the  
11      House.  So I would refer to the House's testimony in  
12      their own chamber.

13      BY MS. FORD:

14           **Q       When you -- when the Governor's Office**  
15      **discussed this, did they only discuss it with the**  
16      **House, or did you also discuss it with the Senate?**

17           A       I don't recall any specific discussions  
18      with the Senate.

19           **Q       Who met with the House to discuss this**  
20      **from the Governor's Office?**

21           A       I'm not certain.

22           **Q       Were you present at that meeting?**

23           A       No.

24           **Q       In March after the legislature had**  
25      **passed -- trying to remember the name of the actual**

1 **bill.**

2 MR. JAZIL: I think the name is listed on  
3 the Enacted Map itself.

4 MS. FORD: 102? It was an amendment, so  
5 this is a little bit harder.

6 BY MS. FORD:

7 **Q Let me just say, when the legislature --**  
8 **in March 2022 after the legislature passed its**  
9 **primary plan and its secondary plan, the Governor**  
10 **vetoed that bill, correct?**

11 A Yes.

12 **Q And that was the bill that had both the**  
13 **primary map and the secondary map in case the first**  
14 **one --**

15 A I should clarify. You said in March. I  
16 don't know the -- I don't recall the exact veto  
17 date.

18 **Q Sure. And the bill that the Governor**  
19 **vetoed had a primary map and then a secondary map in**  
20 **case the first one was found to violate the**  
21 **nondiminishment provision; correct?**

22 A In case the first one was found to violate  
23 the Equal Protection Clause, United States  
24 Constitution.

25 **Q Okay. Are you aware of any other instance**

1 in this past redistricting cycle in which a Governor  
2 vetoed the redistricting plan of his own party?

3 A No.

4 Q Are you aware of that ever occurring?

5 A I am not aware.

6 (Exhibit 54 was marked for  
7 identification.)

8 BY MS. FORD:

9 Q Mr. Kelly, Exhibit 54 is the memo from  
10 March 29, 2022, from Mr. Newman to the Governor  
11 offering what I understand to be the Governor's  
12 Offices' opinion on the constitutionality of the  
13 primary plan and the secondary plan.

14 Is that a fair characterization of what  
15 this is?

16 A Yeah. It's a letter from Mr. Newman to  
17 the Governor on the topic you mentioned.

18 Q Okay. I ask if you -- you've read this  
19 before?

20 A Yes.

21 Q And just to set the table, the  
22 legislature's primary plan had created a version of  
23 CD-5 that was fully based in Duval County, correct?

24 A I don't remember which was the primary,  
25 which was the secondary.

1           Q     Yeah. Let's actually just have it  
2     referenced. So Exhibit 23 is the primary, 8019. We  
3     don't have 8015, but the primary plan is Exhibit 23,  
4     Plan 8019.

5                     Does this refresh your memory?

6           A     Yes. Thank you. And I realize in looking  
7     at this, too, then, the secondary plan was the  
8     elongated --

9           Q     Is the one that -- something that looks  
10    more like the Benchmark --

11          A     Yep.

12          Q     -- 5. And actually, it is produced in  
13    color later in this memo. Not a great version, but  
14    you can see it.

15                     Okay. Okay. So just to go back, the  
16    legislature's primary plan had created a version of  
17    CD-5 that was fully based in Duval County, correct?

18          A     Yes.

19          Q     And this version of CD-5 was significantly  
20    more compact than the version of CD-5 in the  
21    secondary plan, correct?

22          A     Correct.

23          Q     The Governor's stated reason -- I should  
24    back up.

25                     Can this veto memorandum be said to fairly

1 **state the opinion of the Governor?**

2 A Yes.

3 Q Okay. So the Governor's stated reason for  
4 vetoing the primary plan was that this version of  
5 CD-5 would not comply with Florida's nondiminishment  
6 requirements.

7 **What was the basis for that conclusion?**

8 A The legislature had significant testimony  
9 about the district having a -- I don't know the  
10 exact number, but 10 or so -- drop in the Black  
11 voting age population of the district.

12 And so the legislature's attempt to thread  
13 the needle, as they were here, in trying to comply  
14 with one standard, they then essentially drew a  
15 district based -- still based on race. Their still  
16 stated purpose on the record was based on race.

17 They then drew a District 4 around it that  
18 suffered significantly based on compactness, and  
19 then they violated their own -- stated on their  
20 record -- understanding of the diminishment  
21 standard. And so they essentially created a  
22 Catch-22 where they violated state and federal law  
23 multiple ways with this iteration.

24 Q **Did the Governor's Office perform its own**  
25 **functional analysis on this Duval County version of**

1 CD-5.

2 A No.

3 Q So it relied on the legislature's data and  
4 functional analysis for making any conclusions it  
5 reached?

6 A Yes. And then their significant testimony  
7 on the record.

8 Q Give me one second. Let's go to the last  
9 page.

10 A Are we on Exhibit 54?

11 Q Yes. Still the veto memo. Here  
12 Mr. Newman writes when describing the secondary map,  
13 he says: "In the secondary map, by contrast,  
14 District 5 complies with the Florida Constitution's  
15 nondiminishment requirement, but in doing so, it  
16 violates the Equal Protection Clause of  
17 14th Amendment to the U.S. Constitution."

18 Can that be said to be the Governor's  
19 legal position on District 5 and the secondary map?

20 A Yes.

21 Q Was there any intervening precedent in  
22 between the February memo that Mr. Newman wrote on  
23 February 18 and this veto memo that you're aware of  
24 that changed the Governor's legal position on CD-5?

25 MR. JAZIL: Object.

1           You can answer.

2           A     I don't know what you mean.

3   BY MS. FORD:

4           **Q     We can move on. Sorry. I do have another**  
5 **question on this.**

6                   **This memo concludes that compliance with**  
7 **the Fair District Amendments is not a compelling**  
8 **interest sufficient to satisfy strict scrutiny.**

9                   **What is the Governor's Office basis for**  
10 **that opinion?**

11           A     I don't know that I can articulate that  
12 better than the memo does.

13           **Q     In this veto memo, did the Governor's**  
14 **Office express any concern about the**  
15 **constitutionality of any other district in the**  
16 **legislature's primary plan?**

17           A     Could I have a chance to read back through  
18 it again?

19           **Q     Uh-huh.**

20           A     (Examining document.)

21                   Thank you. What was your question again?

22           **Q     My question was: Did the Governor's**  
23 **Office express constitutional concerns with any**  
24 **other districts in the primary plan or the secondary**  
25 **plan in this memorandum?**

1           A     Yes.

2           **Q     On what districts?**

3           A     The memorandum lists District 4 on page 3  
4 of the memorandum, a district that was, as it said,  
5 to take on a bizarre donut shape that almost  
6 completely surrounds District 5 and, by reference,  
7 is pointing to that issue of districts that are  
8 adjacent to the unconstitutional districts.

9           **Q     Other than District 5, District 4, and any**  
10 **one that by definition would touch that district and**  
11 **be implicated by it, does this memo raise any**  
12 **constitutional concerns with any other districts in**  
13 **the primary or secondary plan?**

14          A     No.

15          **Q     Outside of CD-5 and the districts that**  
16 **touch it -- we'll incorporate that -- did the**  
17 **Governor's Office believe that Plan 8019 complied**  
18 **with the Fair District Amendments?**

19          A     As articulated in the compromise plan that  
20 we put forward that I drew, we believed that the  
21 plan could improve in multiple ways and be  
22 significantly improved in several districts  
23 throughout the map.

24          **Q     I understand that you thought it could be**  
25 **improved. I guess my question for you is: Did the**

**1 Governor's Office believe the rest of the plan was**  
**2 constitutional under the Fair District Amendments?**

3 A The question of constitutionality  
4 ultimately -- of the plan ultimately gets settled by  
5 the court, but the process of redistricting was of  
6 constant improvement in looking at the maps that we  
7 submitted, including the changes we made from --  
8 that I drew from this map to the ultimate map that  
9 was enacted, put the final map in a much better  
10 position to defend its constitutionality,  
11 compactness, use of city lines, county lines. It  
12 was a -- whole progression throughout was improving  
13 the map, consistently.

**14 Q Would you agree with me that there is no**  
**15 such things as a perfect plan?**

16 A Yes.

**17 Q Did the Governor's Office ever reach a**  
**18 determination that -- outside of District 5 -- that**  
**19 any districts in the primary plan or secondary plan**  
**20 violated any Tier 2 criteria?**

21 MR. JAZIL: I'm going to give you the  
22 Marsh instruction, but you can answer to the  
23 extent you can.

24 A I explained exhaustively to legislative  
25 committees there were numerous Tier 2 criteria that

1 could be improved and the final Enacted Map did  
2 exactly that.

3 BY MS. FORD:

4 Q I'll just -- I don't want to go in  
5 circles. I realize you believe that there were  
6 Tier 2 improvements that could be made. I'm asking  
7 you: Did the Governor's Office make a judgment that  
8 the legislature's plan violated any Tier 2 criteria  
9 other than the District 4 problem that we already  
10 discussed?

11 MR. JAZIL: I'm going to give you the  
12 Marsh instruction. To the extent, you can  
13 answer, answer.

14 A I spoke in the House and Senate committees  
15 for four to five hours at length about Tier 2  
16 criteria that could be improved significantly and  
17 did exactly that.

18 My testimony was extremely detailed about  
19 Tier 2 improvements that could be made throughout  
20 these maps.

21 BY MS. FORD:

22 Q Is your testimony today that if you can  
23 make an improvement to a map, that means the map has  
24 worse statistics, we'll say, is unconstitutional  
25 under the Fair District Amendments?

1           A       No.

2           Q       Did the Governor's Office ever convey to  
3       the Florida House or Senate in any manner that they  
4       believed any other district in that map was  
5       unconstitutional?

6           A       In which map?

7           Q       In the primary map or the secondary map.  
8                    I'll represent to you my understanding is  
9       outside of North Florida, the districts are exactly  
10      the same in the primary map and the secondary map.  
11      So once we're talking outside of North Florida,  
12      we're talking about the same map.

13          A       Unless it was minor touching up that the  
14      legislature did, I think that's probably fair, that  
15      North Florida is the major difference, if there are  
16      any.

17          Q       So my question was: Did the Governor's  
18      Office ever tell the House or the Senate that they  
19      believed any other district in Central Florida,  
20      Tampa Bay, the Gulf Coast, East Coast, the entire  
21      map, South Florida, anything outside of North  
22      Florida, did they ever tell the House or the Senate  
23      that they believed any district in those regions was  
24      unconstitutional?

25          A       We certainly conveyed many of the

1 districts could be improved upon and that would help  
2 with their argument of being constitutional.

3 **Q Okay. So that's a no?**

4 A I've answered it the way I answered it.

5 MS. FORD: Should we take a break for  
6 lunch?

7 MR. JAZIL: It's up to you guys.

8 (Discussion off record.)

9 (A recess took place from 12:41 p.m. to  
10 1:20 p.m.)

11 BY MS. FORD:

12 **Q Mr. Kelly, so either today or yesterday,**  
13 **you spoke about how you met with the House and the**  
14 **Senate to go over the Governor's proposed plans in**  
15 **advance of the special session, right?**

16 A Yes.

17 **Q And you said yesterday that you brought**  
18 **two plans and today we've established that those**  
19 **were Plans 14A and Plan 14B; is that right?**

20 A Yes.

21 **Q Okay. Who from the Governor's Office**  
22 **attended that meeting?**

23 A Myself, James Uthmeier, Ryan Newman. I  
24 believe just the three of us from the Governor's  
25 Office.

1           **Q     And am I right that there were actually**  
2           **two separate meetings, one with the House, one with**  
3           **the Senate?**

4           A     The meeting with the two maps was one  
5           meeting.

6           **Q     Okay. And both the House and the Senate**  
7           **were there?**

8           A     Yes.

9           **Q     Okay. I apologize if I asked you this**  
10          **earlier. I simply forget. I know you've testified**  
11          **that you drew Plan 14A, correct, what went on to be**  
12          **the enacted map?**

13          A     Yes.

14          **Q     Did you also draw Plan 14B?**

15          A     Yes.

16          **Q     Did Mr. Foltz assist you in drawing**  
17          **Plan 14B?**

18          A     No.

19          **Q     Okay. Why were those two plans the plans**  
20          **that you brought to the meeting?**

21          A     We brought two options for the -- for the  
22          House and Senate to look at.

23          **Q     Okay. And who was there from the Senate**  
24          **side at that meeting?**

25          A     Dan Nordby. I think just Dan.

1           **Q     Okay.  What about the House?**

2           A     Mat Bahl, Leda Kelly, Andy Bardos.  I  
3     think that was it from the House.

4           **Q     Was there anyone else at that meeting who**  
5     **was not a member -- member or staff of the**  
6     **legislature or the Governor's Office?**

7           A     No.

8           **Q     Okay.  What was the purpose of that**  
9     **meeting?**

10          A     To share the alternative options in hopes  
11     of having a compromised plan for a special session.

12          **Q     Were the plans presented as a sort of**  
13     **choice that the legislature can make between the two**  
14     **plans?**

15          A     That and to get feedback.

16          **Q     Okay.  What was the legislature's**  
17     **feedback?**

18          A     The feedback that we got, we presented 14A  
19     as the better of the two options, and they agreed.

20          **Q     Was this the only plan you had with the**  
21     **House and Senate in advance of the special session?**

22          A     Say that again.  The only plan?

23          **Q     I'm sorry.  Was this the only meeting that**  
24     **you had with the House and Senate in advance of the**  
25     **special session?**

1           A       No.

2           **Q       What other meetings occurred?**

3           A       We had a meeting with the House and a  
4       separate meeting with the Senate to -- after the  
5       meeting that we're talking about -- to basically  
6       brief them prior to my presentations in committee.

7           **Q       Let's go back to this first meeting, the**  
8       **meeting where you brought the two plans, 14A and**  
9       **14B.**

10                   **Did anyone in that meeting express legal**  
11       **concerns about Plan 14A?**

12           A       No.

13           **Q       Did anyone express legal concerns about**  
14       **Plan 14B?**

15           A       No.

16           **Q       Why did the Governor's Office -- or when**  
17       **the Governor's Office recommended Plan 14A to the**  
18       **House and Senate, why did they make that**  
19       **recommendation?**

20           A       Sure. 14A, the only differences were in  
21       the Tampa area, Tampa Bay region, and a little bit  
22       of the outlying districts, but the Tampa Bay region.

23                   14A only split Hillsborough County three  
24       times. 14B split it four times. 14A just visually,  
25       it was more compact. 14A had better clear use of

1 two major boundary lines, like State Road 60.

2 14A had a district that wholly included  
3 Pinellas County; 14B did not. That district of  
4 Pinellas went over Hillsborough a little bit.

5 And just the result of doing that, I  
6 talked a lot yesterday, I think, about how some of  
7 those districts intersected and created a nice  
8 common point where three districts intersected,  
9 clean lines, use of roadways. 14A accomplished that  
10 kind of visual clear use of roadways and  
11 compactness. 14B, it was not as -- it was not as  
12 good.

13 **Q Did the Governor's Office believe that**  
14 **both of these maps, 14A and 14B, were**  
15 **constitutional?**

16 A Yes.

17 **Q So let's go on to the -- fair to say**  
18 **essentially Plan 14A was chosen at that meeting to**  
19 **be a plan that progressed in the legislature?**

20 A Yes.

21 **Q The plan that the Governor's Office would**  
22 **present publicly?**

23 A Yes.

24 **Q Were there any dissenting opinions to that**  
25 **decision?**

1 A No.

2 Q So let's go on to the meetings with the  
3 Senate and the House that you discussed where you, I  
4 guess, fully presented Plan 14A. Is that a fair  
5 characterization of the meeting?

6 A The committee meetings, you mean or ...

7 Q No. I'm sorry. To -- in your  
8 presentation to the legislature, for example,  
9 Senator Rodrigues said, "On Tuesday, April 12, I was  
10 briefed by the Governor's Office on a map which has  
11 been published as Plan 109."

12 Was that the meeting you referred to  
13 earlier that you had with the Senate where you  
14 walked through the plan?

15 A Yes.

16 Q And then you had a similar but separate  
17 meeting with the House on the same topic?

18 A Yes.

19 Q Okay. Who was at the Senate meeting?

20 A Chair Rodrigues, Jay Ferrin. There was  
21 another Senate staffer there. I can picture them,  
22 but I never remember his name. But it was another  
23 one of the Senate, you know, like committee staff  
24 who was there, obviously myself, and either Nick  
25 Meros or Josh. One of our lawyers, either Nick or

1 Josh.

2 **Q Anyone at that meeting who was not a**  
3 **member of the Senate or the Governor's Office?**

4 A No. Stephanie Kopelousos may have been in  
5 that meeting. She's our legislative director.

6 **Q Was anyone else from the Senate invited**  
7 **who did not attend?**

8 A Not that I know of.

9 **Q Was any Democratic legislator invited?**

10 A Not that I know of.

11 **Q Okay. What would you say was the purpose**  
12 **of the meeting with the Senate, in your own words?**

13 A Sure. To walk through the map that --  
14 that -- ultimately the Enacted Map that I was going  
15 to be presenting in committee, give a preview of  
16 that map to the chair.

17 **Q Did you bring any physical sort of**  
18 **materials with you to that meeting or any papers,**  
19 **presentations that you made?**

20 A Yes. Yes.

21 **Q What did you bring?**

22 A A printout of the -- like a binder  
23 printout of the map and the data for the map.

24 **Q Were any changes made to the map after**  
25 **that meeting?**

1 A No.

2 Q What happened at that meeting?

3 A I just -- it's simple that -- me talking  
4 the chair, Chair Rodrigues, through the map.

5 Q Did you receive any questions from Chair  
6 Rodrigues or any of the other Senate  
7 representatives?

8 A If I did, it wasn't many. I recall him  
9 mostly just listening.

10 Q Did anyone at that meeting express concern  
11 that the Governor's plan did not comply with the  
12 Fair District Amendments?

13 A No.

14 Q Did anyone express that they thought that  
15 it did comply with the Fair District Amendments?

16 A No.

17 Q That topic just wasn't addressed at that  
18 meeting?

19 A Correct.

20 Q Did anyone express concern at that Senate  
21 meeting that there would be a lawsuit in response to  
22 the plan if it passed?

23 A I don't know.

24 Q All of my questions pertain to that Senate  
25 meeting. I'm not asking about internal EOG's

1       **conversations.**

2                   **Was there any discussion of the plan's**  
3       **impact on minority voters?**

4           A       Not that I recall.

5           **Q       Were you asked to make any changes to the**  
6       **map in that Senate meeting?**

7           A       No.

8           **Q       And was there any sort of planned**  
9       **follow-up after that meeting?**

10          A       No.

11          **Q       Did anything else happen at that Senate**  
12       **meeting that we haven't discussed?**

13          A       I think we've covered the synopsis of the  
14       meeting.

15          **Q       Okay. So you had a separate meeting with**  
16       **the House, correct?**

17          A       Yes.

18          **Q       Who from the House side was at that**  
19       **meeting?**

20          A       Chair Leek, Chair Sirois, and Leda Kelly.

21          **Q       And then obviously yourself?**

22          A       Myself, either Nick or Josh. One was at  
23       one meeting, one was at the other. And same answer  
24       regarding Stephanie, she was at one of the two  
25       meetings. I can't remember which, but she was at

1 one of the two.

2 **Q Was there anyone at that meeting who was**  
3 **not a member of the House or the Governor's Office?**

4 A No.

5 **Q To your knowledge, was any Democratic**  
6 **legislator invited to that meeting?**

7 A I don't know.

8 **Q Can you walk me through what happened at**  
9 **that meeting?**

10 A Sure. Same type of meeting, as the  
11 meeting with the Senate. It was a walk-through of  
12 the map, myself explaining the map to the  
13 two chairs.

14 **Q Did you receive any questions from the**  
15 **chairs or House staff?**

16 A The two chairs, I remember, had questions,  
17 yeah.

18 **Q What were those questions?**

19 A I don't recall any specific questions. I  
20 just recall, as I was explaining the map, just a lot  
21 of clarifications about just what some of the  
22 geographical features were. They seemed to be just  
23 trying to make sure that they understood what I was  
24 presenting.

25 **Q Did anyone express concern at that meeting**

1 that the Governor's plan did not comply with the  
2 Fair District Amendments?

3 A No.

4 Q Did anyone express that they thought that  
5 the Governor's plan did comply with the Fair  
6 District Amendments?

7 A I don't think they ever used those words.

8 Q Okay. Was there any discussion of the  
9 plan's impact on minority voters?

10 A Not that I can recall.

11 Q Was there any sort of -- sorry. Let me  
12 ask you a different question first.

13 Did anyone in that meeting ask you to make  
14 any changes to the plan?

15 A No.

16 Q Was there any sort of planned follow-up  
17 after that meeting?

18 A No. I guess -- I mean, you asked about  
19 follow-up. In both cases, I was going to be  
20 presenting, so I guess that's maybe the obvious  
21 follow-up, but no other follow-up.

22 Q So obviously, the legislature had not  
23 agreed -- this is my characterization -- had not  
24 agreed with the Governor about CD-5 when it passed  
25 its earlier proposal that the Governor vetoed.

1           **At what point in time did the House change**  
2 **its mind about its willingness to sign on to a plan**  
3 **that, I would say, diminishes CD-5?**

4           MR. JAZIL: Object to form.

5           But you can answer if you understand the  
6 question.

7           A     I mean, I can only say that the House  
8 agreed when the House took a vote. I mean, that's  
9 when the chamber actually -- that's when the chamber  
10 agrees, is when the chamber takes a vote on an  
11 issue.

12          BY MS. FORD:

13           **Q     Sure. When did House leadership agree**  
14 **that they would consider the Governor's version of**  
15 **CD-5? And by that, I mean they would put it on the**  
16 **floor for a vote?**

17           A     I don't know. I'd have to know things  
18 about the House leadership conversations. I don't  
19 know.

20           **Q     When did they tell the Governor's Office**  
21 **that they would support the Governor's version of**  
22 **CD-5?**

23           A     The day of that meeting with Mat Bahl, Dan  
24 Nordby, Andy Bardos, and I need to say, like, staff  
25 can't convey how the members are going to vote on

1 something, so -- but they conveyed that they would  
2 hear our attempt at a compromise proposal.

3 Q Would that meeting -- if I remember  
4 correctly, that was a meeting where you had both  
5 plans you were discussing about 14A and 14B?

6 A Yes.

7 Q Meetings don't have titles.

8 A No, it's okay.

9 Q And was that the first time that the  
10 Governor's Office became aware that the Senate would  
11 also sort of agree to a plan that utilized the  
12 Governor's preferred version of CD-5?

13 A That's where the Senate through their  
14 counsel agreed to hear the plan. Again, I mean,  
15 staff at a meeting like that can't convey how  
16 40 members of the Senate are going to vote.

17 Q Sure. Did the House explain why it had  
18 changed its mind in its willingness to take up and  
19 vote on this plan?

20 A They were -- the staff there were very  
21 complimentary of the proposed compromise which  
22 became the Enacted Map.

23 Q Okay. So in your presentation before the  
24 legislature, you talk a lot about why you thought  
25 CD-5 as drawn by the legislature in the earlier

1 plans would not survive federal constitutional  
2 challenge.

3 And you expressed opinions on why CD-5  
4 would not survive strict scrutiny. Essentially, you  
5 say it was not narrowly tailored to meet a  
6 compelling state interest. Just giving you  
7 background for my question.

8 Are you familiar with the strict scrutiny  
9 test that's used in federal court?

10 A Generally. Not to the degree that one of  
11 our counsel would be. I believe I was citing exact  
12 text or near text from one of our legal memorandum.  
13 I was offering a near quote from it.

14 Q And what -- in your estimation, what does  
15 a compelling state interest mean?

16 MR. JAZIL: Object to form.

17 You can answer.

18 A I really would need to defer to counsel to  
19 answer a question like that. The level that you're  
20 asking it, I can refer to our legal memorandum which  
21 we provided in various forms and fashions, but  
22 you're asking me to give an argument that a lawyer  
23 would give. I am a map-drawer.

24 BY MS. FORD:

25 Q So the reason I'm asking you, Mr. Kelly,

1 is because in that meeting you stated you thought  
2 that the legislature's earlier version of CD-5 would  
3 not pass strict scrutiny because it's not narrowly  
4 tailored to meet a compelling state interest. So  
5 I'm just asking you for the basis of those opinions.

6 So what does it mean to you -- what does a  
7 compelling state interest mean to you?

8 MR. JAZIL: Object to form.

9 A Just answered the question.

10 BY MS. FORD:

11 Q So you're not able to tell me today what  
12 that means?

13 MR. JAZIL: Object to form.

14 You can answer the question.

15 A I just answered the question, that you're  
16 asking me a question that one of our lawyers really  
17 would be more appropriate to answer. I told you  
18 already that I was basically reading a quote or near  
19 quote from one of our legal memorandum.

20 I wasn't there to give in-depth legal  
21 opinions to the two chambers. I was there to  
22 present the map as the map-drawer.

23 BY MS. FORD:

24 Q Okay. So to the extent that you were  
25 attempting to offer legal opinions on CD-5, is it

1 fair to say then you were just offering legal  
2 opinions that had been expressed to you by the  
3 Governor's Office?

4 A Yes.

5 Q In your presentation before the  
6 legislature, you say: "The compelling interest is  
7 for the mapmaker to define."

8 Do you recall saying that?

9 A No. Do you have a copy of the transcript?

10 Q Yeah, I do. We took it out because it was  
11 huge. I know it's here.

12 (Exhibit 55 was marked for  
13 identification.)

14 BY MS. FORD:

15 Q Mr. Kelly, this is a transcript of your  
16 presentation before the Senate committee during the  
17 special session in April. If you scroll back to the  
18 very last page, you'll see this was transcribed by  
19 an official service.

20 Let's go to page 23 of this. Here, I  
21 believe, Senator Gibson is asking you a question,  
22 and you respond in this third paragraph.

23 Would you like to read it, or would you  
24 like me to read it?

25 A Sure. Go ahead.

1           Q     You say Ms. -- or sorry -- Senator Gibson  
2     asked: "What is in the best interest for the  
3     State?"

4                     And you respond: "Thank you. That's not  
5     really a question I could answer. The compelling  
6     interest is for the map-drawer to define. I did not  
7     draw Benchmark CD-5 or District 5. I did not draw  
8     any of the legislature's attempt to redraw or  
9     reconfigure Benchmark District 5. That compelling  
10    interest is something that you, the legislature,  
11    would have to define."

12                    My question for you is that you later  
13    state in this presentation that you think that CD-5  
14    does not achieve a compelling state interest. And I  
15    was -- I'm simply just curious how you determine  
16    that if you think that a compelling state interest  
17    is something for the legislature, the person who  
18    drew the map, to decide for themselves?

19            A     Sure. The legislature's record had not  
20    defined any other interest for that district but  
21    race. So there was no compelling state interest to  
22    define their map. They had failed in that process.

23            Q     You also state in this testimony that you  
24    believe that CD-5 was not narrowly tailored. Was  
25    that, again, just a legal opinion from the

1 Governor's legal counsel that you were expressing?

2 A Yes.

3 Q Were there any other meetings with the  
4 House or the Senate that the Governor's Office had  
5 related to Congressional redistricting that we  
6 haven't talk about today?

7 A Not that I know of. I think we've covered  
8 them.

9 Q Did anyone in the Governor's Office ever  
10 discuss redistricting with the Republican National  
11 Committee or any of its staff or agents?

12 A No.

13 Q When I say "anyone," so I don't have to  
14 say -- do you understand that I mean, you know, its  
15 staff, its leadership, employees, any official  
16 agents on its behalf?

17 A Thank you for that clarification. The  
18 answer is still no.

19 Q Okay. And that definition will apply to  
20 all the entities that I'm about to ask you about.

21 Did anyone in the Governor's Office have  
22 any conversations or discussions about redistricting  
23 with the Republican Party of Florida?

24 A No.

25 Q What about the National Republican

1 **Congressional Committee?**

2 A No.

3 **Q The Redistricting Majority Project?**

4 A No.

5 **Q The Republican State Leadership Committee?**

6 A No.

7 **Q The National Republican Redistricting**

8 **Trust?**

9 A No.

10 **Q Ballard Partners?**

11 A No.

12 **Q Are any other consultant or agent that**  
13 **would have been working on behalf of the Republican**  
14 **Party?**

15 A No.

16 **Q Did you speak with other individuals in**  
17 **the Governor's Office about this topic or question**  
18 **in preparation for today's testimony?**

19 A Yes.

20 **Q About this specific topic?**

21 A Yes.

22 **Q Has Governor DeSantis ever spoken about**  
23 **his Congressional redistricting plan at Republican**  
24 **Party conferences or events?**

25 A Has he ever spoken about his plan?

1           **Q     Has he ever spoken about Congressional**  
2           **redistricting at Republican Party conferences or**  
3           **events?**

4           A     Not that I know of. He's spoken about  
5           redistricting in front of quite a bit of media,  
6           quite openly.

7           **Q     Are you aware about any comments he made**  
8           **on redistricting in May of 2021 to a local**  
9           **Republican Party group in Pennsylvania?**

10          A     No.

11          **Q     Are you aware of any comments he made**  
12          **about Congressional redistricting at the 2022**  
13          **Florida Sunshine Summit?**

14          A     No.

15                     (Exhibit 56 was marked for  
16                     identification.)

17          BY MS. FORD:

18          **Q     Mr. Kelly, Exhibit 56 is an article that**  
19          **was published in Politico on November 17, 2022. The**  
20          **title of this article is, "GOP to DeSantis: Thanks**  
21          **for helping us flip the House."**

22                     **Have you seen this article before?**

23          A     I don't think so.

24          **Q     If you can flip to the second page, the**  
25          **first full page of text, could you please read for**

**1 me the third and fourth paragraphs for the record?**

2 A Sure. "But Republicans in Florida and  
3 nationally are now praising the Governor for  
4 strong-arming his own party to approve his  
5 Congressional maps which netted Florida Republicans  
6 four additional Congressional seats on election day  
7 and essentially helped the GOP win the teeny House  
8 majority."

9 And then the quote: "Republicans in  
10 Congress owe a big thank you to Florida Governor Ron  
11 DeSantis whose insistence on redrawing the State's  
12 Congressional districts led to a four-seat pickup in  
13 the U.S. House on Tuesday, said Rep Vern Buchanan, a  
14 Florida Republican who could serve as chairman of  
15 the House Ways and Means Committee after the  
16 Republicans assume control of the chamber in  
17 January."

18 "Florida now has 20 Republican members of  
19 the House as a result of the Governor's assistance  
20 on his maps. Only one state has more Republicans in  
21 Congress."

**22 Q Thank you.**

**23 So here Representative Vern Buchanan is**  
**24 giving the Governor credit for the seats that**  
**25 Republicans netted here.**

1                   Do you agree that Governor DeSantis should  
2 get credit for the current House Republican  
3 majority?

4                   MR. JAZIL: Object to form.

5                   A     No.

6                   (Exhibit 57 was marked for  
7 identification.)

8 BY MS. FORD:

9                   Q     There's no method to this madness, the  
10 last exhibits that I wanted to ask about. I didn't  
11 have time to put it in my outline very neatly.

12                   Mr. Kelly, Exhibit 57 is the submission  
13 form by Mr. Newman submitted to the Florida  
14 legislature on April 13, 2022, which was submitting  
15 Plan 109, what would go on to be the Enacted Map.

16                   Does this look like a fair and accurate  
17 copy of that submission?

18                   A     Yes.

19                   Q     And in this submission form, Mr. Newman  
20 did not list your name on this, correct?

21                   A     Correct.

22                   Q     Is there a reason why he submitted it  
23 instead of you?

24                   MR. JAZIL: I'm going to give you the  
25 Marsh instruction, and in addition,

1 attorney-client privilege.

2 A Well -- and I noted the second time  
3 earlier when I looked at it, I think it was  
4 Exhibit -- or one of the earlier -- I think it was  
5 maybe Exhibit 48, one of the earlier exhibits --  
6 that we are an office. Ryan Newman was acting as a  
7 designee of our office. Anyone who worked in our  
8 office on this, we worked as part of the office.

9 (Exhibit 58 was marked for  
10 identification.)

11 BY MS. FORD:

12 Q Mr. Kelly, Exhibit 58 is an e-mail that  
13 was produced by your office to us in this case.  
14 It's an e-mail chain between Taryn Fenske, who you  
15 said does communications for your office?

16 A Communications director.

17 Q She forwarded something to Mr. Newman, but  
18 the substance of the e-mail is Ms. Fenske's  
19 correspondence with Gary Fineout from Politico.

20 Here, if you look at the last page of  
21 Mr. Fineout's -- he provides some questions in  
22 writing and asks some questions about Adam Foltz.

23 Do you want to take a second to read that?  
24 I assume you haven't seen this before.

25 A Thank you. Appreciate it.

1 (Examining document.)

2 Okay. Thank you.

3 Q Okay. My question is simply: Here in the  
4 response to Mr. Fineout, Ms. Fenske says: "Hey,  
5 Gary. Is Adam a political operative because you say  
6 he is or because you don't agree with his map?  
7 Either way, it sounds like petty name calling."

8 Ms. Fenske here, to a lay observer,  
9 appears to be implying to me that Mr. Foltz is the  
10 author of the map that the Governor's Office has  
11 just put forward. Was Ms. Fenske in error in this  
12 sort of language?

13 A You're in error in your --

14 MR. JAZIL: Object to the form.

15 A You're in error in your reading of the  
16 e-mail.

17 BY MS. FORD:

18 Q Okay. Can you explain -- what's your  
19 reading of the e-mail?

20 A Mr. Fineout is asking about my statements  
21 on the record about Adam Foltz's control as a  
22 contractor and Ms. Fenske is answering that  
23 particular issue.

24 Q Okay. So his map is -- you take that to  
25 be a reference to the earlier plans that you had

1       **done with Mr. Foltz?**

2           A       I'd have to ask Gary Fineout exactly what  
3       the phrase "his map" means.

4           **Q       That's Ms. Fenske's quote.**

5           A       I'd have to ask her exactly what it means,  
6       but, I mean, to be frank, this -- I can tell by the  
7       time this was sent while I was presenting in the  
8       House, Ms. Fenske and Mr. Fineout were in the room  
9       in the audience. So he was clearly asking her  
10       questions, but you're taking this out of context.

11          **Q       I'm just -- well, that's why I asked you**  
12       **if you could -- that's fine.**

13                   **You mentioned yesterday that you had used**  
14       **the Florida Redistricting website for your map**  
15       **drawing?**

16          A       Yes.

17          **Q       That website had access to election data**  
18       **and political data for every district, correct?**

19          A       I believe so, yes.

20          **Q       And it was possible to generate reports**  
21       **that would have contained election data for every**  
22       **district in a plan that the mapmaker was drawing,**  
23       **correct?**

24          A       Correct.

25

1                   (Exhibit 59 was marked for  
2                   identification.)

3       BY MS. FORD:

4           **Q**     Let's come back to that. In the meantime,  
5       I'll just finish up with my last two exhibits.

6                   **Mr. Kelly, Exhibit 59 I will represent to**  
7       **you was produced in a series of public records from**  
8       **the Governor's Office in response to a request about**  
9       **redistricting. It was provided to American**  
10      **Oversight.**

11                   I apologize that it doesn't have any  
12      markings. I think it was a single document in a  
13      1700-page public records response that I did not  
14      feel like printing out all 1700 pages.

15                   **Have you seen this map before?**

16           A     It does not look familiar.

17           **Q**     Okay. You don't think you've ever seen  
18      it?

19           A     Does not look familiar.

20           **Q**     Okay.

21                   (Exhibit 60 was marked for  
22                   identification.)

23       BY MS. FORD:

24           **Q**     **Mr. Kelly, Exhibit 60 was the page that**  
25      **immediately followed this map, and following it was**

1 a 400-page text which seems to me to be like a TXT  
2 file of some sort of spreadsheet providing an  
3 analysis that appeared to compare this plan on a  
4 variety of metrics.

5 Have you ever seen this or a spreadsheet  
6 that looks like this before?

7 A No.

8 Q So this was not your analysis?

9 A I haven't the faintest clue what this is.

10 Q This was the format in which it was  
11 provided. So I don't have the original Excel  
12 spreadsheet or a better format.

13 A The problem always at the Governor's  
14 Office is thousands of people e-mail us things, so  
15 you could easily be pulling up something that just  
16 some random person e-mailed us.

17 Q So you know, there was absolutely no  
18 context provided, so ...

19 A Yeah. I don't recognize either one of  
20 these documents, 59 or 60.

21 (Exhibit 61 was marked for  
22 identification.)

23 BY MS. FORD:

24 Q Mr. Kelly, for context, I had intended to  
25 show you the version just for Plan 109. We can't

1 find it at the moment, so let's use the one for the  
2 Plan 79. I'll represent to you that this was  
3 produced to us by the House. You can see that with  
4 the House Bates stamp date at the bottom.

5 It appears to be a spreadsheet providing  
6 for your -- for the Governor's first plan, Plan 79,  
7 a breakdown of the plan on a variety of statistics,  
8 including the percentage of Democratic voters,  
9 Republican voters, Independent voters on a variety  
10 of metrics.

11 A You said the House provided this to you?

12 Q The House provided this, that's correct.

13 So in the House redistricting -- I'm  
14 sorry. In the Florida Redistricting website, it was  
15 possible to generate reports like this, correct?

16 A I've never seen a report like this. I  
17 know their website allows you to develop a variety  
18 of reports, including political data. I've never  
19 seen something like this.

20 Q Okay. I don't have any more questions on  
21 this.

22 Did the Governor's Office ask anyone to  
23 sign any nondisclosure agreements in connection with  
24 redistricting work?

25 A Not that I know of.

1           **Q**     **Okay. When the Governor's Office went**  
2     **about collecting documents to respond to the**  
3     **subpoena -- I know you provided documents -- who**  
4     **else from your office would have provided documents**  
5     **or would have engaged in this sort of hand- -- said,**  
6     **you know, here's a box of stuff.**

7           A     Sure.

8           **Q**     **Who else did that?**

9           A     Sure. I know Chris DeLorenzo from our  
10    office was the main person going around collecting  
11    documents. I know he collected documents from  
12    myself, Stephanie Kopelousos, I'm pretty sure James  
13    Uthmeier, I believe Chris Spencer, documents our  
14    lawyers would have had, which could be Ryan Newman,  
15    Josh, Nick. I'm probably forgetting a name or two.  
16    But I know -- I know Chris collected documents from  
17    a large number -- I say a large, sorry -- or some  
18    number of people like the ones I mentioned.

19          **Q**     **Do you know if documents were collected**  
20    **from the Governor himself?**

21          A     I don't know.

22          **Q**     **In this process did the Governor's Office**  
23    **ever discover any pertinent documents had been**  
24    **deleted?**

25          A     Not to my knowledge.

1 MS. FORD: I don't have any further  
2 questions at this time.

3 MR. JAZIL: You want to take a 5-minute  
4 break?

5 MS. DJANG: Perfect.

6 MR. JAZIL: Consistent with our discussion  
7 yesterday, after you guys are done asking  
8 questions, I'll have very brief follow-up,  
9 hopefully, three or four questions, and that's  
10 it. Then you can have a chance for redirect.

11 MS. FORD: Okay. I was just -- in terms  
12 of form, I didn't -- I'm trying to think  
13 through whether it matters if the Secretary is  
14 a separate deposition.

15 MR. JAZIL: So here's my understanding,  
16 and you correct me if I am wrong. We started  
17 on the first day. I represented to you that  
18 everything he says is a party admission for  
19 purposes of the Governor's Office, for the  
20 Secretary.

21 So as far as I'm concerned, his answers  
22 bind both sides to the extent that they do, and  
23 I'm just going to follow up, ask questions  
24 after, and that will make it simple.

25 MS. FORD: Works for me.

1 (A recess took place from 2:06 p.m. to  
2 2:10 p.m.)

3 DIRECT EXAMINATION

4 BY MR. POSAMATO:

5 Q Mr. Kelly, so we understand that you were  
6 also here as a corporate representative for the  
7 Secretary of State's Office, is that correct?

8 A Yes.

9 Q I'm going to just show you one of my  
10 two exhibits, which is the notice from the Secretary  
11 of State's Office.

12 (Exhibit 62 was marked for  
13 identification.)

14 BY MR. POSAMATO:

15 Q Have you seen this, sir, before?

16 A Yes.

17 Q As I understand, you're here to testify as  
18 to Topics 3 through 11 and then Topics 1, 2, and 17  
19 to the extent that they are relevant to your  
20 testimony to the Topics 3 through 11; is that  
21 correct?

22 A That sounds right, yes.

23 Q Okay. And you understand that this means,  
24 as it meant for your testimony on behalf of the  
25 Executive Office of Governor, that you are to

1 provide answers on behalf of the Secretary's  
2 Office -- of State's office?

3 A Yes.

4 Q And just like in the context of the  
5 Executive Office of Governor, by the Secretary of  
6 State's Office -- I mean Secretary of State, his  
7 staff, employees, consultants, and representatives,  
8 such as folks like Adam Foltz.

9 A Yes.

10 Q And are you prepared to testify regarding  
11 Topics 3 through 11, and 1, 2, and 17 to the extent  
12 they are relevant?

13 A Yes.

14 Q Can you describe how you prepared to  
15 testify on those topics?

16 A I met with our counsel.

17 Q Counsel in the Secretary's Office or  
18 secretary of the Executive Office of Governor?

19 A Counsel for the Executive Office of  
20 Governor who includes counsel that the Secretary of  
21 State's paying for.

22 Q Did you review any documents?

23 A This document. I think for this portion  
24 of the preparation, I think it was this document,  
25 although some of these questions are applicable to

1 both.

2 Q Sure. Did you speak to anybody other than  
3 your attorneys?

4 A No.

5 Q Nobody else in the Secretary of State's  
6 Office besides the attorneys?

7 A No.

8 Q Governor's Office?

9 A No.

10 Q Anybody in the legislature, staff, or  
11 members?

12 A No.

13 Q Did you speak to Adam Foltz?

14 A No.

15 Q Can you describe what role the Secretary  
16 played in the State's 2021-2022 Congressional  
17 redistricting process?

18 A The office contracted for -- our office  
19 was the -- had the contracts for our outside counsel  
20 and map-drawer, outside counsel, and consultants.

21 Q So did the Secretary play -- Secretary's  
22 Office play any other role besides engaging in  
23 contracts with the outside?

24 A No.

25 Q And why did the Secretary's Office enter

**1 into those contracts rather than the Executive**  
**2 Office of the Governor?**

3 A The Executive Office of the Governor  
4 doesn't have a budget for outside counsel, so it's  
5 pretty common for across policy areas that,  
6 typically, the agency for which the policy is most  
7 applicable, it's pretty common that that agency  
8 typically does have a budget for outside counsel.

9 So typically, those agencies will be the  
10 ones that actually pay the legal bills.

**11 Q Did the Secretary's Office ever enter into**  
**12 a contract with an electronic consultant or any kind**  
**13 of consultant to help with redistricting in past**  
**14 cycles?**

15 A In past cycles? I don't know.

**16 Q Can you identify who the Secretary engaged**  
**17 to help with the state's redistricting?**

18 A Who was on contract with the Secretary of  
19 State's Office?

**20 Q That's right.**

21 A Mo, their firm, Adam Foltz. I don't --  
22 forgive me. I just -- you know, our attorneys, our  
23 counsel, are consultants who we've mentioned before.

**24 Q Thomas Bryan?**

25 A Yes. I don't know if his contract -- I

1 don't know if he was a direct contract himself or if  
2 he was through somebody else. But, yes, he was part  
3 of it, I guess.

4 **Q My colleague asked you about Eric**  
5 **Wienckowski and if you weren't sure --**

6 A I wasn't familiar who he was.

7 **Q I want to ask you about Mo and his**  
8 **colleagues.**

9 **But how did you -- how did the Secretary's**  
10 **Office decide to engage Mr. Foltz and Mr. Bryan?**

11 MR. JAZIL: To the extent that the  
12 information isn't privileged, you can share it.

13 A That would be all internal conversations  
14 in our office except to the extent that we directed  
15 them to.

16 BY MR. POSAMATO:

17 **Q So I'm asking just in your capacity as**  
18 **representative of the Secretary of State's Office.**  
19 **Did the Secretary of State have a view on who the**  
20 **Secretary should hire to help the state's**  
21 **redistricting process?**

22 A Did the Secretary of State?

23 MR. JAZIL: Again, to the extent that the  
24 information isn't attorney-client privilege,  
25 legislative privilege, you can answer.

1 THE WITNESS: I do not know what would be  
2 and would not be attorney-client privilege and  
3 legislative privilege here.

4 MR. JAZIL: Okay. Fair enough. To the  
5 extent that there was discussion -- you want to  
6 explore this more, Joe? Ask him different  
7 questions.

8 MR. POSAMATO: Yeah.

9 BY MR. POSAMATO:

10 Q So as we mentioned earlier, the  
11 Secretary's Office entered into contracts with  
12 Mr. Foltz and potentially Mr. Bryan?

13 A Can I go back to something I said earlier?

14 Q Sure.

15 A I think I may have answered your question.  
16 I said Secretary of State's Office was directed to.  
17 I don't know if that answered your question or not.

18 Q That does answer my question. But let me  
19 ask a follow-up.

20 Did the Secretary -- was there any  
21 discussions between Executive Office of the Governor  
22 and the Secretary of State's Office on who to hire  
23 to assist the State with the redistricting process?

24 MR. JAZIL: To the extent those  
25 discussions were just among the lawyers, I'm

1 going to direct you not to answer.

2 Do you know of any discussions, outside of  
3 the lawyers through the Executive Office of the  
4 Governor and Secretary of State's Office, you  
5 can answer.

6 A I know the Secretary of State was briefed  
7 on the matter to say that these contracts were going  
8 to be signed.

9 BY MR. POSAMATO:

10 Q Okay. So is it fair to say that the  
11 Secretary -- I'm not trying to breach any  
12 attorney-client privilege, but I'm just trying to  
13 understand.

14 Is it fair to say that the Secretary of  
15 State didn't really have much role in deciding on  
16 who to hire? It was -- it mostly came from the  
17 Executive Office of the Governor?

18 A Yes. The Secretary of State at the time,  
19 Laurel Lee, did not have much of a role in who to  
20 hire.

21 Q Okay. Just to put a little more  
22 specificity, beyond following direction from the  
23 Executive Office of the Governor on who to hire to  
24 assist the State with map drawing and redistricting,  
25 generally did the Secretary assist the Governor with

1       **any other part of the State's redistricting process?**

2           A       No.

3           **Q       What about the legislature?**

4           A       Did the --

5           **Q       -- Secretary of State --**

6           A       -- assist the legislature?

7           **Q       Yeah, any part of the legislature.**

8           A       No.

9           **Q       Beyond hiring consultants to assist with**  
10       **map drawing, was the Secretary's Office or**  
11       **anybody -- the Secretary or anybody in the**  
12       **Secretary's Office involved in any map drawing?**

13          A       No.

14          **Q       Did this -- was the Secretary or anybody**  
15       **in the Secretary's Office involved in reviewing**  
16       **draft plans?**

17          A       No.

18          **Q       When did the Secretary of State's Office**  
19       **first get in touch with Mr. Foltz?**

20          A       That, I don't know.

21          **Q       Was the Secretary of State Mr. Foltz's**  
22       **client, or was it the Executive Office of Governor?**

23          A       The Secretary of State is who had the  
24       contracts in this matter.

25          **Q       So did Mr. Foltz only report to the**

1     **Secretary, or did Mr. Foltz also report to folks**  
2     **inside the Executive Office of the Governor?**

3           A     Mr. Foltz reported to the team and  
4     Executive Office of the Governor.

5           Q     **Nobody else within the Secretary's Office?**

6           A     Correct.

7           Q     **Besides Mr. Foltz and Mr. Bryan, were any**  
8     **other third-party consultants considered to assist**  
9     **the State in its redistricting process?**

10          A     I don't know.

11          Q     **Were you aware that Mr. Foltz was also**  
12     **employed by Texas to assist Texas with its**  
13     **redistricting process while he was also working for**  
14     **the State of Florida?**

15          A     Yes. And I actually testified to that in  
16     committee.

17          Q     **Can you just broadly describe the scope of**  
18     **Mr. Foltz's engagement?**

19          A     Map drawing.

20          Q     **Are you aware how much Mr. Foltz was paid**  
21     **for his work?**

22          A     No.

23          Q     **Is Mr. Foltz still employed by the**  
24     **Secretary?**

25          A     Not to my knowledge.

1           **Q     Was he paid at all?**

2           A     Was he actually paid?

3           **Q     Yeah.**

4           A     I don't know if he received payment, and I  
5     should go back. If he's still under contract, I  
6     don't know it, if that makes any difference.

7           **Q     What was Mr. Foltz's process for drawing  
8     draft congressional plans?**

9           A     What was his personal process?

10          **Q     Yes. Is the Secretary's Office aware or  
11     anybody in the Secretary's Office aware of the  
12     process Mr. Foltz undertook to draw up draft plans?**

13          A     I was able to testify earlier just some of  
14     the high-level direction he was given. I don't know  
15     his process. I think when you depose him, he could  
16     probably best answer that.

17          **Q     Okay. Did the Secretary provide Mr. Foltz  
18     with any data?**

19          A     Did the Secretary of State provide  
20     Mr. Foltz with any data? No.

21          **Q     Did the Secretary provide Mr. Foltz with  
22     any guidance to follow when drawing up draft plans?**

23          A     No.

24          **Q     I just want to turn your attention to -- I  
25     don't know where I put it now -- Exhibit 54, which**

1 we talked about briefly earlier. This was, I think,  
2 an expression of --

3 MS. FORD: The veto memorandum.

4 BY MR. POSAMATO:

5 Q Yeah, the veto memorandum expressing the  
6 Governor's Office use on -- yes, this is the  
7 Executive Office of the Governor's, I believe, veto  
8 memorandum. And I believe earlier you had testified  
9 this reflected the Governor's views on CD-5 and the  
10 Fair District Amendments?

11 A I think I was asked earlier about CD-5.

12 Q Sure, CD-5?

13 A Yes, it reflects his views on CD- 5.

14 Q Does this also reflect the Secretary of  
15 State's Office regarding CD-5?

16 A The Secretary of State's view on CD-5?

17 Q Yeah.

18 A No, this reflects the Governor's view.

19 Q Do you know if the Secretary had a view on  
20 CD-5?

21 A I don't know.

22 Q Did the Secretary perform any analysis of  
23 any draft plan that Mr. Foltz drafted?

24 A No.

25 Q So the Secretary didn't perform, for

1 **example, a functional analysis on any of Mr. Foltz's**  
2 **plans?**

3 A Correct.

4 **Q How many draft plans did Mr. Foltz**  
5 **complete?**

6 A I don't know the exact number. Like I  
7 say, give or take 10 to -- 10-ish, maybe a little  
8 more. There were some plans that he and I worked on  
9 together.

10 **Q Sure.**

11 A So I don't -- I'm not trying to parse  
12 words there. So some of those we completed  
13 together, some he did by himself, some I did. So  
14 I'd say he had his hand in, give or take, 10 plans.

15 **Q At the risk of repetition, is it correct**  
16 **to say that Mr. Foltz drafted those plans solely at**  
17 **the behest of the Executive Office of the Governor?**

18 A Yes.

19 **Q Who specifically in the -- well, did**  
20 **anyone specifically in the Executive Office of the**  
21 **Governor ask Mr. Foltz to draw up those plans?**

22 MR. JAZIL: I'm going to give you the  
23 Marsh instruction.

24 BY MR. POSAMATO:

25 **Q And I want to clarify that I'm asking this**

1 in your capacity as a representative for the  
2 Secretary of State's Office, to the extent the  
3 Secretary of State's Office was also involved in  
4 those discussions and is aware of who directed it.

5 A Oh, sure. The Secretary of State's Office  
6 wouldn't have any idea as to who in the Governor's  
7 Office gave Mr. Foltz direction.

8 Q Can you describe, maybe at a high level to  
9 the extent you're aware, Mr. Foltz's work process?  
10 So after he would complete a draft plan, who would  
11 he send them to?

12 A Who would he send the draft plan to?

13 Q Yeah.

14 A Mr. Foltz would send a draft plan either  
15 to myself or to Mo or to both of us.

16 Q And then what was the process after  
17 receiving a draft plan from Mr. Foltz?

18 MR. JAZIL: I am going to give you the  
19 Marsh instruction here. Answer to the extent  
20 you can.

21 A The only way that I could answer that  
22 conversation would be to talk about internal  
23 conversations through our office. I'm going to take  
24 counsel's guidance.

25

1 BY MR. POSAMATO:

2 Q And then are you able to answer to the  
3 extent that the Secretary was involved in any of  
4 that, in any part of that process?

5 MR. JAZIL: I'm going to give you the  
6 Marsh instruction again. And so the record is  
7 clear, the Secretary of State's Office reports  
8 directly to the Executive Office of the  
9 Governor. She -- now he -- serves at the  
10 pleasure of the Governor. So it is part of the  
11 executive branch, but again, answer to the  
12 extent you can.

13 MR. POSAMATO: Can I just clarify?

14 MR. JAZIL: Sure.

15 MR. POSAMATO: So is it your position that  
16 the Secretary of State's Office is sort of the  
17 instrument of the Executive Office of the  
18 Governor?

19 MR. JAZIL: Yes.

20 MR. POSAMATO: Like as a matter of law?

21 MR. JAZIL: Yes, and the Executive Office  
22 of the Governor's lawyers, for example, serve  
23 as legal counsel to the Secretary of State's  
24 Office and the Secretary of State's lawyers  
25 serve as counsel to the Executive Office of the

1 Governor too, so there is a relationship like  
2 that.

3 MR. POSAMATO: Okay.

4 A Can you repeat your question?

5 BY MR. POSAMATO:

6 **Q Sure. I had asked, you know, to the**  
7 **extent that the Secretary was involved in the review**  
8 **of draft plans created by Mr. Foltz, are you able to**  
9 **describe what that process was like?**

10 A The Secretary of State's Office was never  
11 involved in reviewing draft plans.

12 **Q Sure.**

13 **Was any particular individual or -- was**  
14 **any particular individual in charge of Mr. Foltz's**  
15 **work?**

16 MR. JAZIL: I give you the same Marsh  
17 instruction, but to the extent you can answer,  
18 answer.

19 A The only way I could answer the question  
20 would be to talk about internal conversations to our  
21 office. I'm going to follow counsel's guidance.

22 BY MR. POSAMATO:

23 **Q Did anyone outside the Secretary of**  
24 **State's Office provide Mr. Foltz with data?**

25 A Did anyone outside the Secretary of

1 State's Office provide Mr. Foltz with data? The  
2 Governor's Office.

3 **Q And what data was that?**

4 MR. JAZIL: I am going to give you the  
5 Marsh instruction.

6 A Well, and to be clear too, that the  
7 legislative tool that was used for map drawing has  
8 data, so let's just apply that to everybody. The  
9 e-mail records back and forth between our office and  
10 Mr. Foltz would cover any of that.

11 BY MR. POSAMATO:

12 **Q Okay. Just so I understand your answer,**  
13 **Mr. Foltz would have had access to data provided on**  
14 **the legislature's map drawing tool, and then there**  
15 **would have been -- that's data reflected in some**  
16 **e-mail traffic we've received in discovery between**  
17 **your office and Mr. Foltz?**

18 **Is it your testimony that that is the**  
19 **exclusive universe of data he would have received**  
20 **from your office, or are you at all relying on the**  
21 **Marsh order?**

22 A From our office, that's the exclusive data  
23 he would have received from our office.

24 **Q Did Mr. Foltz have any assistants or**  
25 **coworkers? You may have answered this earlier.**

1 A Did he have any assistance in --

2 Q Assistants, not -- sort of the noun,  
3 not -- like people who were helping him?

4 A In?

5 Q Map drawing.

6 A Okay. In the act of map drawing, no.

7 Q Did Mr. Foltz analyze any draft plans that  
8 originated in the legislature?

9 MR. JAZIL: I give you the Marsh  
10 instruction, but to the extent you can answer,  
11 answer.

12 A The public record of e-mail traffic shows  
13 that he did.

14 BY MR. POSAMATO:

15 Q Did anybody decide which plans Mr. Foltz  
16 would review that the legislature had proposed or  
17 considered?

18 MR. JAZIL: I'm going to give you the  
19 Marsh instruction, but you can answer to the  
20 extent --

21 A The only way that I could answer that  
22 question would be to talk about conversations  
23 internal to our office, so I'm going to take  
24 counsel's guidance.

25

1 BY MR. POSAMATO:

2 Q Did Mr. Foltz review or analyze any draft  
3 plans that originated from the Executive Office of  
4 the Governor?

5 A Yes, the e-mail traffic between us would  
6 show that he did.

7 Q Sure. But beyond just e-mail traffic, are  
8 there any other plans that Mr. Foltz analyzed that  
9 originated from the Executive Office of the  
10 Governor?

11 A Yes. I would think, though, it's -- you  
12 know, I say that. I think -- I would think it all  
13 shows up in the e-mail.

14 Q Are you sure?

15 A That's how we exchanged plans. So any  
16 plan we exchanged, we e-mailed it to each other.

17 Q So any plan Mr. Foltz would have reviewed  
18 from the Executive Office of the Governor would be  
19 in e-mail?

20 A Yeah.

21 Q Other than draft plans, did Mr. Foltz  
22 create any other work product for the Secretary or  
23 for the Executive Office of the Governor?

24 MR. JAZIL: I'm going to give you the  
25 Marsh instruction, but answer if you can.

1           A       Other than draft plans?

2       BY MR. POSAMATO:

3           **Q       Yes.**

4           A       Mr. Foltz would send some data with those  
5       plans.

6           **Q       And is that data -- does that data take  
7       the form of the plan comparisons that my colleague  
8       showed you in earlier testimony?**

9           A       Yes, there was a -- one that -- there was  
10       one particular exhibit that -- if you'll give me a  
11       moment. The data Mr. Foltz would send would look  
12       similar to Exhibit 51.

13          **Q       Did Mr. Foltz provide any data or any  
14       analysis other than what's the sort of data analysis  
15       that's represented in Exhibit 51?**

16          A       No.

17          **Q       Did any third party other than Mr. Foltz  
18       assist the Secretary with its work during the  
19       2021-2022 redistricting process?**

20          A       I apologize, I dropped a napkin, I got  
21       distracted. I'm so sorry. Could you repeat your  
22       question?

23          **Q       Did any third party other than Mr. Foltz  
24       or Mr. Bryan assist the Secretary with its work  
25       during the 2021-2022 redistricting process?**

1           A     No.

2           **Q     Did the Secretary have any contact with**  
3     **any third party other than Mr. Foltz or Mr. Bryan**  
4     **regarding the State's 2021-2022 redistricting**  
5     **process?**

6           A     No.

7           **Q     Did any third party contact the Secretary**  
8     **to offer their assistance during the State's**  
9     **2021-2022 redistricting process?**

10          A     Did any third party contact them? I  
11     couldn't speak to the potentially thousands of  
12     e-mails state agencies get all day long from average  
13     citizens. I couldn't speak to that.

14          **Q     Is the Secretary aware of any third**  
15     **parties who assisted the legislature during the**  
16     **2021-2022 redistricting process?**

17          A     I apologize, say it again.

18          **Q     If I'm talking too quickly, you can tell**  
19     **me to slow down, too.**

20                   **Is the Secretary aware of any third**  
21     **parties who assisted the legislature during the**  
22     **2021-2022 redistricting process?**

23          A     No.

24          **Q     Did the Secretary have any communications**  
25     **with any member of the U.S. Congress during the last**

1       **redistricting cycle?**

2           A       No.

3           Q       I am going to ask you whether the  
4       **Secretary had communications with a series of**  
5       **entities.**

6           A       Sure.

7           Q       Did the Secretary have any communications  
8       **with the Republican National Committee?**

9           A       No.

10          Q       The Republican Party of Florida?

11          A       No.

12          Q       The National Republican Congressional  
13       **Committee?**

14          A       No.

15          Q       The Redistricting Majority Project?

16          A       No.

17          Q       The Republican State Leadership Committee?

18          A       No.

19          Q       The National Republican Redistricting  
20       **Trust?**

21          A       No.

22          Q       Ballard Partners.

23          A       No.

24          Q       Or any other consultant or agent on behalf  
25       **of any entity affiliated with the Republican Party?**

1           A       No.

2           Q       I just have a few more questions. During  
3 the 2021-2022 redistricting process, did the  
4 Secretary communicate with Governor DeSantis  
5 concerning the State's redistricting of its  
6 Congressional plan?

7           A       Secretary communicate with the Governor?  
8 Not to my knowledge.

9           Q       Did the Secretary communicate with anyone  
10 in the Executive Office of the Governor concerning  
11 the State's redistricting process?

12          A       Yes.

13          Q       Who within the Executive Office of the  
14 Governor did the Secretary communicate with?

15          A       Whoever worked on the contracts that we've  
16 been talking about with the consultants and lawyers.

17          Q       Were those conversations limited to the  
18 contracts you were discussing?

19          A       Yes.

20          Q       You didn't talk about anything else -- or  
21 the Secretary's Office did not discuss any other  
22 topics with the Executive Office of the Governor  
23 besides the contracts?

24          A       Correct.

25          Q       Did the Secretary communicate with

1     **Governor DeSantis or anyone in the Executive Office**  
2     **of the Governor about any draft plan created by**  
3     **Mr. Foltz during the last cycle?**

4           A     No.

5           Q     **Did the legislature consult with the**  
6     **Secretary on any election administration questions**  
7     **with respect to implementing a new Congressional**  
8     **plan?**

9           A     With respect to implementing the new plan?  
10    I'm not sure. Kind of beyond the process.

11          Q     **Sure. And this is sort of on the edge of**  
12    **topics that you were here to testify about.**

13          A     Yes.

14          Q     **Just talking about your communications**  
15    **about the process generally with the legislature and**  
16    **Governor's Office. I ask the same questions of the**  
17    **Governor's Office.**

18                   **Did the Secretary have any discussions**  
19    **with the Governor's Office regarding the**  
20    **implementation of a new Congressional plan?**

21          A     Regarding the actual implementation of it?  
22    That, I don't know.

23          Q     **Did the Secretary have any communication**  
24    **with any member of the legislature regarding the**  
25    **redistricting process in the last cycle?**

1           A       No.

2           **Q       Did the Secretary review any draft plans**  
3 **proposed by the legislature?**

4           A       No.

5           **Q       Did the Secretary review any data**  
6 **considered or created by the legislature?**

7           A       No.

8           **Q       Did the Secretary have any contact with**  
9 **redistricting staff members?**

10          A       No.

11          **Q       And did the Secretary or anyone in the**  
12 **Secretary's Office give any member of the**  
13 **legislature feedback on any plans submitted by the**  
14 **legislature?**

15          A       No.

16               MR. POSAMATO: I think that is all I have,  
17 but if you guys give me a minute just to  
18 discuss with my colleague.

19               (Discussion off record.)

20               MR. POSAMATO: That's all we got.

21               (A recess took place from 2:37 p.m. to  
22 2:50 p.m. and continues in Volume 2.)

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CERTIFICATE OF OATH

STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, the undersigned authority, certify that  
JAMES ALEXANDER KELLY, as REPRESENTATIVE OF THE  
EXECUTIVE OFFICE OF THE GOVERNOR and SECRETARY OF  
STATE'S OFFICE personally appeared before me on June  
8, 2023, and was duly sworn.

SIGNED AND SEALED on June 12, 2023.



SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
snargiz@comcast.net  
Commission #HH239213  
EXPIRES: APRIL 18TH, 2026

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA )

3 COUNTY OF LEON )

4 I, SANDRA L. NARGIZ, Registered  
5 Professional Reporter, certify that I was authorized  
6 to and did stenographically report the deposition of  
7 JAMES ALEXANDER KELLY, as REPRESENTATIVE OF THE  
8 EXECUTIVE OFFICE OF THE GOVERNOR and SECRETARY OF  
9 STATE'S OFFICE; that a review of the transcript was  
10 requested, and that the foregoing transcript, pages  
11 1 through 190, is a true record of my stenographic  
12 notes.

13 I further certify that I am not a  
14 relative, employee, attorney or counsel of any of  
15 the parties, nor am I a relative or employee of any  
16 of the parties' attorney or counsel connected with  
17 the action, nor am I financially interested in the  
18 action.

19 DATED on June 12, 2023.

20

21

22



23

SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
Notary Public in Florida  
snargiz@comcast.net

24

25

1 June 12, 2023

2 MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com

3

4 RE: Black Voters Matter, et al. vs. Cord Byrd, et  
al. and Common Cause vs. Cord Byrd  
5 Case No. 2022 CA 000666 AND 4:22-cv-109-AW-MAF  
Deposition of JAMES ALEXANDER KELLY, as  
6 REPRESENTATIVE OF THE EXECUTIVE OFFICE OF THE  
GOVERNOR and SECRETARY OF STATE'S OFFICE  
7 on June 8, 2023

8 Dear Counsel:

9 The transcript of the above proceeding is now  
available and requires signature by the witness.  
10 Please e-mail fl.production@lexitaslegal.com for  
access to a read-only PDF transcript and  
11 PDF-fillable errata sheet via computer or use the  
errata sheet that is located at the back of the  
12 transcript. Once completed, please print, sign, and  
return to the email address listed below for  
13 distribution to all parties. If you are in need of  
assistance, please contact Lexitas at 888-811-3408.

14

If the witness does not read and sign the transcript  
15 within a reasonable amount of time (or 30 days if  
Federal), the original transcript may be  
16 filed with the Clerk of the court. If the witness  
wishes to waive his/her signature now, please have  
17 the witness sign in the blank at the bottom of this  
letter and return to the email address listed below.

18

Very truly yours,

19

20 Sandra L. Nargiz, RPR, RMR, CRR, CRC, CCR-GA  
Lexitas  
21 1551 Forum Place, Suite 200-E  
West Palm Beach, Florida 33401  
22 fl.production@lexitaslegal.com  
I do hereby waive my signature.

23

24 JAMES ALEXANDER KELLY, as REPRESENTATIVE OF THE  
EXECUTIVE OFFICE OF THE GOVERNOR and SECRETARY OF  
25 STATE'S OFFICE  
Job No. 309153



<hr/> <b>Exhibits</b> <hr/>	<b>Exhibit 038 Gov ernor's Rep.</b> 4:0 76:20,23	116:23	5:0 163:21
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Black Voters Matter Capacity Building Institute, Inc.

vs.

Cord Byrd, et al.

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Deposition of:

James Kelly

June 08, 2023

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Vol 2



IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

BLACK VOTERS MATTER CAPACITY  
BUILDING INSTITUTE, INC.,  
et al.,

Plaintiffs,

vs.

CASE NO. 2022 CA 000666

CORD BYRD, in his official  
capacity as Florida Secretary  
of State, et al.,

Defendants.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

COMMON CAUSE FLORIDA, et al.,

Plaintiffs,

vs.

CASE NO. 4:22-cv-109-AW-MAF

CORD BYRD, in his official  
capacity as Florida Secretary  
of State,

Defendant.

REPRESENTATIVE OF THE EXECUTIVE OFFICE OF THE  
GOVERNOR RON DESANTIS AND SECRETARY OF STATE'S  
OFFICE (JAMES ALEXANDER KELLY)

(Volume 2, Pages 195 - 295)

Thursday, June 8, 2023

2:50 p.m. - 5:34 p.m.

LOCATION:

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK  
119 South Monroe Street, #500  
Tallahassee, FL 32301

STENOGRAPHICALLY REPORTED BY: SANDRA L. NARGIZ  
RPR, CM, CRR, CRC, CCR

Job No. 309153

APPEARANCES:

ON BEHALF OF THE PLAINTIFFS BLACK VOTERS MATTER,  
et al.:

ELIAS LAW GROUP, LLP  
10 G Street NE  
Washington, DC 20002  
202.968.4490  
BY: JOSEPH POSIMATO, ESQUIRE  
jposimato@elias.law  
BY: CHRISTINA FORD ESQUIRE  
cford@elias.law

ON BEHALF OF THE PLAINTIFFS COMMON CAUSE, et al.:

PATTERSON BELKNAP WEBB & TAYLOR  
1133 Avenue of the Americas  
New York, NY 10036  
212.336.2817  
BY: CATHERINE J. DJANG, ESQUIRE  
cdjang@pbwt.com

ON BEHALF OF THE DEFENDANT SECRETARY OF STATE:

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK  
119 South Monroe Street, #500  
Tallahassee, FL 32301  
850.508.7775  
BY: MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com  
BY: ROBERT MICHAEL BEATO, ESQUIRE  
mbeato@holtzmanvogel.com

APPEARANCES: (Continued.)

ON BEHALF OF THE DEFENDANT FLORIDA SENATE:

SHUTTS AND BOWEN  
215 S. Monroe Street, #800  
Tallahassee, FL 32301  
850.241.1717  
BY: DANIEL E. NORDBY, ESQUIRE (Via Zoom.)  
dnordby@shutts.com

THE FLORIDA SENATE  
302 The Capitol, #404S  
Tallahassee, FL 32399  
850.487.5237  
BY: KYLE EDWIN GRAY, ESQUIRE (Via Zoom.)  
gray.kyle@flsenate.gov

ON BEHALF OF THE DEFENDANT FLORIDA HOUSE OF  
REPRESENTATIVES:

GRAY|ROBINSON  
301 S. Bronough Street, #600  
Tallahassee, Florida 32301  
850.577.9090  
BY: ASHLEY H. LUKIS, ESQUIRE  
ashley.lukis@gray-robinson.com

ALSO PRESENT:

Nicholas Meros, Office of the Governor  
Michael Halper, Common Cause Florida  
Taylor Meehan (Via Zoom.)  
David Rosenthal (Via Zoom.)

I N D E X

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1 The following continued from Volume 1 at 2:50 p.m.:

2 DIRECT EXAMINATION

3 BY MS. DJANG:

4 Q Part two of this deposition. My name is  
5 Catherine Djang. I'm an attorney with the law firm  
6 Patterson Belknap Webb & Tyler. You understand that  
7 we represent plaintiffs in the federal action,  
8 Common Cause, Fair Districts Now, Florida NAACP.

9 Do you understand that?

10 A Yes.

11 Q Okay. And I know yesterday you went  
12 through and today a couple times the materials that  
13 you reviewed in preparation for the depositions  
14 today.

15 In addition to the items that you've  
16 already listed, I just want to confirm you've also  
17 reviewed the questions that we submitted in advance  
18 pertaining to the federal case as well; is that  
19 right?

20 A Yes. And can I -- there was something I  
21 left out of an answer earlier, too. Can I bring  
22 that back up on the record?

23 When you asked earlier how I prepared to  
24 represent the Secretary's question, I completely  
25 forgot to mention that I reviewed the

1 interrogatories and responses to those. I just --  
2 in my mind they were all one, but after walking out  
3 of the room, it occurred to me that those were  
4 multiple other documents, four other documents that  
5 had interrogatory responses. So apologies for  
6 leaving that out earlier.

7 MR. POSAMATO: Thank you for clarifying.

8 BY MS. DJANG:

9 Q Thank you for jumping in.

10 And you've also reviewed the complaint in  
11 our federal action as well?

12 A The complaint itself? Can you show me the  
13 document?

14 Q I don't have a copy of the document, but  
15 that's fine. We can move on.

16 In terms of logistics, I just want to put  
17 on the record that counsel has agreed that the  
18 testimony that you provided earlier today and  
19 yesterday will be applicable in the federal matter  
20 as well, just for sake of efficiency, and so that we  
21 don't have to duplicate all the questions that were  
22 already asked and answered.

23 I will do my best not to repeat, but if  
24 you've already provided an answer, please let me  
25 know.

1                   For the sake of clarity, I will also refer  
2 to some of the same exhibit numbers and just keep  
3 those sequentially if that's all right with you?

4           A        Sure.

5           Q        Can you please state your full name and  
6 address for the record?

7           A        Sure. James Alexander Kelly, my address  
8 is 2025 Florida Avenue, Tallahassee, Florida 32303.

9           Q        Thank you.

10                   And just for the sake of clarity, when I  
11 refer to federal plaintiffs today, you know I am  
12 referring to Common Cause, Fair Districts Now, and  
13 the rest of the plaintiffs in the action?

14          A        Uh-huh, sure.

15          Q        Okay. Also, just -- I think Christina  
16 mentioned this, but answers need to be audible when  
17 you shake your head.

18          A        Yes.

19          Q        State that verbally so that it's reported  
20 by our court reporter.

21                   Again, please remember that these answers  
22 are under oath and you are legally obligated to  
23 answer every question truthfully and completely as  
24 if you were testifying in court.

25                   Is there any reason why you wouldn't be

1     **able to give true and complete answers to my**  
2     **questions today?**

3           A     No.

4           Q     Okay. So we reviewed some of your prior  
5     **testimony in the 2012 litigation. So you've**  
6     **obviously been deposed before; you've provided**  
7     **testimony at trial.**

8                    Have you been deposed in connection with  
9     **any other matter?**

10          A     Yes.

11          Q     Can you tell us what -- under what  
12     **circumstances?**

13          A     I've been deposed a few times, generally  
14     related to pieces of legislation, some agency  
15     contractual disputes, a couple agency human resource  
16     matters, complaints -- I'm not sure how that's how  
17     you refer to that, but agency HR issues,  
18     disciplinary matters.

19          Q     Okay. And you've never been a party to  
20     **any of those lawsuits or disputes?**

21          A     Personally, no. My agency that I worked  
22     for, yes. But me personally, no.

23          Q     And have you ever been accused of perjury  
24     **or making a false statement or any other conduct**  
25     **calling truthfulness into question?**

1           A       No.

2           Q       Please just wait for me to finish my  
3 question before you answer.

4           A       My apologies.

5           Q       In addition to reviewing the questions  
6 that the federal plaintiffs submitted in advance of  
7 today's deposition, did you also review the Beretta  
8 (sic) report which was attached as an exhibit to  
9 those questions?

10          A       No.

11          Q       Okay. So going back to the previous  
12 redistricting cycle, so 2010-2012, time period, you  
13 testified yesterday that your role during that  
14 redistricting cycle was as the staff director for  
15 the House Redistricting Committee, correct?

16          A       Correct.

17          Q       And in that cycle, you helped draw various  
18 redistricting proposals for that committee, correct?

19          A       Correct.

20          Q       How -- focusing your attention on  
21 Congressional District 5, you know which district I  
22 am referring to?

23          A       The Congressional District 5 in which  
24 plan?

25          Q       In the 2012 plan. Let's look at

1 **Exhibit 6.**

2 **So District 5 is the purple district?**

3 A Yes.

4 **Q For the record, you are pointing to the**  
5 **purple district?**

6 A Got it.

7 **Q So at one point during this redistricting**  
8 **cycle, you considered drawing a potential district**  
9 **that would span from Duval County to Gadsden County,**  
10 **correct?**

11 A During the committee's work, after public  
12 comment, before putting out our own proposed maps,  
13 there was public comment at one of the public  
14 meetings on that, and we showed examples of many  
15 different forms of public comment, and that was one  
16 of them. And we showed that to probably the  
17 Congressional redistricting subcommittees, is  
18 probably who we showed it to.

19 **Q What was the purpose of those examples?**

20 A We showed the committees many different  
21 examples of what the public submitted. That  
22 particular example, it was a ludicrous proposal that  
23 we showed, a drawing of the district from  
24 Jacksonville to Gadsden County, and we showed that  
25 to the committee.

1           But nonetheless, we were being faithful to  
2 the process of providing the committee with a large  
3 variety of the public feedback that came up in the  
4 meetings.

5           **Q     You described this plan as ludicrous. Can**  
6 **you elaborate on that?**

7           A     Yes. I remember because it was so unique.  
8 A gentleman walked into one of the public meetings  
9 in I want to say either Broward County or Palm Beach  
10 County and provided a crayon-drawn district from  
11 Jacksonville to Gadsden County.

12           And the gentleman's presentation of it, he  
13 spoke in front of the -- we had traveling committee  
14 meetings around the state, 26 of them, I think, and  
15 he spoke and presented it. And it was just a  
16 sprawling district stringing together disconnected  
17 communities.

18           **Q     Can you explain what you mean by**  
19 **"disconnected communities"? Which communities are**  
20 **you referring to?**

21           A     Jacksonville to Gadsden County.

22           **Q     So different counties?**

23           A     And communities in those counties.

24           **Q     Which communities?**

25           A     Do you have -- Jacksonville to Gadsden

1 County. Duval County to Gadsden County. It went  
2 along the border -- the northern border of the  
3 state.

4 Q Okay. So continue. I'm sorry. I  
5 interrupted you.

6 A No, I'm fine.

7 Q Is that the rest of your answer?

8 A I'm done.

9 Q Okay. Great.

10 And that's the only kind of east-west  
11 configuration you can recall from that redistricting  
12 cycle? You don't recall you yourself personally  
13 proposing any type of configuration for that  
14 district?

15 A I did not personally propose any type of  
16 configuration like that for that district.

17 Q Okay. Do you recall providing an opinion  
18 on -- here today you've described it as ludicrous.  
19 Do you recall at the time providing opinion on the  
20 propriety or validity of such a submission?

21 A The propriety or validity? I'm sorry, I'm  
22 not sure I understand what you're asking me.

23 Q Sure. So you described the plan we have  
24 been discussing as ludicrous, and I take it that is  
25 in relation to what you might consider to be the

1     **proper redistricting criteria. Would you agree with**  
2     **me?**

3           A     I'm not understanding the way you're  
4     asking the question.

5           Q     **Okay. I'll rephrase.**

6                     **Did you ever offer an opinion regarding**  
7     **that east-west district that we've been discussing?**

8                     MR. JAZIL: During the 2012 cycle?

9     BY MS. DJANG:

10          Q     **During the 2012 cycle?**

11          A     Yes.

12          Q     **What was your opinion?**

13          A     It's probably on the record in the  
14     committee process, but I -- generally speaking, the  
15     proposed district from Duval County to Gadsden  
16     County abandoned most any redistricting standards  
17     and it had a significant impact on the compactness  
18     of other districts that touched that district.

19          Q     **Okay.**

20          A     And that did have an impact on their  
21     compactness.

22          Q     **And the compactness of that district**  
23     **itself, did you have an opinion on that?**

24          A     It was very not compact.

25          Q     **In what way?**

1           A       Visually, it was very not compact. Any of  
2 the different statistical measures that you would  
3 use to define compactness, it was not compact.

4           It, in addition, within the district had  
5 indentations into counties that broke up counties,  
6 counties that potentially could in alternatives be  
7 kept whole, but in this case was breaking up those  
8 counties purely for race-based reasons, to grab  
9 Black voters in some parts of the state and exclude  
10 non-Black voters in those parts of the state.

11           **Q       And that was the stated reason given by**  
12 **the person who submitted this plan?**

13           A       As I recall -- I don't recall the exact  
14 statements of the person, but as I recall, the  
15 statements were vague and confusing.

16           **Q       Okay. I don't need you to -- I'm not**  
17 **asking you to justify what someone else submitted.**  
18 **But in its most basic terms, would you agree with me**  
19 **that it was a rectangular shape if we had to**  
20 **classify it in geometric terms?**

21           A       Not remotely.

22           **Q       Okay. Why would you say that?**

23           A       Because it wasn't a rectangle.

24           **Q       Okay. Is there another geometric shape**  
25 **that would be a closer and more accurate way to**

1 describe it?

2 A No.

3 Q So you cannot under any conception of a  
4 regular geometric shape describe that district to me  
5 today?

6 A Correct, I cannot.

7 Q Okay. So let's look at Exhibit 7. I'm  
8 going to direct your attention to page 931.

9 A So page 931?

10 Q Correct.

11 A Thank you.

12 Q Actually 932. So starting at line 17,  
13 could you please begin reading that question and  
14 continuing on. I'll let you know when to stop.

15 A Page 932, line 17?

16 Q Correct.

17 A Question: Now, had done some -- I'm  
18 sorry. Start over.

19 "Question: Now, you had done some maps, a  
20 couple maps early on in the process where you had  
21 looked at a different approach for District 5";  
22 isn't that correct, sir?

23 Answer: Yes, sir.

24 Question: That was actually back around  
25 October 5, 2011; isn't that correct?

1 Answer: That sounds right, yes, sir.

2 Question: And you looked at a potential  
3 district from Duval to Gadsden County?

4 Answer: Yes, sir.

5 Mr. King: Let's pull up 876.

6 By Mr. King. Question: And is that  
7 the -- now you did not draw a complete map to try to  
8 fill in the district -- I mean fill in all the  
9 districts on this configuration; is that correct?

10 Answer: Not a complete map, that's  
11 correct.

12 Question: When you did that, you --

13 Mr. King: Let's pull up the stats page.

14 By Mr. King. Question: That indicates  
15 that the Black voting age population in that  
16 district which you are calling District 2 was  
17 44.95932; isn't that correct, sir?

18 Answer: Yes, sir."

19 **Q Okay. You can stop there.**

20 **A Thank you.**

21 **Q So does that refresh your recollection**  
22 **regarding configurations that were drawn east-west**  
23 **in that northern part of the region of Florida that**  
24 **we've been discussing? Do you recall drawing**  
25 **districts that looked -- that spanned from one --**

1     **Duval County to Gadsden County? Do you recall what**  
2     **this testimony is referring to?**

3           A     Can I read a little further in the  
4     testimony?

5           **Q     Sure.**

6           A     To myself?

7           **Q     Uh-huh.**

8           A     (Examining document.)

9           **Q     And just so you know, my questions only**  
10    **pertain to the content that goes up to page 936.**

11          A     Oh, thank you.

12          A     Okay. Thank you. I read through 936.

13          **Q     Does that refresh your recollection as to**  
14    **the drawing of this district?**

15          A     That really didn't help in any way.

16          **Q     You don't recall this district that you're**  
17    **referring to in that testimony?**

18          A     No. In other words, I've already  
19    described -- in terms of a district that went east  
20    to west, I've already described it in what I told  
21    you before.

22                 This -- this appears to be -- and I don't  
23    know if you happen to have the committee packet, but  
24    this appears to be referencing one of the committee  
25    meetings during a time when we were showing public

1 input to the committees. It references an  
2 October -- an October 5, 2011, meeting that we were  
3 not showing the legislature at that time, the maps  
4 that we were proposing. We were showing them public  
5 input.

6 **Q So the map that is being described here is**  
7 **something that you are discussing for what purpose?**

8 A The one that I just said, we were  
9 presenting to the committees public input that was  
10 received during the again, I believe, 26-city tour  
11 the legislature did to receive public input. So  
12 that was a period of time when we were presenting  
13 legislators and the different subcommittees examples  
14 of public input.

15 **Q Do you recall approximately how long that**  
16 **district was from east to west?**

17 A No.

18 **Q Do you, sitting here today, have a rough**  
19 **approximation, I mean, looking at any of these maps**  
20 **in front of you?**

21 A That district that was drawn that we  
22 received from the public input?

23 **Q That district, sure.**

24 A No.

25 **Q You couldn't tell me whether it was**

1     **50 miles in length, more or less?**

2           A     This was a piece of paper a member of the  
3 public drew on crayon in 2011, in the summer of  
4 2011, and handed us. And you're asking me do I  
5 remember how long the district was? No, I don't.

6           **Q     The length of the district, the number of**  
7 **miles that that district would have spanned from**  
8 **east to west in the state of Florida, I think you**  
9 **know what I am talking about. Do you know what I'm**  
10 **referring to?**

11          A     You've asked me about the piece of public  
12 input that's referenced in these pages 933 to 936,  
13 that district?

14          **Q     Okay. Mr. Kelly, let's look at**  
15 **Exhibit 42.**

16          A     Forgive me, it's in this pile, if I can  
17 find it.

18                   (Discussion off record.)

19 BY MS. DJANG:

20          **Q     So it is a February 1, 2022, letter from**  
21 **the Executive Office of the Governor to the Florida**  
22 **Supreme Court, signed by Governor DeSantis.**

23                   So looking at the map at the bottom of  
24 this first page, would you say that the sample that  
25 we are discussing, aptly called the crayon sample,

1 would you say that the crayon sample plan spanned  
2 further -- a further distance in terms of the  
3 east-west length than this map shown here or was it  
4 shorter?

5 A Do you have a copy of it?

6 Q I do not, no. I'm asking you what you  
7 recall.

8 A What I recall is that, to the best of my  
9 recollection, it was at least a Duval County to  
10 Gadsden County district.

11 Q Okay. And do you see here in this first  
12 paragraph where -- the sentence that begins: "The  
13 district stretches over 200 miles from east to west  
14 across eight counties without conforming to usual  
15 political or geographic boundaries"? Do you see  
16 that?

17 A Yes, I see that.

18 Q Would you agree that that description  
19 would apply to the crayon sample?

20 A I don't know the mileage, so -- I hate to  
21 nitpick, but I really don't have it in front of me.

22 Q I'm not asking you to testify to the  
23 specific mileage.

24 A Beg to differ, you just did, four or five  
25 times.

1           This statement in general, the general  
2 spirit of this statement is very similar to what was  
3 submitted 11, 12 years ago, albeit I don't have it  
4 in front of me, and the benchmark District 5 -- or  
5 the District 5, I should say, referenced in this  
6 February 1 letter.

7           **Q     Thank you. And I do appreciate we're**  
8 **talking about over a decade ago, so thank you for**  
9 **indulging me.**

10           **So returning to your testimony in**  
11 **Exhibit 7, you testified -- and I'll just read this**  
12 **into the record.**

13           A     It's okay if can just get the exhibit?

14           **Q     Sure. You have it to your right.**

15           MR. JAZIL: Counsel, would you mind giving  
16 us a page number?

17           MS. DJANG: Sure.

18           MR. JAZIL: Thank you.

19           MS. DJANG: We were on page 933. That's  
20 where we left off.

21           THE WITNESS: Thank you.

22 BY MS. DJANG:

23           **Q     So starting on page 934, line 3, I will**  
24 **ask you to start reading there.**

25           A     Sure. Page 934, line 3.

1           "Question: Now, did you do a functional  
2 analysis on these two districts?

3           Answer: Yes, sir.

4           Question: And the Exhibit 874 with the  
5 Black voting age population of 43.88775, did you  
6 consider that that was an ability-to-elect district  
7 for the African American candidate of choice?

8           Answer: I never looked at it with the  
9 question of whether there was an ability to elect  
10 district. We looked at it whether or not we were  
11 maintaining the benchmark minority voting strength.

12          Question: What did you conclude?

13          Answer: I concluded that the east-west  
14 configuration requires something around, I believe,  
15 45 percent to maintain a similar minority voting  
16 strength as existed in the benchmark of the north  
17 and south district.

18          The African American community in the east  
19 and west configuration represents a greater  
20 proportion of your voting strength in the elections  
21 for whatever reason. Just the residents who  
22 happened to live in those counties as opposed to the  
23 north-south configuration.

24          Question: Does there appear to be a  
25 higher turnout there in the voting?

1           Answer: I know -- I don't know the entire  
2 district. I know Leon County is typically your  
3 strongest voting turnout county in the state, and I  
4 know the east-west configuration includes several  
5 prisons. And that would include a number of  
6 individuals who obviously couldn't vote, but would  
7 count in the census.

8           **Q     Okay. So that -- you can stop there.**  
9           **Thank you.**

10                   **What was the basis for your conclusion**  
11 **regarding these districts, the requirement to**  
12 **maintain similar minority voting strength as the**  
13 **benchmark of the north-south district?**

14           A     I don't know that this many years later, I  
15 could give a specific answer like that.

16           **Q     That's fair. Did you personally conduct**  
17 **the functional analysis of that east-west**  
18 **configuration?**

19           A     As I noted yesterday, I have come to learn  
20 over the years that our phrase "functional analysis"  
21 there is not accurate, that I realized the level of  
22 analysis we did, while a cursory review, is not the  
23 detailed type of functional analysis that a  
24 political scientist would do.

25                   So I think my use of the phrase

1 "functional analysis" -- no one corrected it at the  
2 time -- but I don't think I fully appreciated at  
3 that time what a true functional analysis was.

4 **Q What factors would you -- do you believe**  
5 **you omitted in your functional analysis at the time**  
6 **that this -- you gave this testimony in reference to**  
7 **the October 2011 plans?**

8 A I think a true functional analysis, which  
9 for the final maps that we, the legislature, or the  
10 legislature adopted back in that redistricting  
11 cycle, a true functional analysis -- once you answer  
12 a certain set of initial questions about the  
13 compactness of the minority voting -- minority  
14 communities in the district, their voting strength  
15 overall, that last key layer of a functional  
16 analysis, getting down to sort of the cohesiveness  
17 of the minority voting blocs in the districts,  
18 requires an examination of multiple levels of  
19 elections, overlapping geography of elections,  
20 typically done by a paid political scientist,  
21 someone who's an expert in that kind of data work.

22 We as staff were doing, as we note as a  
23 note here in the testimony, a cursory review, but  
24 we, through that redistricting process, testified  
25 that we had experts come over and -- or not come

1 over -- look over our work and do a deeper level of  
2 true functional analysis.

3 **Q And at this time, you did look at the**  
4 **BVAP percentages, correct?**

5 A We're still referring to the districts  
6 that -- the districts referenced here on these  
7 pages?

8 **Q Correct.**

9 A And one thing that I am not certain of, as  
10 you're asking about, the district that was shown to  
11 the committee on October 5, I'm not -- I'm not  
12 100 percent certain -- and maybe it's if I read  
13 more, I would be -- but I am not 100 percent certain  
14 what it was comparing it to.

15 **Q Okay. You're not sure what the benchmark**  
16 **they're referring to there is?**

17 A Just if I can have more time. You're  
18 asking a level of question where I'm going to have  
19 to really read this pretty thoroughly to fully  
20 appreciate before and after the full discussion. So  
21 if that's okay, I'd be happy to do it. I just want  
22 to be clear.

23 **Q I can rephrase the question.**

24 **Does this testimony reflect Black voting**  
25 **age population percentages?**

1           A     Yes.

2           **Q     And does it also reference voter turnout**  
3 **information?**

4           A     Yes, in regards to Leon County on  
5 page 935.

6           **Q     And it references voter turnout**  
7 **information with respect to racial breakdowns,**  
8 **correct?**

9           A     Can you give me the line you're looking  
10 at?

11          **Q     That requires some -- some inference.**  
12 **That's fair.**

13                   **Okay. And I want to ask you about the**  
14 **prisons located in this east-west configuration.**  
15 **What prisons were you referring to?**

16          A     I'd have to go back and look at a detailed  
17 level about the map.

18          **Q     Just sitting here today, can you recall**  
19 **any prisons in that area?**

20          A     The name of the prison? No. I am  
21 generally familiar with several North Florida  
22 communities where a large concentration of the  
23 state's prisons are clustered in a variety of  
24 North Florida communities.

25                   So to name them, I really need to spend

1 some time looking at the map at a detail level.

2 **Q That's fair.**

3 **Do you have a sense -- and I am not asking**  
4 **for specifics -- but a sense of the population of**  
5 **those prisons?**

6 A I know simply that it's significant in  
7 several of those North Florida counties.

8 **Q What does significant mean to you?**

9 A A prison compound, work camp, can be  
10 300 people. A full compound can get to 1500,  
11 2000 individuals. If you have a clustering of  
12 prisons in a district, it can -- I don't know an  
13 exact number.

14 You're right. I don't know how to define  
15 the word "significant." But a district like this as  
16 it was considered in the example here would have a  
17 clustering of a number of the state prisons in the  
18 same district.

19 **Q Understood. Just to clarify, a cluster,**  
20 **can you just -- is that 5, 10?**

21 A I really need to spend time at a detailed  
22 level.

23 **Q But in your mind right now as we're**  
24 **talking, when you refer to a cluster, are you**  
25 **referring to two, or are you referring to a dozen?**

1           A       I'd really need to spend --

2           Q       **I'm not holding you to specifics. I mean,**  
3       **it was your words. So I just want to know what you**  
4       **meant when you said it.**

5           A       Right. Right. A cluster. Cluster,  
6       multiple locations of something, of multiple  
7       groupings of something in one location. I'm not  
8       going to put a number to it.

9           Q       **Okay. More than one, but not less -- you**  
10       **can't give a number to that?**

11                   MR. JAZIL: Counsel, let's try not to talk  
12       over one another. Make Sandi's life a little  
13       easier. So let's just be mindful of that.

14       BY MS. DJANG:

15           Q       **So "cluster" means more than one?**

16           A       Sure.

17           Q       **Okay. All right.**

18                   I think we can put Exhibit 7 away.

19                   In this role as staff director for the  
20       House Redistricting Committee, you testified that  
21       you -- you -- your role as a manager of the staff  
22       team, that was your role, the manager of a staff  
23       team, correct?

24           A       That's one role of a staff director.

25           Q       **What other roles did you hold?**

1           A     I described some of this yesterday in  
2 my -- in the questions that was asked.

3           **Q     Okay. I won't make you repeat it.**

4                   **Did your responsibilities include helping**  
5 **to prepare proposed maps?**

6           A     Yes.

7           **Q     And did they also include helping to**  
8 **prepare summary analysis documents that accompanied**  
9 **those maps?**

10          A     Yes.

11          **Q     Okay. So those -- are you familiar with**  
12 **the staff analysis files that accompanied those**  
13 **proposals?**

14          A     Yes. But been a long time since I've  
15 looked at them, but yes.

16          **Q     So you would be the author of those**  
17 **analyses?**

18          A     I would not be the sole author of those  
19 analyses. I probably have to see what specific  
20 analysis you're talking about. There's committee  
21 bill analysis that would go with each map. There  
22 were statistical reports that would go with each  
23 map. I think it'd be -- I wouldn't -- I think it'd  
24 be wrong to call myself the author of those.

25          **Q     But you were -- you contributed to them?**

1 A Yes.

2 Q Fair to say that you contributed to those  
3 analyses for each plan?

4 A For each plan that was -- you mean each  
5 plan that was considered by the committees?

6 Q Considered by the committee.

7 A Yes.

8 Q Okay. And you would have reviewed the  
9 content of all of those analyses?

10 A Yes.

11 Q How much time approximately would you say  
12 you devoted to each of those proposals?

13 A To each proposal the committees  
14 considered, how much time did I devote to each?

15 Q Yes.

16 A Let me ask, because I'm just trying to  
17 understand.

18 Are you asking in the beginning of the  
19 process to end of the process a map was created?

20 Are you talking about just the analysis of not --  
21 what stage of the process are you talking about?

22 Q Sure. Whichever time period comes most  
23 readily to you. I know this is a long time ago.

24 A I need you to be more specific.

25 Q Okay. So from beginning to -- from

**1 inception to submission.**

2 A From inception to submission?

**3 Q Uh-huh.**

4 A To submission?

**5 Q From conception.**

6 A Drawing of the map?

**7 Q From drawing the map.**

8 A I typically estimate that the drawing of  
9 a -- I assume we're talking Congressional?

**10 Q Congressional districts, correct.**

11 A I typically would assign -- a drawing of a  
12 congressional map is a 40- to 60-hour project from  
13 scratch.

**14 Q And then the analysis that accompanied**  
**15 that, the drawing?**

16 A The statistical analyses that accompanied  
17 any map, we would run a report automatically, so  
18 when we had a map, we had a method -- I'm not the  
19 technical person in the way of explaining this, so  
20 apologies.

21 But if we had a map, we could run a report  
22 on it, and it would auto generate the statistical  
23 reports. And so that was literally the job of one  
24 of our staff is to auto-run those reports.

25 The bill analysis, the formal bill

1 analysis that every bill in the legislature, most  
2 every bill anyway, tends to have, the bill analysis  
3 for those -- we had a template that we used one for  
4 State House maps, one for State Senate maps, one for  
5 Congressional maps. So they, of course, varied.

6 Some of the information would vary in  
7 them. Those templates were created once, and then  
8 for -- generally speaking, template -- and then for  
9 each plan, some of the information therein would  
10 pertain to that.

11 Those bill analyses, once the templates  
12 were created, were, relatively speaking -- because  
13 they were template, they were, relatively speaking,  
14 simple to create, wouldn't take a lot of time.

15 **Q Okay. But you would review all of the**  
16 **content, and you would agree with me that that --**  
17 **you stand behind the content of those analyses?**

18 A Yes.

19 **Q Okay. Did you help also prepare for all**  
20 **of the committee meetings?**

21 A Yes.

22 **Q In what way?**

23 A Typically, I would draft proposed talking  
24 points for the committee chairs or chairs of the  
25 meeting. Sometimes members of the committee would

1 ask me for help with suggested talking points. So I  
2 would help them as well.

3 I typically helped with the preparing of  
4 the visuals that we would use. The presenting of  
5 the maps was aided by creating some visuals that  
6 were easier to show in the form of things like a  
7 PowerPoint.

8 So helping to create PowerPoints for the  
9 members so they could easily see different parts of  
10 the map and review it in committee.

11 **Q And if the committee invited other**  
12 **participants, you would -- would you be responsible**  
13 **for being kind of the liaison, or would that be**  
14 **someone else?**

15 A If the committee invited other  
16 participants. I'm trying to think back to -- I'm  
17 trying to think back to an example in my head. I'm  
18 drawing a blank on an example of someone who we  
19 invited to a committee.

20 **Q Would there be any reason that you**  
21 **wouldn't attend a committee meeting?**

22 A The only reason that I wouldn't attend  
23 would be if we were running -- so we had a full  
24 redistricting committee. We had a Congressional  
25 Subcommittee, a Senate Subcommittee and House

1 Subcommittee.

2 If two or three of those meetings were  
3 running concurrently, then I would have to pick  
4 which meeting I was going to be in.

5 **Q Understood. But sitting here today, you**  
6 **don't recall not attending any meeting where it was**  
7 **not a scheduling conflict?**

8 A Correct.

9 **Q Were you also responsible for the**  
10 **recordkeeping? So did you have custodial**  
11 **responsibility for the materials that were used at**  
12 **these committee meetings?**

13 A Yes. Staff director, ultimately it was my  
14 responsibility. It was a group effort.

15 **Q So you would have had possession of all**  
16 **the materials used at these meetings?**

17 A Not always. If there, for example, was,  
18 let's say, public feedback, citizen feedback, one of  
19 our staff ultimately had the responsibility. Every  
20 committee has a staff person who is responsible for  
21 physically providing them the actual materials that  
22 are collected at the meeting from the public, and if  
23 one of the members of the committee provided  
24 something that wasn't part of the originating  
25 committee packet.

1           So one of the staff ultimately is  
2 responsible for actually providing that to the House  
3 overall.

4           I can't speak to whether it's still done  
5 this way, but at the time it was. So there's a high  
6 likelihood that there was information provided here  
7 and there at a meeting that I wouldn't necessarily  
8 have ever taken ownership of.

9           **Q       Understood. So I'm going to show you what**  
10 **we'll mark as -- I have no idea what we're up to.**

11           THE STENOGRAPHER: 63 would be next.

12           (Exhibit 63 was marked for  
13 identification.)

14           BY MS. DJANG:

15           **Q       So this is -- I believe it is a meeting**  
16 **packet from one of the redistricting committee,**  
17 **Congressional Redistricting Subcommittee meetings.**  
18 **It's dated April 20, 2011. I downloaded this from**  
19 **the House website.**

20           **Does this packet look familiar to you?**

21           A       It certainly looks as you described it.  
22 I've not seen this in 12 years.

23           **Q       Do you recall this April 20, 2011,**  
24 **meeting?**

25           A       Not the specific meeting itself. I recall

1 the meet teams we were having around April. So I  
2 don't have specific recollection about this exact  
3 meeting.

4 **Q And I didn't actually include the entirety**  
5 **of the packet. There were -- in the table of**  
6 **contents, you'll see that there are several tabs.**  
7 **We've only included in this exhibit Tab E,**  
8 **presentation of Florida demographic census 2010.**

9 **So let's see. Turning to that tab, do you**  
10 **recall seeing this presentation on Florida**  
11 **demographics?**

12 **A Can I review it for a little bit?**

13 **Q Of course.**

14 **A (Examining document.)**

15 **Thank you for the chance to review it.**

16 **Q Does that refresh your recollection**  
17 **regarding the April 20, 2011, House meeting, House**  
18 **Redistricting Subcommittee meeting?**

19 **A No more than what I recalled about our**  
20 **meetings around that time before reading the**  
21 **presentation.**

22 **Q So you have no memory of seeing this**  
23 **presentation?**

24 **A I have seen a lot of presentations like**  
25 **this over the years, so I have seen a lot of**

1 presentations that are this style and format. But I  
2 don't -- I don't have a -- I don't recall this exact  
3 presentation.

4 **Q How many presentations have you seen**  
5 **regarding Florida demographics?**

6 MR. JAZIL: In what time frame, Counsel?

7 MS. DJANG: From 2010 to today.

8 A Probably 10 to 15 a year.

9 BY MS. DJANG:

10 **Q And on this first slide, it says:**  
11 **"Florida Demographics House Redistricting Committee,**  
12 **Congressional Redistricting Subcommittee, House**  
13 **Redistricting Subcommittee, and Senate Redistricting**  
14 **Subcommittee."**

15 **So fair to say this information was**  
16 **presented to all four of those committees and**  
17 **subcommittees?**

18 A Yeah. This is the kind of information we  
19 were presenting to the committees at that time.

20 **Q Okay. Great.**

21 **If you could turn to the slide that is**  
22 **titled "Diversity Is Increasing."**

23 **Are you with me?**

24 A I believe it's this slide right here.

25 **Q Correct. So in the top right-hand corner,**

1     **you see it says: "Data Source Census"?**

2           A     Yes.

3           Q     **Okay. Were you aware at the time, so in**  
4     **2011, of this trend, that of diversity increasing**  
5     **within the state?**

6           A     Yes.

7           Q     **And to be more specific, the charts on**  
8     **this slide show the percentage of the white**  
9     **population in the state decreasing, correct?**

10          A     Yes. From 2000 it was 78 percent, and in  
11     2010 it was 75 percent according to this comparison.

12          Q     **Then it also shows the percentages of the**  
13     **Black population and the population of two or more**  
14     **racess increasing, correct?**

15          A     The Black population, or is it  
16     characterized Black or African American alone, looks  
17     like went from 14.6 percent in 2000 to 16 percent in  
18     2010. And you said two more races?

19          Q     **Two or more races, some other race alone,**  
20     **both of those categories appear to increase,**  
21     **correct?**

22          A     Yes. They appear to -- both those  
23     categories appear to increase. Yes.

24          Q     **Do you know one way or another whether**  
25     **this trend continued past 2010?**

1           A     Past 2010? Past 2010? I think probably  
2 presenting it this way past 2010 would be misleading  
3 the way that this is done because the population  
4 growth is much more significant in the Hispanic  
5 community.

6                     And the way this is done is it's  
7 clustering -- it's clustering Hispanic Floridians in  
8 amongst white. I want to say that the percentage of  
9 Black or African American population between 2010  
10 and 2020 is either flat or maybe even gone backwards  
11 a little bit.

12                    So I think if I was going to present  
13 something like this again, I would present -- I  
14 would separate out Hispanic Floridians into their  
15 own slice of the pie.

16           **Q     Okay. To be clear, we're talking about**  
17 **the 2010 to present time period?**

18           A     Yes, ma'am.

19           **Q     Okay. So I'd like to unpack that a little**  
20 **bit. It's your understanding that this census data**  
21 **includes the Hispanic population within the white**  
22 **alone category?**

23           A     Likely. Likely does. Otherwise, it's odd  
24 that it's not -- otherwise, it's odd that there's  
25 not some other -- some other pie chart or something

1 that shows additional information.

2 Q I see. And so your point is, it would be  
3 misleading because the Hispanic population is  
4 increasing within the state from the period of 2010  
5 to 2023, to the present day?

6 A Yes. Yes.

7 Q That wouldn't be discernible from a pie  
8 chart like this?

9 A Correct.

10 Q Okay. What is the source of your  
11 information that the Hispanic population increases  
12 over that period of time in the state?

13 A Sure. I commonly look at the data from  
14 the source that's referenced here, the Economic and  
15 Demographic Research Office of the legislature. I  
16 often look at that through an educational lens.

17 Their reports provide this kind of data at  
18 a more granular level, even as it relates  
19 specifically to school-age children, too. So often,  
20 that's -- the last several years of my life,  
21 education has been a big part of the policy work  
22 that I've done.

23 So oftentimes I've looked at that kind of  
24 data through that lens. I looked at the overall  
25 data, too, because children come from a family, and

1 so I looked at it from that lens as well.

2 Yeah. The Office of Economic and  
3 Demographic Research, which is -- that office is the  
4 office that, if you will, unpacks the census data  
5 when that data is reported every decade in America  
6 community survey data, and so forth. That's their  
7 logo on these slides where it says "EDR."

8 **Q I see. And so we talked about this**  
9 **Hispanic community.**

10 **For the Black community, you would agree**  
11 **that, similarly, that trend increased over the**  
12 **period of time between 2010 and present day within**  
13 **the state of Florida, correct?**

14 A No. I just said the opposite.

15 **Q Oh, I'm sorry. I misheard you.**

16 A No. I believe the proportion of the  
17 population that classifies as Black or  
18 African American remains relatively flat or maybe  
19 even gone backwards a little bit.

20 **Q Thank you.**

21 **Let's turn to the slide titled "Population**  
22 **By Race By County." The next slide, so --**

23 A There's two of them. Is it the one on the  
24 top?

25 **Q Let's look at the first one on top.**

1           A     Okay. Thank you.

2           **Q     So this appears to be drawn from similar**  
3     **data sources, census, EDR; is that right?**

4           A     Yes.

5           **Q     Okay. And can you describe to me what**  
6     **these two maps are depicting?**

7                   **And, yes. Please take your time to**  
8     **review.**

9           A     Sure. Thank you. (Examining document.)  
10                   I have been able to review it. These  
11     two visuals, the one on the left, which is white  
12     alone 2000, and on the right is white alone 2010,  
13     they show by a color code the percentage of the  
14     population that is white alone in those counties,  
15     the red being the highest.

16                   I'm not sure what that color for the  
17     35.9 percent, the 59.3 percent, I'm not sure what  
18     that grayish-maybe color is. I am not sure what  
19     that color is.

20                   And then the table has the overall state  
21     percentages, 78 percent, 2000, 75 percent in 2010,  
22     and then the table has -- the county has specific  
23     percentages for Citrus and Gadsden Counties -- I'm  
24     sorry -- Citrus being the county with the greatest  
25     percentage of white alone population and Gadsden

1 being the county with the least percentage of white  
2 alone population.

3 Q Thank you.

4 And do you know one way or the other how  
5 this map would look -- how these maps would look if  
6 we were looking at a 2020 map?

7 A No.

8 Q Okay. And you would have no basis for  
9 saying -- for knowing whether a county had a higher  
10 percentage white population or not, higher or lower  
11 percentage population within that county, you would  
12 have no basis to draw that conclusion?

13 A I don't know the county breakdown for the  
14 current -- this -- basically this table, I don't  
15 know the county breakdown for this kind of data  
16 today.

17 Q Do you have any reason to believe that  
18 there would be significant population shifts from  
19 2010 to 2020?

20 A Yes.

21 MR. JAZIL: Object to form.

22 But you can answer.

23 A Yes.

24 BY MS. DJANG:

25 Q What is the basis for that, if you know?

1           A       Florida has had nearly 5 million people  
2       move to the state from 2010 to 2020.

3           **Q       Do you have any understanding of where**  
4       **within the state those individuals have moved?**

5           A       No.

6           **Q       Sitting here today, you can't tell me**  
7       **whether they generally moved to cities or rural**  
8       **areas?**

9           A       No.

10          **Q       In your work as -- hopefully I can get**  
11       **this right -- as -- I'm sorry, I don't have the**  
12       **title in your Education and Economic Development**  
13       **work -- you never tracked movement of populations**  
14       **within the state in terms of migration into cities**  
15       **or into rural areas, that was never something that**  
16       **you looked at?**

17          A       I looked at it from the point of view of  
18       school-age children who've enrolled in public  
19       schools, so K-12 public schools.

20                 So I can tell you that this past school  
21       year, for example, Miami-Dade County, Lee County,  
22       Sarasota County had higher growth amongst K-12  
23       public school-age children than the rest of the  
24       state.

25          **Q       Okay. Is there any correlation between**

**1 the number of public school-age children and the**  
**2 general population growth within a particular area?**

3 A I imagine more children means more  
4 families, but I know that in the case of those  
5 three counties, in many cases, those counties were  
6 reporting that many of those kids were without  
7 parents.

**8 Q So did you also track income levels across**  
**9 these different areas of the state as part of your**  
**10 education and economic development work?**

11 A Income levels?

**12 Q Uh-huh.**

13 A No.

**14 Q Was your tracking of educational --**

15 A I should clarify. For teacher salaries,  
16 yes, for teacher salaries I have some familiarity  
17 specifically with that profession.

**18 Q I see.**

**19 Can you tell me a little bit about more**  
**20 what your economic development work entailed?**

21 A Sure. I -- right now today? Economic  
22 development work?

**23 Q And any other period of time between now**  
**24 and 2010.**

25 A Sure. The only economic development work

1 that I have been involved in from 2010 till now is  
2 in the current job that I have.

3 So April 2021 till now, I oversee a group  
4 of economic development agencies for our office; in  
5 other words, when I say that, I mean they report to  
6 me, the Department of Economic Opportunity,  
7 Enterprise Florida, Visit Florida, Florida Housing  
8 Finance Corporation, Florida Development Finance  
9 Corporation, Space Florida, CareerSource. I hope I  
10 am not forgetting anybody.

11 **Q Thank you.**

12 **What is Economic Opportunity Florida?**

13 **What is their mission?**

14 A The Department of Economic Opportunity?

15 **Q Yes. I'm sorry. I think that was the**  
16 **first agency you mentioned.**

17 A Department of Economic Opportunity. Yes.  
18 The department oversees a number of economic  
19 development-related functions, including the State's  
20 reemployment system. The department is the finance  
21 agent of several of the economic growth incentive  
22 programs that some of the other agencies I  
23 mentioned -- CareerSource, Enterprise Florida, Space  
24 Florida -- that they promote, the Department of  
25 Economic Opportunities is essentially the financier,

1 the check-and-balance accountability arm of those  
2 programs.

3 In addition, the Department of Economic  
4 Opportunity oversees numerous grant programs for  
5 economic development type of infrastructure grants,  
6 workforce training grants, rural infrastructure,  
7 rural community grants for small cities, small  
8 counties -- I guess rural counties and small  
9 counties is the same thing.

10 I know I am probably leaving out stuff,  
11 but that's the general purview of the Department.

12 **Q Thank you.**

13 **And in overseeing that department and that**  
14 **department's work, what types of information**  
15 **regarding income levels of Floridians did the**  
16 **department consider?**

17 A What kind of income level data?

18 **Q Uh-huh.**

19 A The department has two ways that it would  
20 typically look at income data. That income data in  
21 some cases would be based on eligibility for  
22 programs. So, for example, housing programs -- just  
23 to give a real crystal clear example, housing  
24 programs, there are different income thresholds that  
25 would allow someone to become eligible for different

1 types of housing assistance, so lower to moderate  
2 income.

3 The inverse of that is the department will  
4 look at income from the point of view of many of the  
5 State's grants and incentive programs. The  
6 applicant has to essentially propose that the  
7 purpose of their project will create some number of  
8 jobs at a certain income level that would be a  
9 high-demand improvement in income.

10 **Q So fair to say that demand was not equal**  
11 **across all areas of the state?**

12 A Demand for what?

13 **Q Well, you referenced high demand for --**

14 MS. DJANG: Actually, if you can repeat  
15 maybe his last two sentences.

16 (The requested portion was read.)

17 BY MS. DJANG:

18 **Q Okay. So scratch that.**

19 **Would it be fair to say that the**  
20 **Department of Economic Opportunities grant**  
21 **activities and other housing programs were not**  
22 **equally distributed across every single county in**  
23 **the state?**

24 MR. JAZIL: Counsel, could you clarify the  
25 time period again?

1 MS. DJANG: During the time that you've  
2 been working and overseeing that agency.

3 A Equally by population or equally by --

4 BY MS. DJANG:

5 Q **Equally by geographic area. So if you**  
6 **were --**

7 A Sure. They're not distributed equally  
8 geographically across the state.

9 Q **Okay. And could you provide a high-level**  
10 **description of where those resources are**  
11 **concentrated?**

12 A I would have to spend -- I would have to  
13 understand probably fully more what you are asking.  
14 I'd have to spend a lot of time to study that issue.

15 Q **So you've been working in this position**  
16 **from April 2021 to now. That's over two years,**  
17 **correct?**

18 A Yes.

19 Q **Okay. And you have been overseeing the**  
20 **Department of Economic Opportunity for over**  
21 **two years; is that right?**

22 A Yes.

23 Q **And sitting here today -- and I'm trying**  
24 **to rephrase this question -- could you describe to**  
25 **me one area of the state where the department's**

1       **resources are concentrated? Could you identify one?**

2           A       Sure. Miami-Dade County.

3           Q       Okay. Could you identify an area in the  
4       **northern half of the state?**

5           A       Jackson County.

6           Q       Okay. Thank you.

7                   All right. So we can move on from that.

8       **I appreciate this trip down memory lane. Thank you**  
9       **for bearing with me.**

10                   So let's talk about this within this  
11       **decade.**

12                   MS. DJANG: And maybe this is a good time  
13       to take a quick break. We've been going for a  
14       while. But I can promise you we're leaving the  
15       past behind for the moment.

16                   THE WITNESS: Sure.

17                   MS. DJANG: Okay. Thanks.

18                   (A recess took place from 3:57 p.m. to  
19       4:03 p.m.)

20       BY MS. DJANG:

21           Q       So I would love to return very briefly to  
22       **Exhibit 63, which was the House committee packet, to**  
23       **look at the population by race by county slide. And**  
24       **I know there was a page with two of them, and just**  
25       **to return to the second slide. We looked at the**

1 first one previously.

2 So the second one is also titled  
3 "Population race by county" but instead of the white  
4 percentages shown on the map, it shows the Black or  
5 African American alone percentages by county,  
6 correct?

7 A Yes.

8 Q All right. And do you recall seeing this  
9 slide or reviewing this data?

10 A Like I said before, I don't recall the  
11 specific presentation. These were the kinds of  
12 presentations that we looked at. I've seen  
13 presentations like this before. I don't recall  
14 literally this exact presentation.

15 Q Fair enough.

16 But you did look at population by race by  
17 county when drawing the maps that the committee you  
18 worked for proposed in the 2012 cycle, correct?

19 A Population by race by county when drawing  
20 the maps?

21 Q I can rephrase. You looked -- you  
22 considered population by race by county as one data  
23 point when drawing proposed maps; not any particular  
24 map, but just in general, in this process of drawing  
25 proposed maps during the 2012 redistricting cycle,

**1 correct?**

**2 A I wouldn't say it that way. Where**  
**3 necessary or where we believed potentially**  
**4 necessary, we would look at Black voting age**  
**5 population, Hispanic voting age population, in**  
**6 districts that we were drawing where we believed**  
**7 there was some reason, some necessity to do so.**

**8 Q Okay. Thank you for clarifying.**

**9 Okay. Great.**

**10 And just to have on the record what is**  
**11 depicted here, could you please describe for me**  
**12 which area of both of these maps shows the highest**  
**13 percentage by county of Black or African American**  
**14 alone population in both these maps?**

**15 A Sure. It identifies Gadsden County,**  
**16 Florida, in both 2000 and 2010 as having the**  
**17 greatest percentage of Black or African American**  
**18 alone population.**

**19 Q Okay. And then in addition, in the visual**  
**20 depiction, the counties with the highest percentage**  
**21 of the population that is Black or African American**  
**22 alone in those counties is depicted as red, correct?**

**23 A Yes.**

**24 Q Okay. And in the 2010 map, that refers to**  
**25 five counties, right?**

1           A       The 2010 map, it refers to Gadsden, Leon,  
2       Jefferson, Madison, and Hamilton counties.

3           Q       Okay. Thank you. Okay. That is all I  
4       wanted to get through there.

5                    Please pull up for me Exhibit 42. This is  
6       Governor DeSantis' advisory opinion request of the  
7       Florida Supreme Court.

8           A       Got it.

9           Q       So we've already talked about this a  
10       little bit, but I would just like to understand, in  
11       this first paragraph on this first page, the phrase  
12       "solely to connect a minority population sector in  
13       Jacksonville with a separate and distinct minority  
14       population center in Leon and Gadsden Counties."

15                   Just focusing on that phrase, could you  
16       explain to me what a "separate and distinct minority  
17       population" is?

18          A       Separate being people who live in separate  
19       communities.

20          Q       How would you define that?

21          A       They don't live in the same community.

22          Q       What would you consider to be the  
23       boundaries of a community?

24          A       Counties, cities.

25          Q       Counties and cities?

1           A     Could define a community with major  
2     roadways, railways, waterways.

3           **Q     Anything else?**

4           A     No.

5           **Q     Okay. And at the end of this paragraph,**  
6     **it states: "These counties are in two completely**  
7     **different regions of the state." And that's in**  
8     **reference to Duval to the east and Leon to the west.**

9                   **Which regions of the state is that**  
10    **referring to?**

11          A     Forgive me. What part of the paragraph  
12    are you on?

13          **Q     This is the final two sentences of this**  
14    **paragraph.**

15          A     Okay. Where it begins "as of"?

16          **Q     Uh-huh.**

17          A     Okay. And you're asking me what two  
18    regions the people in this district are in?

19          **Q     Yes, what are the two regions referenced**  
20    **in that sentence?**

21          A     The constituency in Duval County, Baker  
22    County, typically one would consider that to be  
23    northeast Florida.

24                   The constituencies in Gadsden, Leon  
25    County, you would consider that to be the Big Bend

1 of the state.

2 I'm not sure if someone would also define  
3 the constituents in Jefferson County the same way.  
4 The counties kind of in between that -- again, I'm  
5 not sure where you would classify Jefferson. But  
6 counties in between that over to Baker County,  
7 typically considered to be North Florida, kind of  
8 middle-central North Florida.

9 **Q And did you take these regions into**  
10 **account when drawing maps in this most recent**  
11 **redistricting cycle?**

12 MR. JAZIL: I'm going to give you the  
13 Marsh instruction, but you can answer to the  
14 extent you can.

15 A Did I take the regions into account?

16 BY MS. DJANG:

17 **Q Uh-huh.**

18 A Yes.

19 **Q And where in the -- in terms of political**  
20 **and geographic boundaries, help me understand how**  
21 **you would prioritize regions amongst other different**  
22 **factors?**

23 A Sure.

24 MR. JAZIL: I'm going to give you the  
25 Marsh instruction, but you can answer if you

1           can.

2           A       The region of the state becomes an issue  
3 of compactness, really. The region of the state is  
4 if you have a district that has a large number of  
5 regions in it, it could bring up a question of  
6 compactness. That -- you couldn't weigh it on that  
7 alone.

8                    You'd have to factor in are you talking a  
9 very urban area, a rural area with either large or  
10 small populations. Obviously a district that has  
11 perhaps exclusively rural communities is going to  
12 have a large geography regardless, because there's  
13 no other choice.

14                   But -- so it's going to become an issue of  
15 compactness, but having different regions unto  
16 itself, you'd want to look at the district more than  
17 just saying that to determine compactness.

18 BY MS. DJANG:

19           **Q       Understood.**

20                    **And if I wanted to figure out what the**  
21 **different regions were, is there a map that I could**  
22 **reference? Is this -- where can I find a list of**  
23 **the different regions of Florida?**

24           A       I suppose you could research that.

25           **Q       I am asking you. You're my source right**

1     **now.**

2           A     Okay.  Where could you find a list of  
3     regions?  You can research that on the internet.

4           **Q     Where would you look for a list of the**  
5     **regions of Florida?**

6           A     You could look for a list, a variety of  
7     places about the state.

8           **Q     Mr. Kelly, can you identify any that lists**  
9     **or depicts the regions of Florida as we're**  
10    **discussing them today?**

11          A     If I could have an opportunity to do that,  
12    I'd be happy to.

13          **Q     So the answer is no?**

14          A     I have no document in front of me that's a  
15    list of regions of the state.

16          **Q     And you can't describe one to me right**  
17    **now?**

18          A     Wikipedia.

19          **Q     Thank you.**

20                   **Considering the north-east region and Big**  
21    **Bend region, those are the two regions implicated by**  
22    **this map here, correct?**

23          A     I'd say that area between -- depending on  
24    where you would divide that line of Jefferson and  
25    Leon over to Baker, I'd probably call that Northern

1 Central Florida.

2 Q Northern Central. Okay. Thank you. So  
3 Northeast, Northern Central, Big Bend, you would  
4 consider these all three separate regions?

5 A Yes.

6 Q Okay. And would you or would you not  
7 agree that the Black population in this area shares  
8 certain characteristics, and I can go through a  
9 couple, but one I might identify is income level?

10 A I don't know.

11 Q Okay. Do you know about -- and we can put  
12 aside race for a moment -- that population's access  
13 to government services?

14 A Throughout this entire district?

15 Q Correct.

16 A No.

17 Q Do you know about the access to government  
18 services within the counties in this district?

19 A No. I know all our counties have  
20 government services. I'm not sure if that's what  
21 you're getting at.

22 Q So we talked earlier about your work with  
23 the Department of Economic Opportunity and you  
24 identified for me certain areas where resources were  
25 concentrated.

1                   **Would you agree with me that that's one**  
2 **way of discerning where government services are**  
3 **offered?**

4           A       We didn't talk earlier about where  
5 resources are concentrated.

6           Q       I apologize. I don't want to  
7 mischaracterize your testimony. Just give me a  
8 moment here, I want to make sure I get this right.

9                   Do you understand access to government  
10 services to be equal across this District 5 depicted  
11 here on this map?

12                   MR. JAZIL: Object to form.

13                   You can answer if you understand.

14           A       Can you tell me how you're using the word  
15 "equal"? Equal in what way?

16 BY MS. DJANG:

17           Q       Are there any differences in the level of  
18 access to government services?

19           A       I'm sure there are.

20           Q       Would you disagree with me that this  
21 District 5 contains a high proportion of Black  
22 voters?

23                   MR. JAZIL: Object to form.

24                   But you can answer if you understand.

25           A       This District 5 as drawn here?

1 BY MS. DJANG:

2 Q Uh-huh.

3 A I know that its Black voting age  
4 population, which has been quoted in some of these  
5 documents, is in the low to mid 40s-something  
6 percent range.

7 Q Would you agree with me that these Black  
8 voters that we're talking about in this CD-5 share a  
9 general level of poverty relative to the level of  
10 poverty across statewide?

11 MR. JAZIL: Object to form.

12 A I don't know.

13 BY MS. DJANG:

14 Q Would you agree that the access to health  
15 care -- the ability to access adequate health  
16 care -- I'll rephrase.

17 Would you agree that the Black voters in  
18 this CD-5's ability to access adequate health care  
19 is less than the general access throughout the  
20 state?

21 A I don't know.

22 Q All right. Do you know one way or the  
23 other whether the residents of -- the Black  
24 residents of this district tend to be older,  
25 younger, or average age when compared to the rest of

1     **the state?**

2           A     I don't know.

3           **Q     Okay. I'm going to show you what we'll**  
4 **mark as Exhibit 64.**

5                     (Exhibit 64 was marked for  
6           identification.)

7     BY MS. DJANG:

8           **Q     Do you recognize this document?**

9           A     Yes.

10          **Q     And what is it?**

11          A     Similar to the forms that we looked at  
12 earlier, this is a submission form for a map to the  
13 legislature, just, unlike the forms earlier that had  
14 Ryan Newman's name on it, this has my name on it.

15          **Q     What date is your signature dated?**

16          A     4-13-2022.

17          **Q     And that's your signature, right?**

18          A     Yes.

19          **Q     Do you remember signing this document?**

20          A     Yes.

21          **Q     Okay. I see that you have left blank the**  
22 **box under "List the name of every persons, groups,**  
23 **or organizations you collaborated with on your**  
24 **comments, suggestion, or submitted map below"; is**  
25 **that right?**

1           A       Yes.

2           **Q       Is it accurate that you did not**  
3       **collaborate with any person, group, or organization**  
4       **on this submitted map with which you provided this**  
5       **form?**

6                   MR. JAZIL: I'm going to give you the  
7       Marsh instruction. To the extent you  
8       collaborated with anyone outside of EOG --

9           A       Correct, I filled this out properly.  
10       There was no name or organization to include in that  
11       box. There was no outside participant help. I drew  
12       the map myself.

13                   And I stated earlier in the prior  
14       questions to similar end that the Executive Office  
15       of the Governor is our office and that's -- there's  
16       no need -- as stated earlier on some of the other  
17       forms for the prior maps, they're -- we're in an  
18       office, but I had no one help me with this map.

19       BY MS. DJANG:

20           **Q       In the 2012 redistricting cycle, was this**  
21       **submission form required for anyone -- everyone who**  
22       **submitted proposed maps?**

23           A       No, not this form.

24           **Q       Why not?**

25           A       Why not?

1           **Q     Do you know why this form was added as a**  
2           **requirement for submitting maps in this most recent**  
3           **cycle?**

4           A     No, you would have to ask -- direct that  
5           question to the House or Senate or both of them.

6           **Q     Do you have any awareness of the reason**  
7           **for this form?**

8           A     The only reason that's been presented to  
9           me earlier today by counsel was a memorandum from  
10          Chair Rodrigues which I read for the first time  
11          here. So I know what anybody else who's read that  
12          form knows, but that's it.

13          **Q     Thank you. Just a moment.**

14                   **Speaking of Senator Rodrigues, do you**  
15           **recall what his position was regarding a**  
16           **Black-opportunity district in Northern Florida in**  
17           **the 2012 redistricting cycle?**

18          A     Senator Rodrigues' position in 2012?

19          **Q     Uh-huh.**

20          A     I have no idea.

21          **Q     You have no idea?**

22          A     None.

23          **Q     You do not recall as staff director of the**  
24           **House Redistricting Committee a senator's position**  
25           **on a Black-opportunity district in Northern Florida,**

1     **you don't recall?**

2           A     No.

3           **Q     Okay. I can represent to you that he**  
4     **publicly stated that the Senate's responsibility in**  
5     **creating these maps is to ensure there is no**  
6     **retrogression and, therefore, the legislature was**  
7     **required to preserve a Black-access district in**  
8     **North Florida.**

9                   **My question for you is: Did Senator**  
10    **Rodrigues approve a map that did not have a**  
11    **Black-access district in North Florida?**

12                   MR. JAZIL: Can you ask when?

13           A     You really got me confused.

14    BY MS. DJANG:

15           **Q     Yes. Okay. Yes.**

16           A     You were talking about his position on the  
17    maps in 2012. You've read a quote that I don't have  
18    that he said last year --

19                   MR. JAZIL: Let her rephrase the question.

20                   MS. DJANG: Oh, yes. Okay.

21    BY MS. DJANG:

22           **Q     I am sorry. I misspoke. Okay. I truly**  
23    **apologize. I was confused.**

24           A     No worries.

25           **Q     So the statement that I just made, I**

1 represented to you that Senator Rodrigues made  
2 regarding the requirement to preserve a Black-access  
3 district in North Florida was made during this  
4 recent 2022 redistricting cycle.

5 Were you aware of that statement or  
6 something along that, in sum and substance to that  
7 statement?

8 A No.

9 Q Were you aware of his position that the  
10 legislature was required to preserve a Black-access  
11 district in North Florida generally?

12 A Could I have the benefit of seeing what  
13 you're reading?

14 Q I don't actually have a particular  
15 document, but the question is whether you are aware  
16 that at one point in time during the 2022  
17 redistricting cycle, Senator Rodrigues believed the  
18 legislature was required to preserve a Black-access  
19 district in North Florida?

20 A Sorry, I'm being asked a question about an  
21 exact quote and I can't even read the quote.

22 Q What I'm saying to you right now is not a  
23 quote. This is a question about a district that was  
24 the center -- would you agree District 5 was the  
25 centerpiece --

1           A       Okay.  So now I'm being asked a question  
2       about her interpretation of his opinion and I don't  
3       have --

4           MR. JAZIL:  Let's take a five-minute break  
5       if that works for everyone.  Is that okay?

6           MS. DJANG:  Sure.

7           (A recess took place from 4:28 p.m. to  
8       4:36 p.m.)

9       BY MS. DJANG:

10           Q       So Mr. Kelly, in the spring of 2022, prior  
11       to the legislature's special session, do you recall  
12       one way or the other whether Senate Chair Rodrigues  
13       had an opinion about the preservation of a Black  
14       minority access district in Northern Florida?

15           A       No, I don't recall his opinion.

16           Q       Going into the meeting you had with him  
17       and several others prior to the special session of  
18       the legislature, did you have an understanding of  
19       his position regarding a Black-opportunity district  
20       in Northern Florida?

21           A       No.

22           Q       You do not know one way or the other  
23       whether he was -- he thought it was required, not  
24       required, constitutional, not constitutional?

25           A       Correct.

1           **Q     And during the course of that meeting, you**  
2     **did not receive any feedback from him on your**  
3     **presentation; is that right?**

4           A     Basically, yeah. I noted earlier when we  
5     talked about this that during that meeting, Chair  
6     Rodrigues, generally speaking, listened to --  
7     listened to me as I explained the map.

8           **Q     So you said generally. What did he do**  
9     **other than listen?**

10          A     Let me say it a different way. Most of  
11     the time, he listened. I took particular notice of  
12     the fact that he was a very attentive listener, he  
13     was a very active listener in the meeting.

14          **Q     And he did not make any statements during**  
15     **that meeting regarding your presentation?**

16          A     I'm sure he said a few words, just none  
17     that come to mind. In remembering the meeting, I  
18     have a particular memory of how much he listened in  
19     the meeting.

20          **Q     Okay. Who requested that meeting?**

21          A     I recall that we, our office, offered to  
22     do a briefing for the chairman.

23          **Q     And did you plan to present the proposed**  
24     **plan that ultimately became the Enacted Plan during**  
25     **the special session?**

1           A     Yes, the idea was to prep, brief, walk the  
2 chairman through the proposed map that, as you said,  
3 ultimately became the Enacted Map.

4           **Q     What, if anything, was different between**  
5 **the content you presented at that meeting before the**  
6 **special session and the content you presented during**  
7 **the special session?**

8           A     Oh, the question came up earlier that  
9 content that I presented at that meeting, the map,  
10 is the exact same map as the Enacted Map.

11          **Q     And the substance of the conversation**  
12 **during that meeting covered the same ground as the**  
13 **special session or did it go in a different**  
14 **direction?**

15          A     It covered the same ground. It was not as  
16 lengthy as my presentation in front of the full  
17 committee.

18          **Q     I hope not.**

19          A     It was, give or take, a 45-minute to an  
20 hour abridged version of that presentation.

21          **Q     Whose idea was it for you to provide**  
22 **testimony to the -- at the special session?**

23                 MR. JAZIL: I'm going to give you the  
24 Marsh instruction, but to the extent you can  
25 answer, answer.

1           A       I'd have to discuss conversations internal  
2       to our office to answer the question, so I am going  
3       to take counsel's guidance.

4           MR. JAZIL: Counsel, perhaps you could ask  
5       him whether anyone in the legislature  
6       invited --

7       BY MS. DJANG:

8           **Q       Did the legislature invite you to testify**  
9       **during the special session, did anyone in the**  
10       **legislature?**

11          A       I recall -- I recall the House suggesting  
12       that I be the one to present. I don't recall who  
13       specifically. I just -- I do have a recollection  
14       that the House made a suggestion to us that I be the  
15       one.

16          **Q       Did they suggest that anyone else present**  
17       **during the special session?**

18          A       Not that I recall.

19          **Q       Okay. I am showing you what we will mark**  
20       **as Exhibit 65.**

21                        (Exhibit 65 was marked for  
22       identification.)

23       BY MS. DJANG

24          **Q       Do you recognize this document?**

25          A       Yes.

1           **Q     What is it?**

2           A     This is my script for the presentation to  
3     the House and Senate committees on April 19, 2022.

4           **Q     So to be clear, you used this same**  
5     **document for both presentations?**

6           A     I did.

7           **Q     Can you just read for me what the**  
8     **handwritten text on this first page in the upper**  
9     **right-hand corner says?**

10          A     It says: "CD-20." That's above the red  
11     ink. Below it: "Bodies of water." Below that it  
12     says: "Race neutral."

13          **Q     Thank you.**

14                   **What is your understanding of race neutral**  
15     **in this context?**

16          A     Sure. Drawing a district without  
17     consideration for race.

18          **Q     And what would consideration of a race**  
19     **look like?**

20                   MR. JAZIL: Object to form.

21                   You can answer to the extent you  
22     understand.

23          A     Without factor -- without factoring in the  
24     racial composition of the residents of the district.

25

1 BY MS. DJANG:

2 Q Okay. But does that mean -- does race  
3 neutral mean that one does not have access to racial  
4 data whatsoever?

5 A It does not mean that.

6 Q When you provided this testimony before  
7 the legislature, we previously discussed, or you  
8 discussed with Ms. Ford that you weren't sworn in,  
9 correct?

10 A Correct.

11 Q And I think what was discussed is you --  
12 there was another form in which there was reference  
13 to testimony given under the penalty of perjury.  
14 Please correct me if I'm misstating what you stated.  
15 And so your understanding was that you were  
16 providing testimony under the penalty of perjury; is  
17 that right?

18 A Yeah, basically, the legislature, as I can  
19 recall, their forms that they have when you sign in  
20 and present or give public comment or, as I was  
21 doing, presenting something in the committee, I  
22 believe their forms, at least they used to, cite the  
23 perjury statute, so if you were to knowingly provide  
24 false information, then the legislature could take  
25 action against you.

1           Q     Thank you.

2                     Okay. So we can assume that your  
3 testimony would be exactly the same had you been  
4 sworn in and can rely on it as such?

5           A     Yes.

6           Q     Okay. On page 2 of these notes, you  
7 write: "I alone authored the changes in the plan  
8 before you today, Plan 0109, with respect to how  
9 this new plan compares to the legislature's primary  
10 Plan 8019." It's the fourth bullet.

11          A     Yes.

12          Q     Do you see that?

13          A     I see it.

14          Q     Can you please describe to me what you  
15 meant when you said "I alone authored the changes in  
16 the plan"?

17          A     Sure. It's synonymous with I was the  
18 map-drawer of the changes in a plan before the  
19 committees that day.

20          Q     Okay. So no one else had any input in the  
21 decisions you made?

22          A     I was the map-drawer. You used the word  
23 input as in, like, that could be feedback, that  
24 could be someone saying good job. But I was the  
25 map-drawer.

1           **Q**     Okay. So if someone said, you know, this  
2 line, this district boundary doesn't look clean to  
3 me, or I think we should keep this county intact,  
4 and you ultimately drew the district that way, would  
5 you consider that to be impacting that statement? I  
6 just want to understand exactly what this means when  
7 you say you alone authored the plan.

8           A     Sure. Sure. I didn't get any feedback  
9 like that.

10          **Q**     Thank you.

11          A     I mean, I guess the -- feedback in the  
12 sense that when I -- I mentioned earlier, when we  
13 met with the House and Senate, they were  
14 complimentary of the proposed plan.

15          **Q**     Got it. All right. Turning to the next  
16 page, on page 3, you have in this first bullet,  
17 could you read that for me?

18          A     First bullet, page 3?

19          **Q**     Uh-huh.

20          A     "The only time I referenced political data  
21 was early in the process to determine if it was  
22 possible to draw a compact African American  
23 performing district in Northeast Florida that  
24 complies with both the U.S. Constitution and the  
25 Florida Constitution as interpreted by the Florida

1 Supreme Court and implemented by the legislature."

2 **Q What were you referring to when you**  
3 **referenced political data?**

4 A Sure. I was referring to 2020, in that  
5 Duval County area, that sort of Duval County urban  
6 core, 2020, political data regarding 2020 voter  
7 registration, voter turnout, and the results of the  
8 presidential election.

9 **Q And did that data contain any other data**  
10 **points, any other -- you mentioned voter**  
11 **registration, voter turnout. Any other data that**  
12 **I'm missing?**

13 A And the 2020 data specifically and the  
14 results of the presidential election.

15 **Q So was this county data? I need more**  
16 **specifics. I am still not --**

17 A Oh, sure. I said it earlier, that  
18 downtown kind of core of Duval County.

19 **Q Okay. And did that include a racial**  
20 **breakdown of these numbers?**

21 A I looked at it by demographics, yes.  
22 Racial, yes. Demographics include -- sorry,  
23 demographics including race.

24 **Q Okay. What other demographics were**  
25 **included?**

1           A       I was looking at -- I mean, I was -- I  
2       don't know what else fully comes up when you do  
3       that, but I was looking at race. I was looking at  
4       race in that downtown core of Duval County.

5           **Q       Okay. And what was the source of your**  
6       **data there that you were pulling from?**

7           A       The application the legislature -- the  
8       redistricting application the legislature provided.

9           **Q       Was that the only area where you**  
10       **considered such demographic information?**

11          A       In terms of demographic race?

12          **Q       Uh-huh.**

13          A       I mentioned during my testimony as well  
14       that the legislature had a debate back and forth  
15       about Orlando, Central Florida, District 10, and so  
16       I looked at the racial and ethnic data, the Black  
17       voting-age population, Hispanic voting-age  
18       population for that district.

19                 And coming back up to the specific  
20       district mentioned here on this first bullet on  
21       page 3, to complete my analysis, if you will, I  
22       looked at the Black voting-age population, data for  
23       places like Palatka, Daytona Beach, Gainesville, to  
24       essentially complete the analysis I'm describing  
25       here. I'm trying to see if there was an ability to

1 draw a compact African American district in that  
2 region.

3 **Q So those locations that you just**  
4 **mentioned, where in the -- which districts in the**  
5 **Enacted Plan are those located?**

6 **And, yes, we can reference --**

7 A I'm trying to find it.

8 **Q We can reference Exhibit 13.**

9 A Okay. I apologize, these are probably a  
10 little out of order at this point. I got it.

11 Okay. So the cities that I just  
12 mentioned, of what districts did those -- are you  
13 asking, basically, what cities -- or what districts  
14 did those cities end up in?

15 **Q Correct.**

16 A Sure. Palatka is in Putnam County, which  
17 is in District 6, the, relatively speaking, northern  
18 part of District 6.

19 Daytona Beach, I can't recall whether  
20 Daytona Beach ends up in District 6 or 7. I need a  
21 closer-up map. It's either -- Daytona Beach, the  
22 municipal boundaries are right around the border of  
23 6 or 7. I just don't recall which it's in, 6 or 7.

24 Gainesville is in Alachua County, which is  
25 in District, I think that's 3. I can't find the

1 number here and I apologize. It was District 3.

2 **Q Okay. And those are the only locations**  
3 **where you --**

4 A Well, and I am sorry. I described at the  
5 beginning of my previous answer, District 10.

6 **Q Right. And District 10?**

7 A District 10, which is in Orange County.

8 **Q And I'm -- just to be clear, that is a**  
9 **complete list of where you considered racial**  
10 **demographic data in drawing the Enacted Plan?**

11 A Yes.

12 **Q Okay.**

13 A Oh, in drawing it, yes. I did make a  
14 distinction in my presentation about Hispanic  
15 voting-age population in District 26. After drawing  
16 the district, I did check my work because that is a  
17 district that's typically somewhere in the  
18 70-something percent range of Hispanic voting-age  
19 population and -- and implicates Section 2 of the  
20 Voting Rights Act. And so I went back just to make  
21 sure as I -- I had to redraw that district slightly  
22 in this map, and just to make sure that I didn't do  
23 anything to diminish the Hispanic voting-age  
24 population in District 26. And I had not. Sorry.  
25 I had not done anything to diminish it, but I

1 checked my work nonetheless.

2 **Q Were there any other districts that were,**  
3 **in your view, were implicated by Section 2 of the**  
4 **Voting Rights Act?**

5 A Oh, for the whole map?

6 **Q Uh-huh.**

7 A Districts 26, 27, 28, 20, I believe those  
8 would be the only four. Now, three of those  
9 districts, 20, 27 and 28, the legislature drew  
10 those, but nonetheless, those four districts would  
11 all have -- would -- you would be concerned -- I'm  
12 not sure of the proper way to say it, but, you know,  
13 would have Section 2 Voting Rights Act implications.  
14 I'm sure there's a better way to say that.

15 **Q On page 5, regarding the proposed plan --**

16 A Page 5 of? I'm sorry.

17 **Q Of Exhibit 65.**

18 A Okay, got it.

19 **Q 65. Under the bullet "Regarding the**  
20 **proposed plan," the plan, and the first bullet**  
21 **states: "Maintains the same number of performing**  
22 **majority-minority seats."**

23 **Which districts are you referring to**  
24 **there?**

25 A Sure. Actually, the four that I just

1 mentioned, 20, 26, 27, and 28.

2 Q Got it.

3 And you just mentioned that you did  
4 consult data after the fact for District 26. Your  
5 conclusion that the Enacted Plan maintains  
6 Districts 20, 27 and 28 as a performing  
7 majority-minority district is based on the  
8 legislature's conclusion?

9 A Yes, we accepted their analysis.

10 Q Okay. In drawing the Enacted Plan, was  
11 compactness the most important factor you considered  
12 when creating the districts?

13 MR. JAZIL: I give you the Marsh  
14 instruction, but you can answer to the extent  
15 you can.

16 A I wouldn't say that. I think, as I  
17 testified, redistricting includes a variety of  
18 factors that are spelled out in law. And I wouldn't  
19 say that compactness is the most important factor.

20 What I did say yesterday is that  
21 compactness and county boundaries, which comes up  
22 from a boundary-analysis perspective and keeping  
23 political and geographical boundary lines whole; I  
24 would say that county boundaries are often  
25 considered a proxy for compactness, and so, you

1 know, probably the best way to say it is that  
2 compactness is probably a more frequently discussed  
3 point or a more frequently relevant point because  
4 when you keep a county whole, again, that is a proxy  
5 for compactness.

6 Does that make sense?

7 BY MS. DJANG:

8 **Q Yes, thank you.**

9 **And there were 10 districts in this**  
10 **Enacted Plan that you explained were unchanged from**  
11 **the legislative -- the plan approved by the**  
12 **legislature, correct?**

13 A Yes, there were 10 districts unchanged  
14 from the legislature's map that the legislature  
15 approved and the Governor vetoed.

16 **Q And for those districts that you yourself**  
17 **did not personally draw, why did you leave those**  
18 **unchanged?**

19 MR. JAZIL: I'm going to give you the  
20 Marsh instruction, but you can answer to the  
21 extent you can.

22 A The districts in -- Districts 1 and 2, in  
23 terms of drawing compact districts that follow  
24 well-recognized county and -- county lines, city  
25 lines and other major boundaryways, there's really

1 nothing to improve upon in Districts 1 and 2 in --  
2 that the legislature had drawn. And I believe it  
3 was their -- I forget if it was the primary or  
4 secondary, but they had drawn those two districts  
5 that way.

6 They're well-drawn. There's nothing --  
7 it's the Panhandle. It's very hard to draw those  
8 districts differently.

9 And in terms of the other districts, four  
10 of those districts do involve a Section 2 Voting  
11 Rights Act analysis. And considering whether or not  
12 to include those in what we generally meant as a  
13 compromise product, I was generally trying to draw a  
14 map that was a compromised product, the legislature  
15 made a good case that they had done a thoughtful and  
16 thorough job of their Voting Rights Act obligations  
17 for those four districts.

18 There is a fifth district in that area. I  
19 believe it's 24, I believe it is, that's -- I  
20 believe it's -- well, it's just under that threshold  
21 of the Voting Rights Act, or section of the Voting  
22 Rights Act. It is a very compact, respective of  
23 political and geographical boundary lines,  
24 performing minority seat. It's a district that even  
25 if race were not a factor at all, it's just a very

1 well-drawn, compact district.

2 And then adding to the element that that  
3 seat has historically performed for African American  
4 candidates and is very well compactly drawn, it  
5 would implicate the Florida Constitution's analysis  
6 regarding diminishment, so there was no reason to  
7 change that.

8 Overall, too, in that region of the state,  
9 looking at Districts 20 through 25, 27 -- and really  
10 even District 26, as District 26 is eastern  
11 property, which the only changes that I made were on  
12 the western parts of District 26, but the eastern  
13 parts of District 26, the legislature very clearly,  
14 when you look at the maps that our office submitted  
15 throughout the process, every time our office  
16 submitted a map, the legislature came back through  
17 their map, maps they were looking at, and they very  
18 clearly were cleaning up county splits, city splits,  
19 compactness.

20 So there was something of a reaction from  
21 the legislature that was clear, from my perspective  
22 anyway, you could see it in the statistics that they  
23 would provide, the county splits, city splints,  
24 compactness, that the legislature was constantly  
25 responding to our proposals, improving the map.

1           And so the total of what I just said, the  
2 legislature's analysis of legal obligations in  
3 Southeast Florida was a very good reasonable  
4 analysis. And the improvements that they made  
5 throughout the process were good improvements.

6           So when looking at drawing a compromised  
7 map, in many respects, the legislature had already  
8 improved Southeast Florida in response to our  
9 office's proposals. There wasn't really much else  
10 to do with Southeast Florida.

11 BY MS. DJANG:

12           **Q     Would you agree with me then that the way**  
13 **that the legislature drew CD-24, CD-26, was not race**  
14 **neutral?**

15           MR. JAZIL: Object to form.

16           A     The way they drew CD-24 and CD-26?

17 BY MS. DJANG:

18           **Q     As you just described it to me.**

19           A     I would agree with you, it was not race  
20 neutral.

21           **Q     Okay.**

22           A     Although I don't know if I'm being picky,  
23 but 26, that district performs for Hispanic  
24 Floridians, so an issue of ethnicity, not race.

25           **Q     Thank you. I believe you just testified**

1     **that CD-24 was a performing minority seat that has**  
2     **historically performed for Black candidates; is that**  
3     **right?**

4             MR. JAZIL: Object to form.

5             But to the extent --

6             A     Yes.

7     BY MS. DJANG:

8             **Q     I just want to make sure that I'm not**  
9     **wrong --**

10            A     The answer is yes.

11            **Q     -- what I hear.**

12                    **So in your evaluation of the legislature's**  
13     **CD-24, you would agree that the way you considered**  
14     **CD-24 was also not race neutral?**

15                    MR. JAZIL: Object to form. But you can  
16            answer if you understand.

17            A     The way I considered CD-24? The way I  
18            considered CD -- or Congressional District 24 does  
19            include race. I didn't draw it. But I -- the way I  
20            considered it and the analysis that I just gave  
21            includes a variety of things: compactness, use of  
22            city and county lines, and race.

23                    It is -- it's a very well done district  
24            based on several very commonly used constitutionally  
25            supported redistricting criteria.

1 BY MS. DJANG:

2 Q When you say "constitutionally," you mean  
3 federal, the Federal Constitution, or do you mean  
4 the Florida Constitution?

5 A Florida.

6 Q Okay.

7 MS. DJANG: If we could take a 5-minute  
8 break, I think I can organize my thoughts and  
9 then wrap up.

10 (A recess took place from 5:07 p.m. to  
11 5:16 p.m.)

12 BY MS. DJANG:

13 Q Mr. Kelly, one of the political and  
14 geographical factors that has come up today or  
15 yesterday is municipal boundaries, correct?

16 A Yes.

17 Q And you considered those in preparing the  
18 Enacted Plan, correct?

19 A Yes.

20 Q How many cities are there in Florida?

21 A Maybe 411, 412 incorporated cities, give  
22 or take.

23 Q Do you know how many cities are divided by  
24 the Enacted Plan?

25 A The Enacted Plan splits 16 cities.

1           **Q     Amongst them is St. Petersburg, correct?**

2           A     Correct.

3           **Q     And amongst them is Jacksonville, correct?**

4           A     Correct.

5           **Q     In those cases, keeping the municipality**  
6           **intact was subordinate to other factors which led**  
7           **you to draw the line splitting the cities apart?**

8           A     The city --

9                     MR. JAZIL: Object to form.

10                    You can answer.

11           A     The city of Jacksonville was larger than a  
12           district, so it's impossible to not split it.

13                     In the case of St. Petersburg, I gave a  
14           pretty lengthy explanation yesterday as to how I  
15           arrived at the decision of whether to keep St. Pete  
16           whole, whether to split it, and was trying to draw a  
17           district wholly located -- and I did successfully  
18           draw a district wholly located in Pinellas County,  
19           which is a little larger, maybe a couple hundred --  
20           give or take, a couple hundred thousand people  
21           larger than the size of a district.

22                     So I drew a district wholly located in  
23           Pinellas County. I had to make a decision as to  
24           whether I would draw north to south or south to  
25           north. I walked through the details on how I

1 arrived at that decision yesterday.

2 BY MS. DJANG:

3 **Q And in terms of the other 14 cities that**  
4 **were split and that are split in the Enacted Plan,**  
5 **any other tough calls that required a lot of**  
6 **deliberation on your part?**

7 MR. JAZIL: Object to the form.

8 And I'll give you the Marsh instruction.

9 You can answer to the extent you can.

10 A If you want to walk through them, I can  
11 walk through them. There's a couple that I can  
12 remember off the top of my head that I'm happy to  
13 talk through some of them.

14 Longboat Key we discussed yesterday.  
15 That's a unique city in that Longboat Key is a city  
16 that's actually split by Manatee and Sarasota  
17 counties. And in the map, if you want to keep both  
18 Manatee and Sarasota County whole, it puts you in a  
19 position as a map-drawer where splitting the city is  
20 the result of keeping the counties whole.

21 And so it wasn't an isolated decision unto  
22 itself. I was considering decisions up from Citrus  
23 County up to Lee County and even over to Polk County  
24 when I was thinking that through. The result there  
25 that was splitting Longboat Key.

1 Lakeland, I discussed yesterday as well.

2 My approach, it was a long lengthy answer I gave  
3 yesterday talking about that region along the  
4 Gulf Coast; Citrus down to Lee County inland to  
5 Polk, how those districts all work together.

6 And what I did was I used as a boundary  
7 between 11 and 18 in Polk County largely  
8 Interstate 4, which was very well recognized and  
9 allowed me to draw using a major geographical  
10 boundary -- allowed me to draw a very nicely shaped  
11 southern end to District 11, allowed me to square up  
12 the district.

13 What's unique about Interstate 4 and the  
14 cities there is that several cities -- Auburndale  
15 was one that I mentioned. I think Polk City might  
16 be another. Lakeland is one where the cities cross  
17 over the interstate.

18 In the case of most of those cities that  
19 cross over the interstate, most of those cities -- I  
20 was able to keep most of those cities whole, like  
21 Auburndale and Polk City, because the crossover of  
22 interstate is very minor.

23 So you'll see -- if you really zoom in on  
24 the interstate, you'll see sometimes either  
25 District 11 one way or 18 the other way grab that

1 little portion of the state to keep it whole.

2 In the case of Lakeland, a significant  
3 portion of Lakeland is on the northern side of  
4 Interstate 4. And so I had a decision to make as to  
5 how am I going to draw all the districts in that  
6 area compactly, attempt to, where I could keep  
7 counties and cities whole, and draw meaningful  
8 compact borders for those districts that used  
9 well-recognized political and geographical  
10 boundaries.

11 So as I was making that decision, that  
12 decision of St. Pete, Lakeland, Longboat Key, those  
13 are all decision points that I specifically had to  
14 address in the final map that became Enacted Map.

15 I made that, in part, by keeping  
16 three cities whole that the legislature had split.  
17 So I made a three-for-three trade in that regard.

18 Orlando is a -- obviously, very large  
19 city. It is very bizarrely shaped. It would be  
20 geographically a nightmare to attempt to keep --  
21 Orlando has that -- sometimes you hear in the  
22 district that bug-splatter effect the way that the  
23 geographical boundaries of Orlando are spread out.

24 So to try to keep Orlando whole would be  
25 to draw an incredibly noncompact district that

1 wouldn't be worth the endeavor. Moreover, the  
2 borders of Orlando touch up amongst so many other  
3 city borders, so the approach that I took around  
4 Orlando was just draw a compact district that cores  
5 the Orlando area, and in doing so, keep all the  
6 cities around Orlando whole.

7           Because most -- most of those cities  
8 around Orlando are physically smaller into varying  
9 degrees. More compact. There are some cities that  
10 are split in Southeast Florida. I can't speak as  
11 detailed about some of those because I didn't draw  
12 those portions of the map.

13           However, I can sympathize with the  
14 map-drawer in those portions because -- I'll give  
15 you an example: Fort Lauderdale has interlocking  
16 borders, so almost -- so that if you kind of look,  
17 Fort Lauderdale has, like, interlocking borders with  
18 other cities in that area. There is a city down  
19 there -- might be Hollywood. One of the major  
20 cities down -- it might not be Hollywood.

21           One of the major cities down there  
22 actually kind of goes south to north and then east  
23 to west. There are some -- Broward County municipal  
24 borders are very difficult to contend with. So I  
25 can sympathize with the map-drawer of the Broward

1 County Districts. It's just very, very difficult.

2 As is, the final map does a very good job  
3 in those southeastern counties doing, I think, a  
4 best-case scenario job of keeping cities whole.

5 I'm sure there's one or two others that  
6 aren't coming to mind.

7 BY MS. DJANG:

8 **Q Yesterday you testified that you're**  
9 **generally familiar that St. Petersburg has a**  
10 **substantial minority population; is that right?**

11 MR. JAZIL: Object to form.

12 But you can answer.

13 A I think the testimony yesterday was  
14 different. I was being asked about St. Petersburg  
15 10 years ago, and then I was being asked about  
16 St. Petersburg today. And in one of the exhibits  
17 yesterday we read through my testimony from 10 years  
18 ago where I was more familiar with the racial makeup  
19 of St. Petersburg.

20 And when I was asked a question about  
21 today's racial makeup of St. Petersburg, I said that  
22 I wasn't.

23 BY MS. DJANG:

24 **Q You have zero familiarity with the racial**  
25 **makeup of St. Petersburg today; is that your**

1 **testimony?**

2 A I know that St. Petersburg is a diverse  
3 city. What does that mean, I have zero knowledge?

4 Q I am attempting to understand the extent  
5 of your knowledge of the racial composition of  
6 St. Petersburg.

7 Do you -- is it your understanding that  
8 there is a -- how should I phrase this?

9 You are aware that there is a  
10 concentration of Black voters within St. Petersburg,  
11 correct?

12 A Can you define "a concentration"?

13 Q Let me think about this, how to say this.

14 Do you have any reason to believe that the  
15 racial composition of St. Petersburg changed  
16 significantly from 2012 to 2020?

17 A Sure. I know that the state's -- state's  
18 population changed by, give or take, 5 million  
19 people. And so it would be unreasonable of me to  
20 just assume that communities throughout the state  
21 would have the same racial, ethnic, otherwise,  
22 composition they had 10 years ago.

23 Q Do you have any reason to believe that  
24 there was an influx of white voters moving into  
25 St. Petersburg during the past 10 years?

1           A     It very much could have happened.  
2     Pinellas County --

3           **Q     The question was whether you have any**  
4     **reason to believe that that occurred?**

5           A     I just said, it very much could have  
6     happened. Pinellas County at the 2010 census was  
7     one of two counties in the state, Monroe being the  
8     other, that had a decrease in population from 2000  
9     to 2010. The state since then has grown by  
10    5 million people.

11           I'm not aware -- I could be wrong -- I'm  
12    not aware of any county that's had a decrease in  
13    population from 2010 to 2020. So if you're talking  
14    about a county that had a decrease in population in  
15    one decade, and I'm pretty sure an increase in  
16    population in the next decade, it would be foolish  
17    of me to even guess or assume or fathom that the  
18    population in Pinellas County is like it is in 2010.  
19    I don't know what it is. I said this several times.

20           **Q     Thank you.**

21           A     And I've given a more detailed explanation  
22    of the census.

23           **Q     Okay. I appreciate that. Thank you,**  
24    **Mr. Kelly.**

25           **Okay. In terms of the documents that you**

1 were asked to preserve and turn over in connection  
2 with this litigation, I understand that you  
3 communicated with Adam Foltz via e-mail and phone;  
4 is that right?

5 A Are you talking about the document  
6 collection process for, like, what we're doing here  
7 today -- trial, deposition?

8 Q For purposes of this litigation or for  
9 purposes of a general litigation preservation hold  
10 that either the legislature or the Executive Office  
11 of the Governor instituted in anticipation of  
12 litigation regarding redistricting.

13 MR. JAZIL: I am sorry. Is there a  
14 question pending?

15 BY MS. DJANG:

16 Q Okay. The question was, during the  
17 past -- during the period in which you were drawing  
18 the Enacted Plan --

19 A Uh-huh.

20 Q During the period in which you were  
21 drawing maps for the Executive Office of the  
22 Governor in this past redistricting cycle, you  
23 communicated with Adam Foltz via e-mail and phone,  
24 correct?

25 A Yes.

1           **Q     And you also texted him, correct?**

2           A     And also texted him? Yes, just  
3     transitory-type texts, can you call me, can you talk  
4     at such and such an hour.

5           **Q     And you also testified that you may have**  
6     **deleted certain of those text messages?**

7           A     If they were transitory texts, I don't  
8     keep transitory text messages.

9           **Q     So your testimony today is that you**  
10    **regularly delete transitory text messages?**

11          A     Correct.

12                   MR. JAZIL: Object to form.

13    BY MS. DJANG:

14          **Q     Is it correct that you regularly delete**  
15    **transitory text messages?**

16                   MR. JAZIL: Object to form. You can  
17    answer.

18          A     Correct, there is no legal requirement for  
19    me to keep transitory text messages. I don't keep  
20    them.

21    BY MS. DJANG:

22          **Q     Do you regularly delete transitory text**  
23    **messages between all people you text with or some**  
24    **people?**

25                   MR. JAZIL: Object to form, but you can

1 answer.

2 A Oh, pretty much all.

3 BY MS. DJANG:

4 Q So on a regular basis, you delete  
5 transitory text messages with everyone with whom you  
6 text?

7 A Except my mother, yes.

8 Q Okay. And how frequently do you delete  
9 these messages? To me, I am thinking of it as a  
10 purge.

11 A Oh, sure.

12 Q So how often do you go through and kind of  
13 purge your transitory text messages from your phone?

14 A Daily.

15 Q Okay. I'd like to confirm that you  
16 understood the questions I asked you today, with the  
17 exception of the questions where you said you didn't  
18 understand. But other than those questions, can you  
19 confirm you understood the questions I asked you?

20 A Yes.

21 Q And you answered all questions truthfully  
22 today?

23 A Yes.

24 Q Would you change any answers now that  
25 you've given earlier today?

1           A       No.

2                   MS. DJANG: Thank you.

3                   THE WITNESS: Thank you.

4                   MS. DJANG: That's all I have.

5                   MR. JAZIL: I have no questions. We'll  
6           read.

7                   (Proceedings concluded at 5:34 p.m.)

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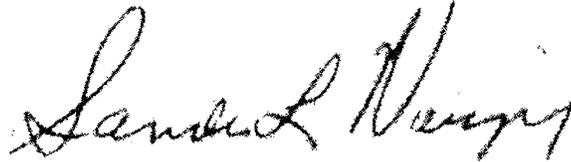
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CERTIFICATE OF OATH

STATE OF FLORIDA                    )  
COUNTY OF LEON                    )

I, the undersigned authority, certify that  
JAMES ALEXANDER KELLY, as REPRESENTATIVE OF THE  
EXECUTIVE OFFICE OF THE GOVERNOR and SECRETARY OF  
STATE'S OFFICE personally appeared before me on June  
8, 2023, and was duly sworn.

SIGNED AND SEALED on June 12, 2023.



SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
snargiz@comcast.net  
Commission #HH239213  
EXPIRES: APRIL 18TH, 2026

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA )

3 COUNTY OF LEON )

4 I, SANDRA L. NARGIZ, Registered  
5 Professional Reporter, certify that I was authorized  
6 to and did stenographically report the deposition of  
7 JAMES ALEXANDER KELLY, as REPRESENTATIVE OF THE  
8 EXECUTIVE OFFICE OF THE GOVERNOR and SECRETARY OF  
9 STATE'S OFFICE; that a review of the transcript was  
10 requested, and that the foregoing transcript, pages  
11 195 through 295, is a true record of my stenographic  
12 notes.

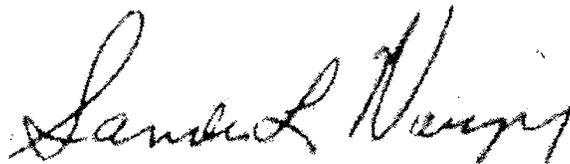
13 I further certify that I am not a  
14 relative, employee, attorney or counsel of any of  
15 the parties, nor am I a relative or employee of any  
16 of the parties' attorney or counsel connected with  
17 the action, nor am I financially interested in the  
18 action.

19 DATED on June 12, 2023.

20

21

22



23

SANDRA L. NARGIZ  
RPR, RMR, CRR, CRC, CCR-GA  
Notary Public in Florida  
snargiz@comcast.net

24

25

1 June 12, 2023

2 MOHAMMAD O. JAZIL, ESQUIRE  
mjazil@holtzmanvogel.com

3

4 RE: Black Voters Matter, et al. vs. Cord Byrd, et  
al. and Common Cause vs. Cord Byrd  
5 Case No. 2022 CA 000666 AND 4:22-cv-109-AW-MAF  
Deposition of JAMES ALEXANDER KELLY, as  
6 REPRESENTATIVE OF THE EXECUTIVE OFFICE OF THE  
GOVERNOR and SECRETARY OF STATE'S OFFICE  
7 on June 8, 2023

8 Dear Counsel:

9 The transcript of the above proceeding is now  
available and requires signature by the witness.  
10 Please e-mail fl.production@lexitaslegal.com for  
access to a read-only PDF transcript and  
11 PDF-fillable errata sheet via computer or use the  
errata sheet that is located at the back of the  
12 transcript. Once completed, please print, sign, and  
return to the email address listed below for  
13 distribution to all parties. If you are in need of  
assistance, please contact Lexitas at 888-811-3408.

14

If the witness does not read and sign the transcript  
15 within a reasonable amount of time (or 30 days if  
Federal), the original transcript may be  
16 filed with the Clerk of the court. If the witness  
wishes to waive his/her signature now, please have  
17 the witness sign in the blank at the bottom of this  
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18

Very truly yours,

19

20 Sandra L. Nargiz, RPR, RMR, CRR, CRC, CCR-GA  
Lexitas  
21 1551 Forum Place, Suite 200-E  
West Palm Beach, Florida 33401  
22 fl.production@lexitaslegal.com  
I do hereby waive my signature.

23

24 JAMES ALEXANDER KELLY, as REPRESENTATIVE OF THE  
EXECUTIVE OFFICE OF THE GOVERNOR and SECRETARY OF  
25 STATE'S OFFICE  
Job No. 309153



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Black Voters Matter Capacity Building Institute, Inc.

vs.

Cord Byrd, et al.

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Deposition of:

Stephen Ansolabehere

June 14, 2023

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Vol 01



IN THE CIRCUIT COURT OF THE SECOND JUDICIAL  
CIRCUIT IN AND FOR LEON COUNTY, FLORIDA

CASE NO.: 2022 CA 0666

BLACK VOTERS MATTER CAPACITY BUILDING  
INSTITUTE, INC., et al.,

Plaintiffs,

v.

CORD BYRD, in his official capacity  
as Florida Secretary of State, et al.,

Defendants.

X

REMOTE DEPOSITION OF  
STEPHEN ANSOLABEHERE  
VOLUME 1 (Pages 1 - 141)

Wednesday, June 14, 2023  
10:15 a.m. - 3:06 p.m.

WITNESS LOCATION: Remote Via Zoom  
250 Massachusetts Avenue  
Washington, D.C. 20001

Stenographically Reported By:  
CRAIG W. TAYLOR, STENOGRAPHER

Job No.: 314761

1 APPEARANCES: (All Appearing Via Zoom)

2 On behalf of the Plaintiffs:

3 ELIAS LAW GROUP, LLP  
4 250 Massachusetts Ave., Suite 400  
5 Washington, D.C. 20001  
6 (202) 968-4558

7 BY: Christina A. Ford, Esq.  
(cford@elias.law)

8 and

9 BY: Joseph Posimato, Esq.  
10 (jposimato@elias.law)

11 On behalf of the Defendant, Florida Secretary of  
12 State:

13 HOLTZMAN VOGEL BARAN TORCHINSKY  
14 & JOSEFIAK, PLLC  
15 119 South Monroe Street, Suite 500  
16 Tallahassee, FL 32301  
17 (850) 270-5938

18 BY: Mohammad O. Jazil, Esq.  
(mjazil@holtzmanvogel.com)

19 and

20 BY: Michael Beato, Esq.  
21 (mbeato@holtzmanvogel.com)

22 On behalf of the Defendant, The Florida Senate:

23 THE FLORIDA SENATE  
24 302 The Capitol, Suite 404  
25 Tallahassee, FL 32399  
(850) 487-5237

BY: Kyle E. Gray, Esq.  
(gray.kyle@flsenate.gov)

and

SHUTTS & BOWEN  
215 South Monroe Street, Suite 804  
Tallahassee, FL 32301  
(850) 241-1717

BY: Daniel E. Nordby, Esq.  
(dnordby@shutts.com)

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APPEARANCES (Continued)

On behalf of the Defendant, Florida House of  
Representatives:

GRAY ROBINSON, P.A.  
301 South Bronough Street  
Suite 600  
Tallahassee, FL 32301  
(850) 577-9090  
BY: Andre V. Bardos, Esq.  
(andy.bardos@gray-robinson.com)

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I N D E X

WITNESS

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TESTIMONY OF STEPHEN ANSOLABEHERE

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1 Proceedings began at 10:15 a.m.:

2 THE STENOGRAPHER: Please raise your right  
3 hand.

4 Do you consent to my administering the  
5 oath remotely?

6 THE WITNESS: Yes.

7 THE STENOGRAPHER: Do you solemnly swear  
8 to tell the truth, the whole truth, and nothing  
9 but the truth?

10 THE WITNESS: I do.

11 Thereupon:

12 STEPHEN ANSOLABEHERE  
13 a witness named in the notice heretofore filed,  
14 being of lawful age and having been first duly  
15 sworn, testified under oath as follows:

16 DIRECT EXAMINATION

17 BY MR. JAZIL:

18 Q. Good morning, Dr. Ansolabehere. Would you  
19 mind spelling your last name for the record so we  
20 can get it right?

21 A. My last name is spelled  
22 A-N-S-O-L-A-B-E-H-E-R-E.

23 Q. Doctor, I apologize once again for the  
24 difficulties we have had getting a court reporter,  
25 and I thank you for your patience. I want to make

1       that clear on the record.

2                    Doctor, you have been deposed before,  
3       right?

4           A.    I have.

5           Q.    We'll try to work this deposition such  
6       that I will ask a question and you will give an  
7       answer, and we'll try not to talk over each other.  
8       Is that fair?

9           A.    That's fair.

10          Q.    Sometimes one or both of us will not abide  
11       by that rule, but we'll do our best.

12                    Doctor, this is not an endurance contest.  
13       If at any point you would like to take a break, just  
14       let me know and we'll get the question that is on  
15       the table answered, and then take a break.  Is that  
16       fair?

17          A.    That's fair.  Thank you.

18          Q.    It's not a memory contest.  If there's  
19       anything you need to refer to, please let me know.  
20       If I have it, I'll give it to you.  Is that fair?

21          A.    Great.

22          Q.    Doctor, what opinions are you going to  
23       offer in this case?

24          A.    The opinions expressed in my report, and I  
25       will do my best to answer any questions that you

1 ask.

2 **Q. Are you going to give any opinions that**  
3 **are outside the bounds of the report that you**  
4 **provided in this case?**

5 A. No, unless I'm asked a question that  
6 refers to something else that is not in the report.

7 MR. JAZIL: Understood.

8 We gave Dr. Ansolabehere a copy of his  
9 initial report.

10 Mr. Reporter, what we'll do is we'll keep  
11 a copy of the exhibits and get them to you. I  
12 assume that's okay with Ms. Ford.

13 So, let's mark that as Exhibit 1.

14 (The documents referred to were marked for  
15 identification as Defendants' Composite Exhibit  
16 No. 1.)

17 BY MR. JAZIL:

18 **Q. Doctor, I would like to flip to your CV in**  
19 **the initial report that has been marked as Exhibit**  
20 **1.**

21 A. It's at the end?

22 **Q. Yes, sir.**

23 A. Okay.

24 **Q. I believe it's Exhibit C.**

25 **I would like to go to Page 16 and 17 of**

1       that exhibit.

2                    Doctor, please take a look at the section  
3       marked Expert Witness, Consultation, and Testimony  
4       and let me know when you have taken a look at that.  
5       Just look up at me.

6           A.    Okay.

7           Q.    Is this a complete copy of your expert  
8       witness consultation and testimony?

9           A.    I believe it is.

10          Q.    I would like to walk through this, sir.  
11                In 2001 it says that you provided  
12       testimony on election administration to the U.S.  
13       Senate Committee on Commerce.  Sir, who invited you  
14       to give that testimony?

15          A.    The Senate Committee.

16          Q.    Was there anyone in particular on the  
17       Senate Committee who invited you?

18          A.    It was the staff on behalf of the majority  
19       -- the chair and the minority leader.  So, it was  
20       Bob Bennett, and Chuck Schumer was the chair, I  
21       think.

22          Q.    You then in 2001 gave testimony on voting  
23       equipment to the U.S. House Committee on Science,  
24       Space and Technology.  Who invited you to give that  
25       testimony?

1 A. The chair of the committee.

2 **Q. Do you recall who the chair was?**

3 A. I don't remember who the chair was at that  
4 time.

5 **Q. Do you recall whether the chair was**  
6 **associated with the Democratic party or the**  
7 **Republican party?**

8 A. I don't recall. I think it was  
9 Republican.

10 **Q. In 2001, testimony on voting equipment**  
11 **before the U.S. House Committee on House**  
12 **Administration, do you recall who invited you to**  
13 **give that testimony?**

14 A. Again, it was the chair of the committee.

15 **Q. Do you recall who the chair was?**

16 A. House Administration. No.

17 **Q. Fair enough.**

18 **In 2001 you also gave testimony on voting**  
19 **equipment to the Congressional Black Caucus?**

20 A. Yes.

21 **Q. Do you recall who from the Congressional**  
22 **Black Caucus invited you to give that testimony?**

23 A. No. I don't remember who that was.

24 **Q. Understood.**

25 **From 2002 to 2003 it says here that you**

1       **were a consultant to the Brennan Center in McConnell**  
2       **versus FEC. Sir, who hired you to be a consultant**  
3       **for the Brennan Center?**

4           A.     The Brennan Center reached out to me and  
5       asked me if I would assist them.

6           **Q.     Anyone in particularity at the Brennan**  
7       **Center?**

8           A.     I don't recall.

9           **Q.     Can you briefly tell us what the subject**  
10       **of your consultation was in that case?**

11          A.     That was evaluating work that they were  
12       putting forth. They actually reached out to me to  
13       be an expert witness in the case. I had too many  
14       other things going on at that time to do that. But  
15       I was working as a consulting expert.

16          **Q.     What was the case about?**

17          A.     It was about campaign finance and  
18       political advertising. The case was about the rules  
19       regarding -- under the Bipartisan Campaign Reform  
20       Act and the time window when advertising would be  
21       allowed, independent advertising.

22          **Q.     You were a non-testifying expert in that**  
23       **case, as I understood?**

24          A.     Yes.

25          **Q.     Doctor, you then filed an amicus brief**

1       **with Professors Nathaniel Persily and Charles**  
2       **Stewart on behalf of neither party to the United**  
3       **States Supreme Court in Northwest Austin Municipal**  
4       **Utility District Number 1 versus Holder.**

5               **While my colleague finds that brief, do**  
6       **you mind telling us what the amicus brief's position**  
7       **was in that case briefly?**

8               A.     That was about the voting behavior of  
9       minority and white voters in different locations in  
10      the United States concerning Section 5 of the Voting  
11      Rights Act. That's my recollection of the case.

12              **Q.     Doctor, we'll mark this as Exhibit 2.**

13                     (The documents referred to were marked for  
14      identification as Defendants' Composite Exhibit  
15      No. 2.)

16              BY MR. JAZIL:

17              **Q.     Do you mind taking a look at that for me?**

18                     **Is this the amicus brief that you filed?**

19              A.     It is.

20              **Q.     Did you review the brief before it was**  
21       **filed?**

22              A.     I did.

23              **Q.     Did you write the brief?**

24              A.     I wrote parts of it. They wrote parts of  
25      it. Charles wrote parts of it.

1           **Q. Do you stand by the positions that you**  
2           **took in that brief?**

3           A. I do.

4           **Q. Doctor, the next item on the list is**  
5           **testimony on voter registration to the U.S. Senate**  
6           **Committee on Rules. Who from the committee invited**  
7           **you to provide that testimony?**

8           A. The chair of the committee. I don't  
9           remember who that was at that time.

10          **Q. Do you recall whether the chair was a**  
11          **Democrat or a Republican?**

12          A. At that time he would have been a Democrat  
13          in 2008.

14          **Q. Doctor, the next item on the list is your**  
15          **expert witness work on behalf of the Rodriguez**  
16          **intervenors in Perez versus Perry. Do you see that,**  
17          **sir?**

18          A. I do.

19          **Q. Who hired you to work on behalf of the**  
20          **Rodriguez intervenors?**

21          A. An attorney named Renea Hicks. The first  
22          name is spelled R-E-N-E-A, and the last name is  
23          H-I-C-K-S.

24          **Q. Do you recall the law firm with which**  
25          **Mr. Hicks was affiliated?**

1           A.     Renea is an independent lawyer. He has  
2 his own practice.

3           **Q.     Who were the Rodriguez intervenors**  
4 **opposite in that case?**

5           A.     The State of Texas.

6           **Q.     Doctor, do you recall whether the State of**  
7 **Texas was led by a Republican governor at the time?**

8           A.     I believe it was, yes.

9           **Q.     Governor Perry?**

10          A.     Correct.

11          **Q.     Doctor, the next item on the list is your**  
12 **work in the State of Texas versus United States**  
13 **where you served as an expert witness on behalf of**  
14 **the Gonzales intervenors.**

15                   **Doctor, do you recall who hired you to**  
16 **work on behalf of the Gonzales intervenors in that**  
17 **case?**

18          A.     The firm of Perkins Coie reached out to  
19 me.

20          **Q.     Doctor, do you recall who from the firm**  
21 **reached out to you?**

22          A.     I think it was John Devaney.

23          **Q.     Understood.**

24                   **Doctor, who was opposite the Gonzales**  
25 **intervenors in that case? Whom were they suing?**

1           A.    I want to get this one right.  Yes.  So,  
2           the State of Texas was opposite again.

3           **Q.    Do you recall who was leading the State of**  
4           **Texas at the time at the executive level?**

5           A.    Again, that would be Governor Perry.

6           **Q.    Understood.**

7                    **Doctor, the next item on the list is the**  
8           **State of Texas versus Holder, which is approximately**  
9           **the same time frame.  You were an expert witness on**  
10          **behalf of the United States Government; is that**  
11          **right?**

12          A.    Correct.

13          **Q.    Who from the United States hired you to**  
14          **represent the United States as an expert?**

15          A.    Attorneys at the Department of Justice  
16          Voting Division.

17          **Q.    Doctor, at the time you were hired to**  
18          **represent -- pardon me.  At the time you were hired**  
19          **to work on behalf of the United States, do you**  
20          **recall whether the United States was led by a**  
21          **Democratic administration or a Republican**  
22          **administration?**

23          A.    That would be a Democratic administration,  
24          the Obama administration.

25          **Q.    Doctor, the next item on the list is Guy**

1       **versus Miller. You served as an expert witness on**  
2       **behalf of the Guy plaintiffs; is that correct?**

3           A.     That's correct.

4           **Q.     Who hired you to serve as an expert**  
5       **witness on behalf of the Guy plaintiffs?**

6           A.     Attorneys from Perkins Coie.

7           **Q.     Whom were the Guy plaintiffs suing in the**  
8       **U.S. District Court for Nevada in that case?**

9           A.     I was never quite clear on that because it  
10       was an impasse case because the legislature had  
11       passed a map, and the governor didn't sign it. The  
12       state legislature's term expired, and they were just  
13       trying to figure it out. So, I was brought in to  
14       testify on the question concerning voting patterns  
15       in the state.

16          **Q.     Do you recall who the governor of Nevada**  
17       **was at the time?**

18          A.     I think the governor was a Republican.  
19       The state legislature was Democratic, or it might  
20       have been the other way. But it was a divided  
21       government. Divided party control was the obstacle.

22          **Q.     I've got it.**

23                   **Doctor, the next item on the list is In Re**  
24       **Senate Joint Resolution of Legislative**  
25       **Apportionment, Florida Supreme Court, consultant for**

1       **the Florida Democratic Party. Do you see that, sir?**

2           A.     Correct.

3           **Q.     Who hired you to serve as a consultant for**  
4       **the Florida Democratic Party in that case?**

5           A.     In that case John Devaney reached out to  
6       me.

7           **Q.     Mr. Devaney was with the Perkins Coie law**  
8       **firm?**

9           A.     Yes.

10          **Q.     There are a couple of Florida-related**  
11       **matters. So, let me ask for clarification, what is**  
12       **your understanding of what In Re Senate Joint**  
13       **Resolution of Legislative Apportionment was about?**

14          A.     That was about -- if I recall the case  
15       correctly, that was about what would be the analog  
16       of preclearance of the maps after they were enacted.  
17       The Florida Constitution set up an initial review, a  
18       facial review of the maps, and they asked me to just  
19       look at -- provide the statistics that would be  
20       relevant to doing that evaluation for the map that  
21       had been passed at that time.

22          **Q.     So, this was the Florida legislative maps**  
23       **as reviewed by the Florida Supreme Court on a facial**  
24       **basis. Is that a fair characterization?**

25          A.     Yes. I think that's a good description.

1           **Q. Doctor, the next item is your work in Romo**  
2           **versus Detzner. It says that you served as an**  
3           **expert witness on behalf of the Romo plaintiffs.**  
4           **Doctor, do you recall who hired you for that matter?**

5           A. John Devaney.

6           **Q. Can you describe for us briefly what you**  
7           **did in that case?**

8           A. In that case I analyzed voting patterns in  
9           the state to assess whether or not there might be  
10          concerns about racial diminishment, racial  
11          representation under the Tier 1 criteria and the  
12          constitution concerning race.

13                 Also, I provided evidence about voting  
14          behavior along partisan lines, registration rates of  
15          partisans in the different districts to deal with  
16          questions that might arise and provide the Court  
17          with the data that they would need to make decisions  
18          about the partisan effects of the maps.

19                 Then I was also asked to draw a  
20          demonstration map and then also to analyze  
21          compactness, county splits, municipal splits and  
22          other characteristics of districts.

23           **Q. For the demonstration map that you drew**  
24           **and the other alternative maps that the Court had**  
25           **before it?**

1           A.     For an active map and the demonstration  
2     map. I don't think I analyzed any of the other  
3     proposed maps.

4           **Q.     Understood.**

5                     **Doctor, the next item on the list is your**  
6     **work in 2013 and 2014 on behalf of the City of San**  
7     **Antonio and the San Antonio Water District in LULAC**  
8     **versus Edwards Aquifer Authority.**

9                     **Sir, who hired you in that case?**

10          A.     The City of San Antonio.

11          **Q.     Do you recall who?**

12          A.     I was approached by Renea Hicks, but I  
13     don't remember who the person was in the city that  
14     we were working with.

15          **Q.     Who were the litigants in that case to the**  
16     **best of your knowledge?**

17          A.     The City of San Antonio and other  
18     plaintiffs were suing the Edward Aquifer Authority,  
19     which is a special district that governs water  
20     fusion in Central Texas.

21          **Q.     Why were they suing them, sir?**

22          A.     They were suing them over the  
23     representation in the Aquifer Authority, that it  
24     violated -- it didn't have one person, one vote in  
25     the Aquifer Authority, and the question was

1 concerning the application of one person, one vote  
2 to a special district.

3 Q. Understood.

4 Doctor, the next case is Veasey versus  
5 Perry where you served as a consultant and expert  
6 witness on behalf of the United States Department of  
7 Justice.

8 Sir, was it the Department of Justice's  
9 Voting Rights Division that hired you for that case  
10 or was it someone else?

11 A. Correct. It was the Voting Division of  
12 the Department of Justice.

13 Q. Do you recall who they were litigating  
14 against in that case?

15 A. They were litigating against the State of  
16 Texas.

17 Q. It was again led by Governor Perry at the  
18 time?

19 A. Correct.

20 Q. Doctor, the next case on the list is  
21 Harris versus McCrory where you served as a  
22 consultant and expert witness on behalf of the  
23 Harris plaintiffs.

24 Who hired you to serve as an expert  
25 witness on behalf of the Harris plaintiffs?

1           A.     Kevin Hamilton.

2           **Q.     Do you know where Kevin Hamilton worked at**  
3 **the time he hired you?**

4           A.     Kevin was at Perkins Coie.

5           **Q.     Sir, what was that case about?**

6           A.     That case was about racial representation  
7 in the North Carolina congressional district map  
8 that had been enacted in 2012.

9           **Q.     Sir, what was your expert testimony in**  
10 **that case briefly, if you would?**

11          A.     It concerned racial voting patterns and  
12 changes in the district boundaries around North  
13 Carolina in CDs 1 and 12 and whether or not there  
14 had been predominantly a racial effect of who was  
15 moved in and who was moved out.

16          **Q.     Was it a redistricting case?**

17          A.     Yes, because it concerned those districts.

18          **Q.     Sir, next in 2014 you filed an amicus**  
19 **brief on behalf of neither party in Alabama**  
20 **Democratic Conference versus State of Alabama; is**  
21 **that right?**

22          A.     Yes. I was one of -- I think it was along  
23 with Nathan Persily again who was leading the  
24 amicus.

25          **Q.     When you say leading, does that mean, as**

1 with the last amicus brief we talked about, you  
2 wrote portions of it?

3 A. I wrote portions. I think in this case he  
4 wrote more of it. Another one Charles and I divvied  
5 it up.

6 Q. Understood.

7 You stand by the positions you-all took in  
8 that brief?

9 A. Yes.

10 Q. Doctor, next on the list is Bethune-Hill  
11 versus Virginia State Board of Elections where you  
12 served as a consultant and expert on behalf of the  
13 Bethune-Hill plaintiffs; is that right?

14 A. Correct.

15 Q. Who hired you to serve as an expert on  
16 behalf of the Bethune-Hill plaintiffs?

17 A. In that case I think it was Kevin  
18 Hamilton.

19 Q. Was Mr. Hamilton with the Perkins Coie law  
20 firm at the time?

21 A. Yes.

22 Q. Next is an amicus brief in support of  
23 appellees in Evenwell versus Abbott.

24 Sir, do you recall who the appellees were  
25 in that case?

1           A.    I don't remember who was appealing that  
2 case.

3           **Q.    Let me ask it this way.  Does Abbott refer**  
4 **to Governor Abbott from Texas?**

5           A.    It does.

6           **Q.    Was the brief in support of Governor**  
7 **Abbott's position in that case?**

8           A.    Good question.  I don't recall.  I think  
9 it was not in support of Governor Abbott, if I  
10 recall.

11          **Q.    Doctor, let's mark this as Exhibit 3.**

12                   (The documents referred to were marked for  
13 identification as Defendants' Composite Exhibit  
14 No. 3.)

15          BY MR. JAZIL:

16          **Q.    Doctor, take a look at that.  Is this the**  
17 **amicus brief from Evenwell versus Abbott that you**  
18 **signed on to?**

19          A.    It is.

20          **Q.    Doctor, looking at the case caption, would**  
21 **you agree with me that the appellees in the case**  
22 **were Governor Abbott and the State of Texas?**

23          A.    Okay.

24          **Q.    The case caption --**

25          A.    Yes.

1 Q. -- take a look at it.

2 A. I don't remember which way it was going.

3 Q. But to the best of your recollection, you  
4 weren't filing a brief on behalf of the governor.

5 A. It wasn't on behalf of either. I don't  
6 remember which way it was going. That might be a  
7 typo in my exhibit.

8 Q. Fair enough. We can move on.

9 Doctor, the next item on the list is Perez  
10 versus Abbott. You provided expert testimony on  
11 behalf of the Rodriguez intervenors. Do you recall,  
12 sir, who hired you to provide expert testimony on  
13 behalf of the Rodriguez intervenors?

14 A. Renea Hicks.

15 Q. Do you recall who the Rodriguez  
16 intervenors were opposite in the case?

17 A. State of Texas.

18 Q. This would be the Republican governor,  
19 Mr. Abbott?

20 A. Correct.

21 Q. The next item on the list is Fish versus  
22 Kobach. You served as an expert witness on behalf  
23 of the Fish plaintiffs, correct, sir?

24 A. Correct.

25 Q. Who hired you to serve as an expert on

1 **behalf of the Fish plaintiffs?**

2 A. Dale Ho.

3 **Q. Do you recall where Mr. Ho works?**

4 A. He's an attorney for the ACLU.

5 **Q. Do you recall who the Fish plaintiffs were**  
6 **suing?**

7 A. The Fish plaintiffs were suing the State  
8 of Kansas.

9 **Q. Would that be Kris Kobach, the Secretary**  
10 **of State of Kansas?**

11 A. Correct.

12 **Q. Do you recall whether Mr. Kobach was a**  
13 **Republican or a Democrat?**

14 A. He was a Republican.

15 **Q. Doctor, the next item on the list is Voto**  
16 **Latino versus Hobbs. It doesn't actually say**  
17 **whether you provided expert testimony in this case.**  
18 **Do you recall whether you did, sir?**

19 A. I was unclear because it was the time of  
20 COVID. I think the case got settled.

21 **Q. Fair enough, Doctor.**

22 **Let me ask you this. Were you ever**  
23 **deposed in that case?**

24 A. I don't think I was. Again, my COVID time  
25 memory is off.

1           **Q.    Fair enough.**

2                   **Did you provide an expert report in the**  
3 **case?**

4           A.    I had done the expert analysis, and I  
5 think at that point they settled the case.

6           **Q.    I want to tread lightly here because, if**  
7 **you were a non-testifying expert, I can't ask you**  
8 **questions about it, and I don't want to intrude on**  
9 **anyone's protective work product there.**

10                   **Can you just tell me what that case was**  
11 **about at a high level without revealing anything**  
12 **that you might have told the lawyers in the case?**

13           A.    That was about whether the date on which  
14 absentee ballots could be accepted in the state of  
15 Arizona would be the date on which they were mailed  
16 or postmarked or the date on which they were  
17 received, and they had to be received by election  
18 day.

19           **Q.    Understood.**

20                   **Do you recall, sir, who hired you for that**  
21 **case?**

22           A.    Abha Khanna reached out to me about that  
23 case.

24           **Q.    Do you recall where Ms. Khanna worked at**  
25 **the time she reached out to you?**

1           A.    At that time I think she was at Elias Law  
2   Group.

3           **Q.    Doctor, you have got another case from**  
4   **2020, Wood versus Raffensperger from Georgia. Did**  
5   **you provide any expert testimony in that case?**

6           A.    That was complicated because that was an  
7   election dispute, and we filed a report -- I filed a  
8   report, but I never got to the trial because the  
9   judge -- there wasn't normal discovery. It was  
10  moving too fast.

11          **Q.    Was this related to the Georgia recounts?**

12          A.    Yes.

13          **Q.    Sir, who hired you for that case?**

14          A.    Abha Khanna.

15          **Q.    Was Ms. Khanna at the Elias Law Group at**  
16  **the time?**

17          A.    She is and was.

18          **Q.    Doctor, am I correct in saying that Ms.**  
19  **Khanna at one time worked for Perkins Coie as well?**

20          A.    She did.

21          **Q.    Understood.**

22                    **Doctor, the next item on the list is**  
23  **Billie Johnson, et al. versus Wisconsin Elections**  
24  **Commission. You served as an expert witness on**  
25  **behalf of the Hunter intervenors.**

1                   **Sir, who hired you to serve as an expert**  
2                   **witness on behalf of the Hunter intervenors?**

3                   A.     Abha Khanna.

4                   **Q.     Was she still at the Elias Law Group at**  
5                   **the time?**

6                   A.     Yes.

7                   **Q.     What was that case about, sir?**

8                   A.     That was about the Wisconsin congressional  
9                   map.

10                  **Q.     Were the Hunter intervenors challenging**  
11                  **the Wisconsin congressional map?**

12                  A.     They were.

13                  **Q.     Was that map drawn by the Elections**  
14                  **Commission in that state?**

15                  A.     I believe it was. I don't remember  
16                  exactly who drew the map, whether it was the  
17                  commission or the state legislature.

18                  **Q.     Understood.**

19                  **Do you recall whether Republicans made up**  
20                  **the majority of the Wisconsin Legislature at the**  
21                  **time?**

22                  A.     They did.

23                  **Q.     Do you recall whether Republicans made up**  
24                  **a majority of the Wisconsin Elections Commission at**  
25                  **the time?**

1           A.    I don't know that.

2           **Q.    Doctor, the next item on the list is your**  
3           **work as a consulting expert to the Arizona**  
4           **Independent Redistricting Commission. Do you see**  
5           **that, sir?**

6           A.    I do.

7           **Q.    Who at the commission hired you to serve**  
8           **as an independent party? Who at the commission**  
9           **hired you to serve as an expert to the Redistricting**  
10          **Commission?**

11          A.    I'm trying to remember which attorney it  
12          was. It was the attorneys for the commission. The  
13          attorneys who were connected to the commission  
14          reached out to me. So, it wasn't directly by a  
15          commissioner.

16          **Q.    Sir, do you recall --**

17          A.    I'll think about the name.

18          **Q.    Do you recall the criteria that the**  
19          **commission used to select the experts that it relied**  
20          **on?**

21          A.    I don't know what criteria. I'm not sure  
22          what you mean.

23          **Q.    Were you the only expert that was retained**  
24          **by the Redistricting Commission?**

25          A.    No. Sean Trende was also retained.

1           **Q.    Were any other experts retained by that**  
2           **commission?**

3           A.    They had other experts working on other  
4           parts of the case.  We were -- Sean and I were  
5           working on the evaluation of voting behavior,  
6           evaluating the map's electoral performance in terms  
7           of Democrats or Republicans, informing the  
8           commission about any voting rights issues that might  
9           arise.  For each version of the map, we would do a  
10          complete workover of the electoral performance of  
11          the map so that they knew kind of whether they had  
12          overstepped -- whether they might have overstepped  
13          the boundary and might be subject to a Section 2  
14          lawsuit or something.

15          **Q.    What is your understanding of why the**  
16          **commission needed two experts, you and Mr. Trende,**  
17          **to advise them on those issues?**

18          A.    It's my understanding that there were  
19          Democratic commissioners and Republican  
20          commissioners and an independent commissioner.  So,  
21          they wanted people from different political  
22          perspectives.  So, they let the Democrats and  
23          Republicans and the independent commissioner figure  
24          out who the experts were, and then they reached out  
25          to us and hired us.

1           **Q. Do you know whether you were the**  
2           **preference of the independent expert or the**  
3           **Democratic -- let me ask the question another way.**

4                   **Do you know whether you were the**  
5           **preference of the Democratic members of the**  
6           **commission, the Republican members of the commission**  
7           **or the independent member?**

8           A. I'm not certain, but my guess is I was a  
9           preference of the Democrats, given Sean's political  
10          consulting history. But we worked actually as a  
11          team totally. In fact, we hired a research  
12          assistant, David Sutton, and David would work for  
13          Sean -- he was one of my students at Harvard. He  
14          would work for Sean and me together. So, there  
15          wasn't a boundary.

16          **Q. Understood.**

17                   **Doctor, the final matter on the list is**  
18          **Black Voters Matter versus Byrd. That's this case,**  
19          **right?**

20          A. Correct.

21          **Q. Sir, who hired you to serve as an expert**  
22          **witness on behalf of the Black Voters Matter**  
23          **plaintiffs?**

24          A. Abha Khanna.

25          **Q. And she was at the Elias Law Group at the**

1       **time?**

2           A.    Correct.

3           **Q.    Doctor, it seems I missed Harkenrider**  
4       **versus Hochul.**

5           A.    Correct.

6           **Q.    You served as an expert witness on behalf**  
7       **of the New York Senate majority leader.**

8                   **Sir, do you recall who hired you to serve**  
9       **as an expert witness on behalf of the New York**  
10       **Senate majority leader?**

11           A.    The firm of Cuti, spelled C-U-T-I.  I'm  
12       trying to remember the other partners in that firm.  
13       But it's the Cuti law firm in New York.

14           **Q.    Do you recall whether the New York Senate**  
15       **majority leader was a Democrat or Republican at the**  
16       **time?**

17           A.    A Democrat.

18           **Q.    Doctor, with your permission I would like**  
19       **to take a brief break so that I can attend to**  
20       **another hearing.**

21           A.    Understood.

22                   MR. JAZIL:  For those on the Zoom link,  
23       Dan and Andy, we have got an 11:00 hearing with  
24       Judge Wopper (phonetic).  So, we are going to  
25       take a recess.  I think 11:30 is a fair time

1 for us to reconvene.

2 (Thereupon, a lunch recess was taken from  
3 10:55 a.m. until 12:05 p.m., after which the  
4 following proceedings were held:)

5 DIRECT EXAMINATION (Continued)

6 BY MR. JAZIL:

7 Q. Doctor, we are back on the record.

8 I would like to go back to your CV, which  
9 is Page 16, where we were talking about some of the  
10 cases that you worked on.

11 Is there anything you would like to  
12 correct from our discussion earlier today about the  
13 cases from 2020, Voto Latino and Wood versus  
14 Raffensperger?

15 A. Yes. I was retained by Perkins, not the  
16 Elias Law Group.

17 Q. Was it still Abha Khanna who contacted you  
18 about that case?

19 A. Yes, it was.

20 Q. Thank you, Doctor.

21 Doctor, I have a couple of other questions  
22 about your work. Have you ever been hired by a  
23 Republican governor to consult on redistricting  
24 issues?

25 A. No. None have asked. So, it was not

1 possible.

2 **Q. Have you ever been hired by a Republican**  
3 **majority legislature to consult on redistricting?**

4 A. Again, none have asked. So, it was not  
5 possible.

6 **Q. I understand.**

7 **Republican mayors, have they ever asked**  
8 **you to consult on redistricting issues?**

9 A. I only worked for one mayor, the mayor of  
10 San Antonio, and I don't know his partisan  
11 affiliation or her partisan affiliation.

12 **Q. Understood, Doctor.**

13 **The same question for city councils. Have**  
14 **any Republican city councils hired you to consult on**  
15 **redistricting?**

16 A. Not that I know of. Again, no Republican  
17 representative of a city council has approached me.

18 **Q. Understood.**

19 **We talked about how you did work for the**  
20 **Arizona Independent Redistricting Commission in the**  
21 **past. Are there any other independent redistricting**  
22 **commissions that have hired you to consult on a**  
23 **redistricting issue?**

24 A. Just that one.

25 **Q. Understood.**

1 I apologize for this next line of  
2 questions. I'm just trying to get a clear record.

3 Are you a registered voter?

4 A. I am.

5 Q. Where, sir?

6 A. Massachusetts.

7 Q. Are you registered with any particular  
8 political party?

9 A. I believe right now I'm with the  
10 Democratic Party, sometimes independent.

11 Q. You said sometimes independent. How long  
12 have you been registered with the Democratic Party?

13 A. Massachusetts law kicks you out of party  
14 registration occasionally. So, I don't know.

15 Q. Understood.

16 Have you ever been registered with a  
17 political party other than the Democratic Party?

18 A. No.

19 Q. But you have from time to time been an  
20 independent?

21 A. Yes.

22 Q. When I say independent, I don't mean the  
23 independent party. I mean no party affiliation. Is  
24 that my understanding?

25 A. Correct.

1           **Q. Doctor, if you had to estimate, have you**  
2           **predominantly been a registered Democrat or a no**  
3           **party affiliation voter?**

4           A. More often a registered Democrat than no  
5           party.

6           **Q. Understood, sir.**

7                       **Doctor, getting back to this case, Black**  
8           **Voters Matter versus Byrd, you testified earlier**  
9           **that Abha Khanna form the Elias Law Group hired you**  
10          **for the case, correct?**

11          A. Correct.

12          **Q. Do you recall when?**

13          A. No, I don't remember. Like what month?

14          **Q. If I were to ask you, Doctor, were you**  
15          **hired in the fall of 2022, would that seem about**  
16          **right?**

17          A. That would be about right. It was  
18          certainly earlier than December.

19          **Q. Understood.**

20                       **Would it be at or about the time we had**  
21          **the preliminary injunction hearing in that case?**

22          A. I don't remember the time of that.

23          **Q. Understood.**

24          A. Probably around that time.

25          **Q. Doctor, if you look at the date for the**

1 first expert report, which is Exhibit 1 in this  
2 case, you submitted it on January 27th, 2023,  
3 correct?

4 A. Correct.

5 Q. Doctor, I would like to ask you this. How  
6 often did you meet with the folks at the Elias Law  
7 Group or Perkins Coie before you finalized that  
8 report?

9 A. In person, not at all. We had some phone  
10 calls, a couple, maybe a Zoom call. Maybe an  
11 estimate, maybe a dozen times.

12 Q. A dozen times?

13 A. Phone calls and Zoom, yes.

14 Q. Those dozen times on the phone or on Zoom,  
15 can you approximate for me how long those meetings  
16 ran?

17 A. Half an hour.

18 Q. Understood.

19 Outside of the lawyers at the Elias Law  
20 Group and Perkins Coie, did you talk to anybody else  
21 about the expert report that is marked as Exhibit 1?

22 A. I have two research assistants on my team,  
23 and they helped by like checking the maps to make  
24 sure there weren't irregularities, like missing  
25 blocks or something. So, they saw pieces of it.

1 They were scrutinizing pieces of it, checking  
2 numbers in the tables to make sure there weren't  
3 typos. So, it was those two RAs, nobody else.

4 **Q. You said RAs. Is that research**  
5 **assistants?**

6 A. Correct.

7 **Q. Would they be students of yours at**  
8 **Harvard?**

9 A. David Sutton and Chris Kenny, yes.

10 **Q. They are your students?**

11 A. Currently, yes.

12 **Q. Graduate students?**

13 A. Yes.

14 **Q. You briefly described what it is they did.**  
15 **For each of them, can you give me a breakdown of**  
16 **what they were tasked with doing for the expert**  
17 **reports?**

18 A. David worked on the electoral side of it,  
19 the voting data and, you know, the census data to  
20 make sure there weren't any typos there.

21 Chris worked on the integrity of the maps,  
22 like were there missing blocks or something.

23 **Q. We were talking specifically about Exhibit**  
24 **1, but you have four reports total in this case,**  
25 **right?**

1           A.     Correct.

2           **Q.     Did your two research assistants help you**  
3 **with all of those reports?**

4           A.     David did.  Chris did not.  Chris only  
5 helped on this one.

6           **Q.     And they were working at your direction?**

7           A.     Actually Chris helped in making digitals  
8 for the supplemental report in this case.

9           **Q.     Understood.**

10          A.     Yes.  And yes, they were working at my  
11 direction.

12          **Q.     Understood.  Fair enough.**

13                   **Doctor, other than the lawyers and your**  
14 **research assistants, did anyone else help you with**  
15 **any of the reports that you submitted in this case?**

16          A.     No.

17          **Q.     Doctor, let's start working through your**  
18 **report, and perhaps you can help me better**  
19 **understand the sequence.**

20                   **Let's start at Page 1, the Executive**  
21 **Summary.**

22                   **Doctor, in Paragraph 4 you introduce us to**  
23 **a Demonstration Plan, a Demonstration Map that you**  
24 **created.  Doctor, did you assess your Demonstration**  
25 **Plan to ensure that it complies with the Florida**

1       **Constitution?**

2           A.    To the best of my understanding of the  
3       constitution, yes.

4           **Q.    Doctor, in looking at the districts in**  
5       **your Demonstration Map, are there any districts**  
6       **within it that are identical to the Enacted Plan?**

7           A.    Yes.

8           **Q.    Do you know how many?**

9           A.    I'm trying to remember the number.  It's  
10       like 19 or something like that.

11          **Q.    So, is it fair for me to assume that for**  
12       **those 19 or so districts, you are not contending**  
13       **that those 19 or so districts violate the Florida**  
14       **Constitution, right?**

15          A.    Correct.  But the districts that are, for  
16       example, in South Florida, I don't examine those.

17          **Q.    Doctor, I notice that in your**  
18       **Demonstration Plan compared to the Enacted Plan**  
19       **there are some districts that are very similar to**  
20       **one another, not necessarily identical.  Is that a**  
21       **fair characterization?**

22          A.    I'm not sure what you have in mind, but I  
23       tried to keep things that the state legislature  
24       enacted the same as much as possible and then  
25       showing in the Demonstration Map how the

1 configuration could have been different.

2 Q. Understood.

3 Let me ask the question another way. Are  
4 your expert reports focused on the concerns you  
5 articulated in North Florida and the Tampa/St. Pete  
6 region and in the Orlando area?

7 A. Correct.

8 Q. You were not expressing any concerns about  
9 other parts of the map.

10 A. Correct.

11 Q. Doctor, I would like you to go on to  
12 Paragraph 17 of your initial report, Exhibit 1, on  
13 Page 3.

14 Doctor, the first sentence of Paragraph 17  
15 says, "The Demonstration Map maintains nearly the  
16 same geographic configuration and electoral  
17 performance as the Benchmark Map in the Tampa Bay  
18 area." You have similar statements about the North  
19 Florida region and the Orlando region elsewhere in  
20 the report.

21 My question for you is this. Is it  
22 important to maintain the same geographic  
23 configuration as you are redrawing a map after an  
24 annual census?

25 A. There is a tacit principle embraced in

1 many contexts, such as in Wisconsin where the hope  
2 is to maintain a minimal change from some existing  
3 map.

4 In this context the Enacted Map -- the  
5 Benchmark Map was put in place in 2015. So, it's a  
6 fairly recent map. So, that was kind of where I  
7 started.

8 **Q. So, Doctor, would it be fair to say that**  
9 **from your perspective a map drawer should follow a**  
10 **minimal changes approach to redistricting?**

11 A. This is the approach I took in this report  
12 because I'm not an official map drawer in this  
13 context, and other people like the legislature have  
14 drawn the map. So, I'm taking a specific approach  
15 of maintaining something, putting forth a  
16 Demonstration Map to demonstrate some principles  
17 that are in line with a map that was already cleared  
18 through a constitutional process.

19 **Q. So, the approach you took in the**  
20 **Demonstration Plan was to follow a minimal changes**  
21 **approach.**

22 A. Correct.

23 **Q. Doctor, have you been following the**  
24 **population trends in the states as part of the**  
25 **annual census to see which states would gain a**

1 congressional district, which would lose a  
2 congressional district and which would stay  
3 approximately the same?

4 A. Do you mean like do I know which states  
5 gained and lost?

6 Q. Yes, sir.

7 A. Yes, roughly.

8 Q. You would agree with me that Florida  
9 gained a congressional seat, correct?

10 A. Correct.

11 Q. Doctor, as you are following a minimal  
12 changes approach in a state that gained a  
13 congressional district, how do you contend with that  
14 additional seat if you are following a minimal  
15 changes approach?

16 A. It depends where the population growth  
17 might be and where a district, say, is greatly  
18 overpopulated. So, it depends where the population  
19 change happened, and it's very contextual within the  
20 state.

21 Q. If the population change, taking Florida  
22 as an example, happens on the I-4 corridor between  
23 Tampa and Orlando and you are drawing a plan, as you  
24 did with the Demonstration Plan, can you walk me  
25 through how you would assess how best to carve that

1       **seat into a map?**

2           A.     Well, again, it depends on where the  
3     change is -- I think there was a lot in Polk County  
4     in this case -- and how you would change the other  
5     districts to accommodate that.

6           In my case I was starting with two maps.  
7     One is the Enacted Map and not changing districts  
8     that had already been drawn in the Enacted Map to  
9     the extent possible. So, those districts already  
10    accommodate a lot of that population -- a lot of the  
11    population change in the state.

12           The other aspect was trying to conform  
13    with what had been a constitutionally approved set  
14    of districts and see if those could be left in place  
15    and then what needed to be done to adjust the  
16    boundaries.

17           **Q.     Understood.**

18           **If we go to Page 6 of your report where**  
19    **you cite the data sources, Doctor, first you say,**  
20    **"Maps analyzed in this report come from the Florida**  
21    **Redistricting website." What information**  
22    **specifically did you use from the Florida**  
23    **Redistricting website to do your analysis and put**  
24    **together your Demonstration Plan?**

25           A.     For the maps I downloaded the shape file

1 for the Benchmark Map, the Detzner Map and the  
2 Enacted Map, and then data available on the Florida  
3 website for redistricting purposes. They have a  
4 database there.

5 **Q. Did the database by itself provide any**  
6 **kind of partisan breakdown?**

7 A. I think there's like party registration  
8 statistics and things like that in there.

9 **Q. Did you use any of those party statistics**  
10 **as part of the functional analysis you conducted in**  
11 **the report?**

12 A. For the functional analysis, there's a  
13 particular problem in the alignment of the census  
14 data with the election data. So, I relied in my  
15 initial analysis on data from the ALARM project,  
16 which is a different way of dealing with that  
17 problem. This doesn't affect a huge amount of the  
18 map. It's mainly large-area precincts where there's  
19 a lot of population on one end of the precinct, like  
20 down in the Everglades. The way that the Florida  
21 data does the join between the population data and  
22 the election data is to simply divide by land area  
23 as opposed to population in the two parts.

24 So, the approach I used, which the  
25 academic literature has vetted and had a debate, and

1 I was not part of that debate, about what the right  
2 way to do it is. It gives you a more accurate, less  
3 error in your joining of the data. That is to  
4 join -- to do that apportionment by population on  
5 each part of the precinct as opposed to do it by  
6 land area.

7 So, that's the only real difference  
8 between the data that I used for the functional  
9 analysis and the Florida data. I reran it with the  
10 Florida data and found virtually the same numbers.  
11 So, I don't think this was consequential. But, you  
12 know, I followed like what is the method that is  
13 going to have the least error, okay, and will be  
14 vetted already or we as the community is already  
15 vetted. So, I just followed the methods used by the  
16 researchers for the ALARM project, the functional  
17 analysis.

18 **Q. Did you use the partisan data from the**  
19 **Florida website for anything other than a functional**  
20 **analysis?**

21 A. We aggregated up to the -- when we  
22 aggregated the data up to the district level, we  
23 used that data. The numbers aggregate to the same  
24 number. So, it's the same thing.

25 **Q. Fair enough.**

1                   **Why was it important to aggregate the data**  
2                   **to the district level as far as the data?**

3                   A.     Just to say, for example, what percent of  
4                   the vote in the district went to Democrats in this  
5                   election or Republicans in this election. It was  
6                   just an aggregate number for the district.

7                   **Q.     And that aggregate number is showing the**  
8                   **numbers of registered Democrats and the number of**  
9                   **registered Republicans in the district?**

10                  A.     In this case the electoral data is how  
11                  many votes were received by Tim Scott and how many  
12                  votes were received by -- so, it was that kind of  
13                  information.

14                  **Q.     Fair enough.**

15                  **Doctor, was there any racial data on the**  
16                  **Florida Redistricting website, a breakdown of how**  
17                  **many black voters live in a district versus**  
18                  **Hispanic, et cetera?**

19                  A.     They do provide data on the census  
20                  breakdown. I can't remember which columns they  
21                  were. It was blacks and Hispanics and whites.

22                  **Q.     Did you use any of that data?**

23                  A.     I analyzed that data and found it  
24                  consistent -- it's very similar, the results, to the  
25                  data that we have. I think there's a comment in my

1 reply to Dr. Johnson that, if you run the data, you  
2 will see that the results are just about the same.

3 **Q. Fair enough.**

4 **You started touching on this a bit. I'm**  
5 **moving on to Paragraph 33 where you mention the**  
6 **ALARM Census data and CVAP, et cetera.**

7 **First I would like to ask you this. There**  
8 **is a sentence in Paragraph 33 that says, "CVAP data**  
9 **is estimated to Census blocks proportionally from**  
10 **Census block groups by race group." Can you unpack**  
11 **that sentence for me and just help me understand**  
12 **what it is you are saying there?**

13 **A. Sure. So, the census reports data at the**  
14 **block level. That's the smallest level from which**  
15 **we get data. The blocks are typically about 100**  
16 **people. Some of them have no people, like zero**  
17 **population. The census blocks have a highway**  
18 **running through them. So, they vary in number, but**  
19 **they are very small. Then there's block groups,**  
20 **which are a collection of, say, five or ten blocks**  
21 **together.**

22 **To connect that to the election data,**  
23 **which is at precincts, requires some assumptions**  
24 **about how to join those data. The precincts are**  
25 **drawn by the state, not by the census. They tend**

1 not to split blocks. So, every once in a while  
2 we'll encounter one that is split. But they do  
3 split block groups. The census data are released  
4 for citizens voting in populations released at the  
5 block group level. So, that's where the problem  
6 comes in.

7 So, what we can see from the block data is  
8 what the racial populations are in the different  
9 parts of the -- what the racial percentages are in  
10 the different parts of the precincts. That's how we  
11 do the split. We say, okay, there are this many --  
12 this percent of this block group is black citizens  
13 who are adults and this percent of this block group  
14 are black citizens who are adults. The precinct  
15 cuts across those two block groups. Let's take  
16 proportionally how many people are in those block  
17 groups who are black citizens for each of those  
18 pieces of the precinct. So, that's what it's doing.  
19 It's trying to take the data and break it down to  
20 the smallest pieces that we can possibly and  
21 apportion them by the population of the racial  
22 group's size in those pieces as opposed to by the  
23 land area, which can be completely unrelated in some  
24 unique circumstances. So, that's why we are doing  
25 population and group population.

1           **Q. Doctor, I apologize if I am not getting**  
2           **this right. My understanding of what you just said**  
3           **is that the census block data is not identical to**  
4           **the precinct level data. So, the analysis that you**  
5           **did is a way to distribute an appropriate proportion**  
6           **of people by race or what is a Democratic indicator**  
7           **across the precinct. So, in other words, what you**  
8           **are trying to do is match up the blocks at the**  
9           **precinct level in a fair and accurate way. Is that**  
10          **fair?**

11          A. Correct. So, if I have a census area and  
12          it's divided by two precincts, how do I apportion  
13          the percentage of blacks and Hispanics and so forth  
14          from that census area into the two precincts?  
15          That's the method, apportioning by the racial group  
16          population in that block area.

17          **Q. Doctor, why do you need citizens' voting**  
18          **age population data at the block level versus just**  
19          **voting age population at the block level to do that?**

20          A. So, this analysis, these data are used for  
21          doing a functional analysis. If you are in a part  
22          of the state or analyzing a group that has a high  
23          non-citizen rate, such as Hispanics in some cities,  
24          then using the voting age data is going to  
25          overestimate the size of that group in doing your

1 functional analysis. So, you will end up with the  
2 wrong data because you are going to be assuming that  
3 the people who couldn't vote were actually voting in  
4 the functional analysis.

5 It just so happens in the case law from  
6 last time there was a voting age population that was  
7 given some more value in the analysis. But we did  
8 the analysis both ways. So, the reason why I wanted  
9 to do it with using citizens voting age population  
10 on a functional analysis, not for tabulating  
11 populations but just for the functional analysis, is  
12 to get an estimate that is closer to the actual size  
13 of those groups or the actual electoral size of  
14 those groups.

15 **Q. Doctor, you said the case law from the**  
16 **last cycle. You are referring to the Florida**  
17 **Supreme Court's decisions from the last cycle,**  
18 **right?**

19 A. Correct.

20 **Q. And in those decisions the Florida Supreme**  
21 **Court, as you just said, focused on voting age**  
22 **population, right?**

23 A. Correct.

24 **Q. Doctor, in light of that case law, if the**  
25 **Florida legislature were to rely on the voting age**

1        **population and not the citizen voting age population**  
2        **as it's doing its work, would you ascribe some kind**  
3        **of ill motive to the Florida legislature?**

4            A.    No.    They were using the voting age -- my  
5        recollection and my understanding of the portions of  
6        the case that I read that inform how I should do the  
7        analysis is that voting age population was being  
8        referred to when it came to ascertaining whether  
9        this was a majority black district or a majority  
10       Hispanic district or a majority minority district.  
11       But in doing the functional analysis, there wasn't  
12       clear instructions about what to use.

13            In most other cases, like all over Texas,  
14        Arizona and every other state I have worked in,  
15        citizen voting age population is used because it's  
16        more proximate to the electorate of the groups.    And  
17        in an area where you have high non-citizen rates,  
18        voting age population could be quite inaccurate.  
19        So, in doing the functional analysis, I would give  
20        more credence to the citizen voting age population  
21        data, but I understand that the courts also want to  
22        focus on voting age population data.

23            **Q.    Understood.**

24            **Doctor, am I correct in my understanding**  
25        **that you just said you did a functional analysis**

1       **using both voting age population and citizens voting**  
2       **age population?**

3           A.     Citizens voting age population, and there  
4       were questions about whether voting age population  
5       matters in Dr. Allman's report, I think. So, I ran  
6       that analysis for CD-5 and found that it didn't make  
7       any difference or any meaningful difference.

8           **Q.     Doctor, we are talking about your data**  
9       **sources and some of what you did. I also notice**  
10      **that you used census-designated places as part of**  
11      **your analysis.**

12                  **Doctor, you did use census-designated**  
13      **places as part of your analysis, right?**

14           A.     Yes. There's a report on how many census-  
15      designated places are divided in the different  
16      plans.

17           **Q.     Yes, sir. I'm struggling to find it.**

18                  **Let me ask you this. The**  
19      **census-designated places, why is it important --**  
20      **well, first, what are census-designated places?**

21           A.     So, the census tries to identify places  
22      that are not necessarily incorporated municipalities  
23      but are identifiable neighborhoods; for example,  
24      like a large retirement community that is  
25      immediately outside of Boca Raton but it's not yet

1 incorporated into the city, and it's a place. It's  
2 usually got, you know, a mail delivery service. So,  
3 there are different aspects of a government  
4 function.

5 **Q. Doctor, as you worked through the issues**  
6 **in this case, you assessed the number of splits of**  
7 **census-designated places under the Enacted Plan, the**  
8 **Detzner Plan and your Demonstration Plan, correct?**

9 A. Correct.

10 **Q. Why is it that you assessed the splits of**  
11 **the census-designated places as part of your**  
12 **analysis?**

13 A. So, frequently what arises in cases like  
14 this is some question about the division of  
15 neighborhoods or the division of communities or  
16 communities of interest. We don't really have great  
17 measures of those. The closest we have is census-  
18 designated places.

19 In fact, Dr. Johnson did raise this  
20 question in a response to a critique of one part of  
21 my map where he said that you divided a neighborhood  
22 over here, but there's no basis for that. So, the  
23 CDPs, the census-designated places, give you some  
24 indicator of how much the map respected these other  
25 kinds of neighborhoods, if that's a concern to the

1 map or it's a concern to the experts in questioning  
2 in this case.

3 **Q. Doctor, am I correct in understanding that**  
4 **the CDPs don't follow municipal boundaries, right?**

5 A. They are outside of the incorporated  
6 municipalities. Often they become municipalities,  
7 sort of like proto-cities, or get incorporated if  
8 they are right on the border. Sometimes they are  
9 just kind of rural communities. They have a post  
10 office. There's a recognizable little area. So,  
11 it's one way of gauging are you dividing a bunch of  
12 places where people are as meaningful and should you  
13 be concerned about it. Maybe you aren't under the  
14 constitution state, but maybe you become concerned  
15 in a legal question about like what happened in this  
16 part of the map.

17 **Q. Doctor, do you recall whether the Florida**  
18 **Supreme Court looked at the CDPs in the last**  
19 **redistricting cycle in the cases that you were**  
20 **involved in?**

21 A. They did not. They looked at incorporated  
22 municipalities, I believe.

23 **Q. Understood.**

24 **Before we move on, we talked about**  
25 **precincts, and I think you made the comment that the**

1 state set the precincts. When you say that, were  
2 you referring to everyone who might be involved in  
3 election administration or were you speaking  
4 specifically to the Secretary of State in Florida?

5 A. Everybody who might be involved, counties,  
6 yes.

7 Q. Doctor, would you agree with me that the  
8 precincts themselves do change over time as the  
9 local election administrators deem it appropriate?

10 A. Correct.

11 Q. So, did you look at the number of  
12 precincts that would be split under the Enacted  
13 Plan, the Detzner Plan and the Demonstration Plan?

14 A. When I had precinct maps, we did.  
15 Otherwise, I relied on the voting tabulation  
16 districts, which are the census -- the census  
17 releases a report of voting tabulation districts.  
18 It's a program that states join, I believe. I'm  
19 sure Florida is a member of that program. The  
20 agreement is that the municipalities or counties  
21 will respect the CDPs to the extent possible. So,  
22 dividing the CDPs in half is usually dividing the  
23 precinct in half. It's almost always dividing the  
24 precinct in half.

25 Q. Doctor, we talked about this at the

1       **preliminary injunction phase. I asked you whether**  
2       **or not you knew whether specific counties set their**  
3       **precincts based on the VTDs. Do you recall that**  
4       **line of questioning?**

5           A.    No.

6           **Q.    So, Doctor, let me ask you the same**  
7       **question again. So, Florida has 67 counties,**  
8       **correct? Do you know whether or not those 67**  
9       **counties' officials set their precincts based on**  
10       **VTDs?**

11           A.    Well, I know from the agreement with  
12       census they are supposed to. But, you know,  
13       counties do what is necessary to run the election.  
14       There's that degree of flexibility.

15           **Q.    So, you don't know for sure whether or not**  
16       **they do it?**

17           A.    Well, there is a report that gets released  
18       like showing the precincts from the counties, and  
19       you can see that alignment.

20                    My analysis generally, looking at Florida  
21       election administration data, is almost always the  
22       counties are respecting the VTDs, but there are  
23       places to deviate.

24           **Q.    Do VTDs change over time just like**  
25       **precincts?**

1           A.    Not very frequently.  Every census.

2           **Q.    So, if precinct lines are following the**  
3 **VTD lines, you would then expect the precinct lines**  
4 **to change after every census, right?**

5           A.    Yes.  They will adjust the VTDs after  
6 redistricting.  The census works with the states.

7           **Q.    In your report, when you are looking at**  
8 **the precinct split or the VTD split, is that another**  
9 **way for you to assess whether the map drawer is**  
10 **following a minimal changes approach to the map that**  
11 **is being put forward as the new proposal?**

12          A.    For the necessity and the sufficiency,  
13 which is like, if they follow the minimum changes  
14 approach, it would keep to a minimum precinct splits  
15 or VTD splits.  If they are not following a minimum  
16 change approach, they might still minimize that.

17          **Q.    Let me pull out a little.  When we were**  
18 **talking about splits, whether it's precinct splits,**  
19 **county splits, et cetera, why is it that that metric**  
20 **is an important one to present?**

21          A.    Some of it's state law in this case.  
22 Generally the approach -- there's a general concept  
23 of communities of interest and respecting political  
24 boundaries, and these are political boundaries.  So,  
25 adhering to those general concepts, they lead you to

1       respecting these particular political boundaries.

2               **Q.    When we are talking about political**  
3 **boundaries, do you consider the precinct lines to be**  
4 **political boundaries as well?**

5               A.    Well, they are drawn for the purpose of  
6 administering the election, and the election is a  
7 political function.  So, that's why you would want  
8 to respect the administrative part of the political  
9 function.

10              **Q.    I have the same question for the VTDs.  Do**  
11 **you view the VTDs to be political boundaries as**  
12 **well?**

13              A.    Yes.  The highest level of political  
14 boundaries are counties, large municipalities.

15              **Q.    So, if we were trying to prioritize**  
16 **splits, would it be better to minimize county splits**  
17 **and minimize municipal splits and minimize CDP**  
18 **splits and then minimize precinct level splits?**

19              MS. FORD:  Objection to the form.

20              A.    It depends on what the problem is.  So,  
21 for example, in North Carolina in the McCrory case  
22 the precincts and how they were split -- and also in  
23 the Bethune-Hill case -- in those two cases the  
24 precincts and how they were treated were critical  
25 for determining racial intentionality.

1           In the Bethune-Hill case a precinct was  
2           divided, and the division, when we looked at the  
3           underlying racial data, followed exactly the racial  
4           composition of the precinct. I mean the black part  
5           of the precinct on one district and the white  
6           precinct on another district. So, it's very  
7           contextual to which division you look at to answer  
8           what question.

9           BY MR. JAZIL:

10           **Q. I've got it.**

11           A. The court might have its own hierarchy in  
12           the Florida Constitution. That's a matter of law.  
13           That's not for me.

14           **Q. Understood.**

15           **So, let's set the racial issue aside for a**  
16           **moment, the Bethune-Hill example that you gave,**  
17           **Doctor.**

18           **Do you have a hierarchy that you use when**  
19           **you are assessing splits and trying to minimize**  
20           **them?**

21           A. Well, no. In this case I was trying to  
22           follow the general principle to try and keep county  
23           splits to a minimum, keep municipal splits to a  
24           minimum and keep precinct splits as low as possible.

25           **Q. Let me ask this another way. If I were to**

1 say that, and let me know if you agree, it is better  
2 to minimize county splits than to minimize municipal  
3 splits, all things being equal, would you agree with  
4 that statement?

5 MS. FORD: Object to the form.

6 A. Not in my -- I don't know.

7 Q. Fair enough.

8 Doctor, moving on to the functional  
9 analysis you did in this case, first I would like to  
10 understand the definition of majority-minority that  
11 you used. What is the definition of majority-  
12 minority that you used in your report?

13 A. The majority non-Hispanic white would be a  
14 majority-minority district in terms of population.  
15 Then there are questions about whether that is a  
16 functioning district, and that requires additional  
17 analysis.

18 Q. Do, your definition of majority-minority  
19 means a district where non-whites make up a majority  
20 of the population, right?

21 A. Voting age population or citizen voting  
22 age population, depending on what criterion we are  
23 looking at.

24 Q. Doctor, do you know whether the Florida  
25 Supreme Court has used such a definition of

1 **majority-minority in its decisions from the last**  
2 **cycle?**

3 A. I don't know if they used that exact -- I  
4 don't know how they define it. I know in the case  
5 of CD-5 there's not majority black. It was  
6 considered a majority -- it was considered a  
7 minority district, not majority white.

8 **Q. Understood.**

9 **Do you know of any courts that have**  
10 **specifically said that a majority-minority district**  
11 **is one where non-whites make up the majority of the**  
12 **voting age population?**

13 A. Say that again. Where a majority --

14 **Q. Do you know of any courts that have said**  
15 **that a majority-minority district is one where non-**  
16 **whites make up a greater than 50 percent share of**  
17 **the voting age population?**

18 A. Well, this case that just came down about  
19 Alabama, my understanding is the trial court judge,  
20 the quotes I have seen from him were like a district  
21 in Alabama that is 50 percent black or near enough,  
22 right? So, the idea isn't that you have to have  
23 50 percent to satisfy what he was deciding.

24 In Texas, not that these were required  
25 districts but districts that were not 50 percent

1 black are considered black districts such as CD-18,  
2 which is in Houston. So, it happens all the time is  
3 the answer.

4 Q. Understood.

5 Doctor, let's focus on what was CD-5 in  
6 the Benchmark Plan. You agree with me that that's a  
7 district where the black voting age population was  
8 not greater than 50 percent, right?

9 A. Correct.

10 Q. And in your assessment you called it a  
11 majority-minority district because the non-whites  
12 voting age population in the district was greater  
13 than 50 percent, right?

14 A. Correct.

15 Q. And blacks in your assessment made up a  
16 plurality of the voting age population for the  
17 minorities in the district, correct?

18 A. Correct.

19 Q. And when you did the functional analysis  
20 for CD-5, did you look at how all of the non-white  
21 voting age population would cast their ballots in  
22 the district?

23 A. I did.

24 Q. So, Doctor, setting aside CD-5 for a  
25 minute, suppose we have a district where all

1 minorities combined make up a majority of the  
2 district and all these minorities combined vote for  
3 the Democratic candidate at a 70 percent rate. But  
4 black votes within the district vote for the  
5 Democrat at a 90 percent rate and Hispanics vote for  
6 the Democrat at a 50 percent rate. Do you follow  
7 me?

8 A. Yes.

9 Q. Would you agree with me that there is no  
10 cohesion between the Democrat and the -- there's no  
11 cohesion between the black voters and the Hispanic  
12 voters voting within that district?

13 MS. FORD: Objection to the form.

14 A. It depends what the question is that you  
15 are trying to get answered as to whether cohesion is  
16 the question. So, what is the question you are  
17 trying to get answered about this district?

18 BY MR. JAZIL:

19 Q. Let me ask it another way. In that  
20 district wouldn't it be better to do a functional  
21 analysis that focused on just the black voters than  
22 a functional analysis that focused on just the  
23 Hispanic voters rather than combining the two?

24 A. Well, the first question is, are the  
25 Hispanics numerous enough to actually do that

1 analysis. Assuming that they are, it's not  
2 necessarily the case, but that's the question you  
3 have asked. You are not asking whether this is a  
4 particular voting rights situation, but maybe you  
5 are asking whether this is a district that would  
6 function for black voters. So, that, for example,  
7 came up repeatedly in Section 5 cases, and the  
8 Department of Justice's criteria was, is this a  
9 district where black voters are effectively electing  
10 their own people, even if they are less than  
11 50 percent of the electorate?

12 **Q. Doctor, going back to CD-5, can you walk**  
13 **me through the functional analysis you did conduct**  
14 **in this case for that district?**

15 A. Certainly. Where would you like to start?

16 **Q. Start from the beginning. You are the**  
17 **teacher. Teach me.**

18 MS. FORD: Do you want him to walk you  
19 through the benchmark or which CD-5 study?

20 BY MR. JAZIL:

21 **Q. Fair enough.**  
22 **The functional analysis for the Benchmark**  
23 **Plan.**

24 A. Okay. So, the first thing that I did is I  
25 compiled the census figures for that district. Is

1 this a majority-minority district and, if so, what  
2 does the minority group population look like? This  
3 is a district that is majority non-white, but it's  
4 not majority of any one group. It's not a majority  
5 black district in voting age population.

6 So, then the next question is how do the  
7 groups vote. So, how do the whites vote? I do a  
8 statistical analysis to determine how whites vote  
9 and how blacks vote. And then do I have enough data  
10 to estimate how -- and in the data are the people  
11 appropriately distributed to actually ethnically  
12 complement the other groups. In this case the  
13 answer was it doesn't look like it.

14 For example, Hispanics are only  
15 three percent of, I think, the VAP. Maybe it's the  
16 CVAP. That's too low. They are also too dispersed.  
17 They are not more than half of any precinct. So,  
18 it's a big leap to rely on the methods that we use  
19 to impute for such a small group or to estimate how  
20 they are behaving. In physics terms you would have  
21 very big error bars. So, the best we can then do is  
22 estimate collectively how our minority is voting.  
23 So, in that case I arrive at some numbers.

24 Then the next piece of this, which is  
25 particular to Florida because Florida is one of the

1 few states that actually has race and party on the  
2 voter registration data, is to ask how many blacks  
3 voted in the primary and what percentage of all  
4 primary voters were black, what percentage of  
5 Democratic primary voters were black.

6 So, there are two different analyses. So,  
7 it's just to get a sense of like how important are  
8 the blacks, which is the group where we are asking  
9 whether they have kind of a controlling interest in  
10 this district and how big are those groups. Would  
11 they be large enough to nominate their preferred  
12 candidate because they are enough of the Democratic  
13 district, and then finally analyze the likely  
14 election outcomes by looking at under the  
15 composition of the district which candidates were  
16 preferred by the minority groups in question, by all  
17 minorities and by blacks, and whether those  
18 candidates were winning a majority of the votes in  
19 elections in the precincts in that district.

20 **Q. Understood.**

21 **When you are assessing the electoral**  
22 **performance, Doctor, we can go to Page 8, Paragraph**  
23 **40 of your report. Is that where you lay out the**  
24 **general method for assessing electoral performance?**

25 **A. Correct.**

1           Q.    Is that method consistent for every  
2   functional analysis that you did in your report?

3           A.    Yes, and in the supplemental as well.

4           Q.    Understood. Thank you.

5                    In here, Doctor, it says that you used the  
6   precinct level election data from each of the  
7   following statewide elections. Then you list the  
8   presidential election from 2020, the U.S. Senate  
9   election from 2018, the gubernatorial election from  
10   2018, the Attorney General election from 2018, the  
11   Chief Financial Officer election from 2018, the  
12   Agricultural Commission election from 2018, the U.S.  
13   Presidential election from 2016 and the U.S. Senate  
14   election from 2016. Why is it that you picked those  
15   particular elections for the purposes of your  
16   analysis?

17          A.    So, I chose all the federal elections and  
18   all of the top state level elections.

19          Q.    Doctor, I notice that you didn't use the  
20   state level elections from 2022. Why is that?

21          A.    I didn't have the data yet.

22          Q.    If you had the data, would you have used  
23   them?

24          A.    Yes.

25          Q.    Doctor, in the next paragraph you talk

1       about how you used the ecological regression to  
2       estimate the best fitting linear relationship  
3       between the percent of the electorate that is of a  
4       particular group and the vote share won by a party  
5       or candidate to estimate the rate at which the group  
6       votes for that party or candidate. Do you see that  
7       page, sir?

8             A.    Yes.

9             Q.    My first question is, Doctor, was an  
10       ecological regression used last cycle in the cases  
11       that you worked on in Florida to assess how a  
12       particular group's voting preference aligned with  
13       the share that a particular party won an election?

14            A.    Yes.

15            Q.    Then later in the paragraph you talk about  
16       how you also used an ecological inference. Can you  
17       help me understand the difference between an  
18       ecological regression and an ecological inference?  
19       You say they are similar methodologies. Can you  
20       help me understand the difference between the two?

21            A.    Gladly. So, ecological regression is a  
22       linear regression using ordinarily the standard  
23       regression analysis.

24                    Ecological inference attempts to  
25       estimate -- uses the same regression framework, but

1 the method is a much newer method. It was developed  
2 by Professor Gary King at Harvard University. It's  
3 an ecological inference, and this is the name he  
4 gave to the technique.

5 So, the technique bounds every precinct  
6 estimate. So, you end up with not only an estimate  
7 of, say, the voting behavior in an entire district  
8 of all the people, but an estimate of voting  
9 behavior in every single precinct, and it imposes  
10 these bounds.

11 The tricky part is when you are out in a  
12 place that is, say, 95 percent black or 95 percent  
13 white. It gets harder to estimate like the other  
14 groups' behaviors. So, it's doing that.

15 **Q. So, if I were to call it an attempt to get**  
16 **greater precision, would that be accurate?**

17 A. Or to get additional information out of  
18 the data that we have at hand. It just so happens  
19 that I don't need those data to do what we are doing  
20 here.

21 **Q. Did you use ecological inference to**  
22 **confirm the conclusions you arrived at using your**  
23 **ecological regression? Would that be a fair**  
24 **statement?**

25 A. I did both. I did them simultaneously and

1 just are they consistent with each other and are we  
2 getting it right.

3 **Q. It says here for the ecological inference**  
4 **you relied on a limited number of elections. By**  
5 **that do you mean you relied on fewer elections than**  
6 **you relied on for the ecological regression**  
7 **approach?**

8 A. No. Actually in the end I ultimately did  
9 it on all the elections for which I did the  
10 ecological regression.

11 **Q. So, you ended up doing an ecological**  
12 **regression and an ecological inference for all of**  
13 **the elections that are referenced in Paragraph 40?**

14 A. Yes.

15 **Q. I've got it.**

16 A. The ecological inference program runs very  
17 slowly.

18 **Q. Doctor, let me ask you this question since**  
19 **you brought up the program. What do you use when**  
20 **you are drawing maps? Do you use Maptitude?**

21 A. Personally I like to just use Dave's  
22 Redistricting and then upload that into -- prepare a  
23 final map and upload that into ArcGIS, which is the  
24 Geographic Information Service system or software  
25 that is the platform on which Dave's Redistricting

1 is built and Maptitude is built and stuff like that.

2 **Q. So, it's my understanding that Maptitude**  
3 **allows you to do a compactness analysis using**  
4 **various different metrics. Is that accurate?**

5 A. Yes.

6 **Q. Does Dave's Redistricting give you the**  
7 **ability to do a compactness analysis using various**  
8 **metrics for compactness?**

9 A. Yes. It has Reock and Polsby-Popper. I  
10 calculate it through ArcGIS.

11 **Q. ArcGIS also allows you to do that?**

12 A. Yes. It's just a formula. Like here's  
13 the link of the perimeter. Here's the area of the  
14 unit that you are analyzing, and then you apply the  
15 formula.

16 **Q. Am I correct that there's a different**  
17 **formula for each of those compactness methods,**  
18 **right?**

19 A. Right.

20 **Q. How many of those formulas are built into**  
21 **Dave's Redistricting?**

22 A. I can't remember. It definitely has Reock  
23 and Polsby-Popper programs. I think you have got a  
24 program in there, something that I think Gary King  
25 also developed that is newer, and I don't think it's

1 widely used. So, I generally don't report that.

2 **Q. So, there are about three or so metrics in**  
3 **Dave's Redistricting?**

4 A. Yes.

5 **Q. Is that about the same number in the**  
6 **ArcGIS program that you use?**

7 A. ArcGIS, you can put anything into it.  
8 ArcGIS is just the platform on which all these other  
9 things are built.

10 **Q. I've got it.**

11 **So, if you were relying on just ArcGIS and**  
12 **not the Maptitude version that's built on ArcGIS,**  
13 **would you have to insert the formulas for each of**  
14 **the compactness measures you would want to consider?**

15 A. Yes.

16 **Q. When you are doing the ecological**  
17 **regression and ecological inference analysis, what**  
18 **program are you doing those on?**

19 A. There's a statistical software called R,  
20 and R has regression built into it. So, you write a  
21 code to do the program to do that analysis. And  
22 then the ecological inference is a separate program  
23 that runs on top of R. So, you run that package on  
24 top of R, and that will run the estimation program.  
25 That's available anywhere online. You can go to

1 Gary King's website. He will be happy if you do.

2 Q. Doctor, when you are doing the ecological  
3 inference and ecological regression, are those  
4 analyses being done simultaneously? You plug it in  
5 and then you ask it to do an ecological regression  
6 and an ecological inference?

7 A. An ecological regression, regression is  
8 just like a snap of the thumb in like a nanosecond.  
9 An ecological inference takes a while. That runs  
10 all day. So, they are not quite as --

11 Q. Understood.

12 So, the computer power needed to do an  
13 ecological inference takes some time.

14 A. Yes.

15 Q. Doctor, in the next paragraph, Paragraph  
16 42, in your report, in the last sentence there, sir,  
17 you say, "I consider a district to be a district in  
18 which minorities have the ability to elect their  
19 candidate of choice if the candidates preferred by  
20 minorities, in fact, received a plurality of votes  
21 cast in most of the elections analyzed." Do you see  
22 that, sir?

23 A. Yes.

24 Q. First let me ask you this. "In most of  
25 the elections analyzed," what do you mean by that?

1           A.    There are eight elections.  So, eight out  
2           of eight, seven out of eight, six out of eight.

3           **Q.    So, we are looking at the eight elections**  
4           **you identified in Paragraph 40 for the purposes of**  
5           **that statement.**

6           A.    Correct.

7           **Q.    Is it your contention, Doctor, that the**  
8           **districts that you are discussing for the purposes**  
9           **of Paragraph 42 are also subject to the Florida**  
10          **Constitution's non-diminishment standard?**

11          A.    What the standard is is up to a judge to  
12          determine.  These follow what DOJ was using for  
13          Section 5 cases that I worked on.  So, to the extent  
14          that that's in line with the Section 5 standards,  
15          and these are also the same standards that I used in  
16          my opinions in the Romo versus Detzner decision.  
17          So, it would be consistent with the conclusions of  
18          the courts from the last cycle.

19          **Q.    So, in the Romo cases in here, you are**  
20          **following a standard that is similar to the Section**  
21          **5 standard that DOJ uses?**

22          A.    That are used.

23          **Q.    That DOJ used; is that right?**

24          A.    Yes.

25          **Q.    Understood.  I'm sorry.**

1                   **Doctor, I would like to show you what**  
2                   **we'll mark as Exhibit Number 4.**

3                   MS. FORD: Is that the same one from  
4                   yesterday?

5                   MR. JAZIL: I think we should have marked  
6                   it as Exhibit 4 as well.

7                   (The documents referred to were marked for  
8                   identification as Defendants' Composite Exhibit  
9                   No. 4.)

10                  BY MR. JAZIL:

11                  **Q. Doctor, are you familiar with this**  
12                  **provision of the Florida Constitution?**

13                  A. Section 20 of the constitution?

14                  **Q. Article III, Section 20 of the Florida**  
15                  **Constitution.**

16                  A. Yes, I have read it.

17                  **Q. You will agree with me that this is where**  
18                  **Florida gets its non-diminishment standard from,**  
19                  **right?**

20                  A. Yes.

21                  **Q. In your report are you trying to show us**  
22                  **how districts comply with the non-diminishment**  
23                  **standard in the Florida Constitution?**

24                  A. I would say this is the information that I  
25                  as an analyst rely on in determining whether or not

1 there was a district and whether or not they perform  
2 for minorities and whether or not that district no  
3 longer exists and there isn't another one on the  
4 map.

5 **Q. So, Doctor, if we have a district where**  
6 **minorities have the ability to elect their candidate**  
7 **of choice in a general election, you are saying that**  
8 **that district should be protected from diminishment**  
9 **that takes away the minority's ability to elect**  
10 **their candidate of choice, right?**

11 A. It's my understanding from the decisions  
12 last time by the courts that other things might be  
13 required, such as how the minority group in question  
14 voted, what share of the primary were they of that  
15 and so forth. So, it wouldn't be the only factor.  
16 But my position is this is the information that  
17 informs that judgment, and it's up to the judge to  
18 make that judgment.

19 **Q. Understood.**

20 **Doctor, getting back to most of the**  
21 **elections analyzed, I think you just agreed with me**  
22 **that most of the elections analyzed refers to the**  
23 **general elections that you identified in Paragraph**  
24 **40, right?**

25 A. Correct.

1           **Q.    So, for that analysis, why wouldn't you**  
2           **also consider the primary elections that preceded**  
3           **some of those general elections?**

4           A.    I provide the primary electoral  
5           composition, which was what we used as evidence last  
6           time. One might delve into that. Some of these  
7           primaries are uncontested. So, the data becomes  
8           sparser.

9           **Q.    Understood.**

10                   **I'm sorry. I don't think I understood one**  
11           **part of what you said. Are you saying that you**  
12           **provided the primary election analysis last time as**  
13           **in during the Romo case?**

14           A.    No. The registration statistics and the  
15           turnout of blacks in the Democratic primary was  
16           information that was relied on by the courts last  
17           time.

18           **Q.    Okay.**

19           A.    Not primary election data.

20           **Q.    Did you provide similar information to us**  
21           **in this case?**

22           A.    Yes. So, Doctor, if we have a district  
23           that falls within the parameters you have identified  
24           in Paragraph 42, is it your contention that the  
25           minority population in that district should not be

1 diminished?

2 A. The population or --

3 **Q. If there's a district that satisfies the**  
4 **criteria laid out in the last sentence of Paragraph**  
5 **42 of your report, is it your contention that the**  
6 **minority voting age population should not be**  
7 **diminished within that district?**

8 A. No. In replacing that district with a  
9 district in which no minority has the ability to  
10 elect reduces the number of districts in the state  
11 in which the minority group has the ability to elect  
12 their preferred candidate.

13 **Q. All right.**

14 A. It's diminishment.

15 **Q. Understood.**

16 A. I mean it could be that somewhere up in  
17 the state another district is created, right,  
18 because of population shifts or something like that,  
19 but no such district exists.

20 **Q. I see. So, are you saying that for the**  
21 **non-diminishment standard one should consider the**  
22 **map as a whole to see whether or not the number of**  
23 **minority-performing districts are abused?**

24 A. Well, there are two questions, whether  
25 like in this part of the state that was -- in this

1 part of the state there was diminishment, like  
2 elimination of a district where one existed and one  
3 could have existed. And then my understanding of  
4 the old DOJ standard was it was a plan-wide map.  
5 So, was there a reduction in the number of majority-  
6 minority districts?

7 **Q. I've got it.**

8 **Doctor, given this analysis, does it**  
9 **matter whether the minority's preferred candidate**  
10 **won the general election by one percentage point or**  
11 **ten percentage points?**

12 A. That's one of the reasons to look at eight  
13 elections to see if they consistently win. If they  
14 always won by one percentage point and like voting  
15 was super racially polarized, maybe one percentage  
16 point -- and you consistently get it, then it could  
17 be considered a performing district. But in this  
18 case I don't think it's an issue.

19 **Q. I see what you are saying. So, we are**  
20 **considering more elections to smooth out the**  
21 **possibility of a district being on the knife's edge.**

22 A. Right. And occasionally, you know, it  
23 allows one of these elections to go the other way  
24 because it might be on the knife's edge.

25 **Q. So, Doctor, in categorizing these**

1       **districts, you used the phrase "most of the**  
2       **elections." Did you have a number in mind, five out**  
3       **of eight, six out of eight?**

4           A.    I was mainly thinking six, seven, eight.  
5       But in other cases there's no firm number, and the  
6       courts have even rejected a firm number.

7           **Q.    Understood.**

8                   **Doctor, you said that you have done**  
9       **similar analyses for the DOJ when it used to have**  
10      **the Section 5 requirement for purposes of the Voting**  
11      **Rights Act, right?**

12          A.    Yes.

13          **Q.    So, when you are doing this analysis and**  
14      **you are looking at most of the elections in the**  
15      **performance of the minority's preferred candidate,**  
16      **did you have a number in mind then? How did you**  
17      **decide that the "most of the elections" part was**  
18      **satisfied?**

19          A.    Well, in those instances I simply provided  
20      the judges with information and let them use their  
21      subjective beliefs.

22                   In this case we have the statistics we  
23      relied on last time, and in the responses in the  
24      supplemental report additional statistics to inform  
25      the judge in this case.

1           **Q. Doctor, that's very helpful. Thank you.**

2           I would like to move on to Page 9 where  
3 you lay out the partisan performance methodology.

4           First of all, Doctor, if you could go back  
5 to Exhibit 4 and tell me why it is you were doing a  
6 partisan performance analysis, that would be  
7 helpful.

8           A. The partisan performance analysis could be  
9 instructive on the questions concerning party in  
10 Tier 1 criteria.

11          **Q. Understood.**

12          Here am I correct in understanding that  
13 you used party voter registration data as part of  
14 your analysis?

15                 MS. FORD: Object to the form.

16          A. Yes. I looked at party registration.

17          BY MR. JAZIL:

18          **Q. Doctor, did you use party registration as**  
19 **a proxy for how votes would be cast in a given**  
20 **election?**

21          A. No. That was just data that was relied  
22 upon last time. So, I presented the same data. The  
23 main analysis is of eight elections examined and  
24 referenced in Paragraph 40.

25          **Q. So, let me ask the question another way.**

1       **Why would you rely on party voter registration as**  
2       **part of your partisan performance analysis?**

3           A.     Because it was relied on last time.

4           **Q.     Is there any reason other than it was**  
5       **relied on last time?**

6           A.     Oh, party registration tends to be highly  
7       correlated with both.

8           **Q.     If I were to say that party registration**  
9       **is highly correlated with the voter's preference for**  
10       **a candidate, would you agree with that statement?**

11          A.     That's generally the case, not everywhere,  
12       but generally.

13          **Q.     Doctor, if you go to Paragraph 44, you**  
14       **say, "For example, the Republican percent of party**  
15       **registrations (i.e., Democratic plus Republicans)**  
16       **correlated .901 with the share of the two-party vote**  
17       **won by Donald Trump."**

18                **Doctor, in layman's terms, what does the**  
19       **.901 correlation mean there?**

20          A.     That's a very high correlation.  
21       Correlations run from a minimum of negative one to a  
22       maximum of positive one. Positive one would be a  
23       perfect relationship between the two things. A  
24       negative one would be a perfect negative  
25       relationship. Zero would be the data that the two

1 things are unrelated to each other.

2 Q. Doctor, if I were to say that party  
3 registration was 90.1 percent correlated with the  
4 vote for Donald Trump, that would not be an accurate  
5 statement, would it?

6 A. Could you say that again?

7 Q. Doctor, if I were to say that the  
8 Republican Party registration meant that there was a  
9 90.1 percent chance that that Republican voter would  
10 cast a vote for Donald Trump, that wouldn't be a  
11 correct statement, right?

12 A. No, not a correct statement.

13 Q. So, the .901 correlation is simply telling  
14 us that we are very close to one and, therefore,  
15 there is a very high correlation, right?

16 A. Right. So, it might mean that party  
17 registration is a good predictor, for example.

18 Q. But it is not assigning a numerical  
19 percentage to that correlation.

20 A. Correct.

21 Q. The same is true for the .897 number?

22 A. Correct.

23 Q. Doctor, when we go on to Paragraph 49 in  
24 your report, you talk about the measures of  
25 compactness. We talked about this some now. You

1       **agree with me that there are more than three**  
2       **measures of compactness, right?**

3           A.     In fact, there's an infinite number of  
4       measures of compactness possible. But Reock and  
5       Polsby-Popper are the two most common.

6           **Q.     Doctor, if I were to ask whether an intra-**  
7       **ocular test could be used as a measure of**  
8       **compactness, would you agree with me that it could?**

9           A.     It's possible. There's been some research  
10       on that.

11          **Q.     Do you know whether the Florida courts**  
12       **relied on an intraocular test for compactness last**  
13       **cycle in the Romo case?**

14          A.     I don't remember.

15          **Q.     Would you use an intraocular test for**  
16       **compactness?**

17          A.     When looking at a map, like seeing the  
18       same things side by side, like I can see some that  
19       look more compact. But then I want to use other  
20       measures as well to see if my perception isn't  
21       wrong. I mean hold it up to me with reading  
22       glasses.

23          **Q.     Doctor, if I were to define the intra-**  
24       **ocular test as the eyeball test for compactness,**  
25       **would you agree that that's a fair definition?**

1 A. That is sometimes a term that is used.

2 **Q. Would you use that term?**

3 A. Yes, I would be more likely to use eyeball  
4 than intraocular.

5 **Q. My understanding of what you just said is**  
6 **that the eyeball test for compactness works by**  
7 **taking maps and comparing them side by side to see**  
8 **whether one looks visually more compact than**  
9 **another. Is that fair?**

10 A. That's the eyeball test.

11 **Q. Am I correct in understanding that you**  
12 **would use the intraocular or eyeball test, but you**  
13 **would also want to use some kind of mathematical**  
14 **compactness test together with it, right?**

15 A. Yes, especially if I am drawing a map.  
16 It's like that looks like a nice compact district.  
17 I wonder how it stacks up.

18 **Q. Fair enough.**

19 **Doctor, can keeping counties whole be used**  
20 **as a measure of compactness?**

21 A. It depends on the boundaries of the  
22 counties.

23 **Q. If counties are more likely to be**  
24 **squares -- let me ask the question this way. If the**  
25 **county boundaries are squares and we're keeping**

1     **those county boundaries together, that would improve**  
2     **compactness, right?**

3           A.    It might and it might make things worse,  
4     depending on the populations of the districts and  
5     the need for equal population.  So, in the case of  
6     congressional districts, they have to deviate by  
7     one.  It also depends on the configuration of the  
8     neighboring districts.  You might draw a nice square  
9     district that displaces everything else around it.

10           So, it's fairly contextual about how the  
11    county or municipal boundaries are going to affect  
12    the compactness.  I have seen instances where people  
13    have just moved the blocks around and thought they  
14    had a nice compact square, and then in order to  
15    connect all the remaining stuff, you end up with  
16    some snake-looking districts.

17           **Q.    So, the county split can't be considered**  
18    **in isolation.  It must be considered together with**  
19    **how other lines of the map will show.**

20           A.    Correct, and how all the standards get  
21    weighed.  You know, again, how all the standards get  
22    weighed is like a legislative or legal function.

23           **Q.    Doctor, we have apparently been going for**  
24    **an hour-and-a-half.  Would you like to take a break?**

25           A.    Yes.  A break is always good.

1 MR. JAZIL: All right. Let's take a  
2 little break.

3 (Recess 1:30 p.m. until 1:35 p.m.)

4 BY MR. JAZIL:

5 Q. Doctor, we have been talking about  
6 compactness and some of the measures for it. Other  
7 than compactness and measuring minority voting  
8 trends, are there other redistricting principles  
9 that are appropriate to use when drawing district  
10 lines?

11 A. So, respect for municipalities and  
12 counties and respect for precincts is usually  
13 adhered to to the extent possible. Generally  
14 communities of interest, to the extent that you know  
15 them, like a really dense city, that might be  
16 important to know the split populations like in  
17 Chinatown or something like that in New York City  
18 because that might weaken that community's  
19 representation. The district bar may not know where  
20 the boundaries are. So, they try to find out about  
21 them. It's helpful.

22 Q. Doctor, would considering major roadways  
23 be an appropriate way to draw district lines?

24 A. That's a complicated one because there's a  
25 history of roadways being used for segregation, and

1 that's often in some -- there's a lot of research in  
2 social sciences now, like Clayton Nall's work  
3 showing that major roadways, railways and so forth  
4 actually are segregated lines. So, they could be  
5 proxies for things. You want to be careful about  
6 that.

7 **Q. Doctor, here the Florida legislature did**  
8 **use major roadways. Do you have any reason to**  
9 **believe that the Florida legislature was using major**  
10 **roadways as a proxy for race?**

11 A. I have no information one way or the  
12 other, but it is one -- it could go one way or the  
13 other.

14 **Q. Understood.**

15 **The Florida legislature also used water**  
16 **bodies as a way to draw district lines. Was that**  
17 **use appropriate?**

18 A. There's a lot of old case law on water  
19 bodies and how they are respected and so forth. I  
20 was just assuming that that was adhered to.

21 **Q. Understood.**

22 **Could a state appropriately use other**  
23 **natural boundaries -- a mountain range, for example**  
24 **-- as a way to divide districts? Would that be**  
25 **okay?**

1           A.   Possibly.  It could be.  It depends on  
2           what the justification is.

3           Q.   Doctor, I would like to go back to  
4           communities of interest.  You gave the example of  
5           keeping Chinatown whole, for example.

6                    When we are looking at a statewide map and  
7           the map keeps a region of the state intact, is that  
8           an appropriate thing to do?

9           A.   You know, it depends on what the intents  
10          are of the legislature and what the judges and the  
11          legal code deem to be appropriate.

12          Q.   Going back to the Chinatown example, my  
13          understanding as you were talking it through is we  
14          may not want to split Chinatown because we don't  
15          want to take away that community's ability to choose  
16          a representative.  Is that understanding correct?

17          A.   Yes.  It depends on what is a question in  
18          a particular case.  You know, if the Chinese  
19          community groups are bringing suit, maybe that's how  
20          you want to think about it.

21          Q.   So, in Florida, if the map drawer was  
22          trying to keep the Big Bend region of Florida intact  
23          as a community, would that in and of itself be an  
24          appropriate goal?

25          A.   It depends how much the Big Bend community

1 is a definable community. It's a community of  
2 interest standard.

3 Usually, when you are dealing with like  
4 half a state, it's hard to say that's a community,  
5 but maybe it's an economic interest. So, it  
6 depends. There might be other objectives.

7 **Q. Understood.**

8 I would like to go to Page 11 of your  
9 report, Doctor, where you talk about the North  
10 Florida districts.

11 At Paragraph 53, the first sentence says,  
12 "North Florida, which stretches from the Panhandle  
13 to Jacksonville, has a substantial black  
14 population." Do you see that, sir?

15 A. Yes.

16 **Q. When you say the Panhandle to**  
17 **Jacksonville, are you talking about Pensacola to**  
18 **Jacksonville?**

19 A. Yes, all the way across the state.

20 **Q. Then you say, "For three decades this**  
21 **region has been the home to a CD in which black**  
22 **voters have had the ability to elect their preferred**  
23 **candidates to the U.S. House of Representatives."**

24 Again, when you are saying "this region,"  
25 you are talking about that region from Pensacola to

1       **Jacksonville.**

2           A.    Yes.

3           Q.    In reading the paragraph, I was left with  
4       the impression that you were talking about a  
5       district anchored in Jacksonville for the past three  
6       decades. Is that a fair understanding of what you  
7       were saying there?

8           A.    Jacksonville, and part of the plan was  
9       extended to Tallahassee.

10          Q.    Doctor, in Paragraph 55 you say, "The  
11       elimination of CD-5 as a functioning majority-  
12       minority CD results in a reduction in the number of  
13       majority-minority CDs in Florida's Congressional  
14       Map. Under the Benchmark Map there were 10  
15       majority-minority CDs."

16                    Just so we are clear, when you are talking  
17       about majority-minority CDs, you are talking about  
18       majority non-white CDs based on voting age  
19       population, correct?

20          A.    Correct.

21          Q.    Are there any other districts in the 10,  
22       Doctor, where one specific minority group did not  
23       make up a majority of the voting age population in  
24       the congressional district?

25          A.    I would have to look, but I think

1 Benchmark CD-10 might be one and possibly CD-9. I  
2 would have to look. And 14 as well.

3 Q. In Paragraph 56 you also mention majority-  
4 minority, and you say that the number of districts  
5 was reduced to nine. So, is CD-5 the only majority-  
6 minority district, as you defined the term in your  
7 report, that was eliminated under the --

8 A. I said the first criterion is how many  
9 districts have a majority non-white population, and  
10 by comparison it's a reduction of one.

11 Q. Doctor, I would like to go to Page 12 of  
12 your report, the last paragraph, Paragraph 60.

13 It says, "Detzner CD-5 maintained a CD in  
14 which black votes had the ability to elect their  
15 preferred candidates. Such a black opportunity CD  
16 in North Florida was first created in 1992."

17 Doctor, are you familiar with the  
18 circumstances under which that CD was first created  
19 in 1992?

20 A. I'm not sure what you are referring to by  
21 the circumstances.

22 Q. Who created that CD in 1992?

23 A. I don't know.

24 Q. Do you know whether that CD in its  
25 configuration from 1992 was the product of a

1       **lawsuit?**

2           A.    I don't know that.

3           **Q.    Do you know whether in 1992 that CD had a**  
4       **majority black voting age population?**

5           A.    I don't know the VAP, the voting age  
6       population, of the 1992 district.

7           **Q.    Doctor, in reading Paragraph 62, I come**  
8       **away with the conclusion that the CD-5 configuration**  
9       **in the Detzner Plan was not a majority black VAP**  
10       **district. Is that accurate?**

11          A.    It was not a majority black CVAP district  
12       that I recall. I don't remember what the number was  
13       on the VAP from Detzner at the time of the 2010  
14       census. I don't recall that number.

15          **Q.    Fair enough.**

16                **Let me go back to the 1992 version of that**  
17       **district. Do you recall whether that was a majority**  
18       **black CVAP district?**

19          A.    No. I don't know.

20          **Q.    Doctor, in Paragraph 62 you discuss the**  
21       **Florida Supreme Court's decision from League of**  
22       **Women Voters versus Florida, 172 So.3d 363. Did you**  
23       **write this paragraph?**

24          A.    I did, but I got the -- I remember there  
25       was a passage, and I asked for a reference to find

1 this passage, like where is this passage, from  
2 counsel. They helped me find it.

3 **Q. Doctor, in this section you have a black-**  
4 **performing district that has existed in North**  
5 **Florida for 30 years, right?**

6 A. That's right.

7 **Q. Do you read the provisions in the Florida**  
8 **Constitution, specifically Article III, Section 20,**  
9 **as requiring that there be a black-performing**  
10 **district in North Florida?**

11 A. I read this as putting forward a standard  
12 of non-diminishment, and whether that's in North  
13 Florida or where or how diminishment might occur  
14 depends on the configuration of the districts and  
15 concentrations of population. So, it doesn't say  
16 North Florida.

17 **Q. Understood.**

18 **So, you read Article III, Section 20, as**  
19 **mandating that the number of black-performing**  
20 **districts not be reduced. Is that fair?**

21 A. My reading is, if there's a minority-  
22 performing district, if you take that district  
23 apart, there needs to be a justification for why.  
24 But that's a constraint that is on the state  
25 legislature not to diminish or reduce minority

1 districts, where there are effective minority  
2 districts.

3 Q. Understood.

4 Doctor, in Paragraphs 62 through 64, you  
5 discuss what the Florida Supreme Court did with  
6 respect to what was formerly Congressional District  
7 5. In there you say that the Florida Supreme Court  
8 put in place a majority-minority Benchmark 5.

9 Is it your understanding that the Florida  
10 Supreme Court put in a majority-minority District 5  
11 so that there would be a black-performing district  
12 in the region?

13 A. It's my understanding that they did that  
14 in line with their interpretation of the standard of  
15 non-diminishment.

16 Q. And non-diminishment of black voters'  
17 ability to elect a representative of their choice?

18 A. Yes.

19 Q. Doctor, in Paragraph 66 on Page 14, you  
20 say, "Compared to the map as a whole, Benchmark CD-5  
21 had comparatively low measures on Reock and  
22 Polsby-Popper, but a reasonably high Convex-Hull  
23 measure, higher than Benchmark CD-23 or Benchmark  
24 CD-25."

25 My question for you is, Doctor, when we

1       **are assessing compactness in a redistricting**  
2       **context, is it better to assess compactness on a**  
3       **district-by-district basis or a map-wide basis?**

4           A.     We look at both if there's a question  
5       about a district in particular, like North Carolina  
6       12, if it's a question about one district.

7           **Q.     So, you look at both. Are you saying**  
8       **that, if we are assessing whether or not a district**  
9       **as redrawn diminishes the ability of a minority to**  
10       **elect a candidate of their choice, we ought to look**  
11       **at compactness on a district-specific basis?**

12          A.     Compactness was discussed in the trial  
13       court. So, I'm putting in the compactness numbers  
14       for this case.

15          **Q.     Should we also, as part of our analysis,**  
16       **look at the compactness of the one district we are**  
17       **focused on for the purposes of non-diminishment and**  
18       **compare it to other districts in the Enacted Plan,**  
19       **as you do here?**

20          A.     So, sometimes when you are trying to judge  
21       what the standards are that the state legislature is  
22       trying to use, it's useful to say how compact are  
23       other districts.

24          **Q.     I've got it.**

25                   **I would like to go to Page 15, Paragraph**

1       72. Here you say, "Enacted CD-3 also closely  
2 resembles Detzner CD-3 rather than Benchmark CD-3,"  
3 and you provide an image, Map A3, right under that  
4 paragraph.

5           A. Correct.

6           Q. For the purposes of reference, I note that  
7 Page 12 of your report includes an excerpt of the  
8 Detzner Map, CD-5 in the North Florida region.

9           Doctor, would you agree with me that in  
10 the Duval Center District from the Enacted Map --

11          A. Are you referring to CD-4?

12          Q. CD-4, yes, sir. You were kind enough in  
13 the next paragraph to tell us that CD-4 is the  
14 district with the highest population that comes from  
15 Benchmark District 5.

16          Would you agree with me that, if we are  
17 looking at District 4 in the Enacted Map and  
18 comparing it to District 5 in the Detzner Map, that  
19 District 4 in the Enacted Map is more compact?

20          A. District 4 in the Enacted Map?

21          Q. Compared to District 5 in the Detzner Map.

22          A. District 5 in the Detzner Map.

23          Q. Yes, sir.

24          A. Yes. So, comparing the map on Page 12,  
25 the Detzner Map.

1                   So, CD-4 four in the Enacted Map is more  
2 compact than CD-5 in the Detzner Map.

3                   **Q.    Would you agree with me that CD-5 in the**  
4 **Enacted Map is more compact than CD-5 in the Detzner**  
5 **Map?**

6                   A.    Yes.

7                   **Q.    Would you agree with me that CD-4 in the**  
8 **Enacted Map is also more compact than CD-5 in the**  
9 **Benchmark Map?**

10                  A.    I believe that's the case.  I'll look at  
11 the compactness measures.

12                  **Q.    Thank you.  Fair enough.**

13                  A.    So, we are comparing CD-4 --

14                  **Q.    To Benchmark CD-5, sir.**

15                  A.    Yes, by all three of the measures.

16                  **Q.    If we go to Page 17 of your report, the**  
17 **section on Cohesion and Polarization, in Paragraph**  
18 **84 where you talk about the ecological regression**  
19 **estimate, you say, "Ecological regression estimates**  
20 **show that 90 percent of black voters in the**  
21 **precincts in Benchmark CD-5 voted for Democratic**  
22 **candidates across the eight statewide general**  
23 **elections examined."**

24                  A.    Correct.

25                  **Q.    Is it fair to say that you don't know for**

1       **certain whether 90 percent of the black voters in**  
2       **the eight general elections voted for the Democratic**  
3       **candidate?**

4           A.    I'm not sure I understand your question.

5           Q.    Fair enough.

6                    You are estimating that 90 percent of  
7       **black voters in the precincts in Benchmark CD-5**  
8       **voted for Democratic candidates across the state-**  
9       **wide elections.**

10          A.    Correct.

11          Q.    You created this estimate based on the  
12       **ecological regression model.**

13          A.    Correct.

14          Q.    You also created an estimate for white  
15       **voters and how they voted?**

16          A.    Correct.

17          Q.    And you did look at the primary election  
18       **results as you were creating your estimates for**  
19       **black voters, right?**

20          A.    You mean the primary -- the registration  
21       number?

22          Q.    Yes, sir.

23          A.    Yes.

24          Q.    But you did not look at how black voters  
25       **voted in the individual primary elections?**

1           A.    No.

2           **Q.    Did you look at how white voters voted in**  
3           **the individual primary elections?**

4           A.    No.

5           **Q.    Doctor, here's what I am trying to get to,**  
6           **and maybe we will just cut through it.  What I am**  
7           **trying to figure out is how, if at all, we can**  
8           **disentangle race from party.  How do we know whether**  
9           **people are truly voting for a candidate of their**  
10          **choice because of race versus how voters are voting**  
11          **because they just have a political party preference?**  
12          **If we are trying to disentangle race from party,**  
13          **Doctor, would looking at the actual election results**  
14          **from primary elections for the Democratic party be a**  
15          **helpful way to do that?**

16          A.    Not necessarily.

17          **Q.    Why not?**

18          A.    Well, first of all, these methodologies  
19          are not for use in primary elections.  But setting  
20          those issues aside, typically we don't look at  
21          primary elections when determining these questions.  
22          We didn't look at it, aside from registration data,  
23          we didn't look at it last time.  So, it's not  
24          standard.  Typically it's not looked at in like many  
25          of the voting rights cases I have worked on.  Only

1 exceptionally has it been looked at and then only in  
2 Section 2 type cases, intentional discrimination  
3 against minorities. So, it's not just what we do.  
4 It's not standard that it's been used in the past.

5 Then there's a question about what party  
6 is. You choose your party. You don't choose your  
7 skin color. So, party is actually part of the  
8 outcome of all of this. So, even your party  
9 registration could change it, go from one to the  
10 other.

11 So, generally, as social scientists, we  
12 think of it as a more primitive indicator of a  
13 person's ethnicity or type or identify, and the  
14 party is something that is developed later. So, we  
15 think of that as actually downstream. So, in terms  
16 of untangling race and party, race gets primacy in  
17 this area in terms of how social scientists think  
18 about and approach this.

19 **Q. So, Doctor, let me ask the question this**  
20 **way. In the Benchmark CD-5, if the Democrats had**  
21 **nominated a white man as their candidate, based on**  
22 **the functional analysis you have done, am I right in**  
23 **saying that the majority-minority Benchmark District**  
24 **5 would have elected the white Democrat into office?**

25 A. If that was their preferred candidate.

1 It's like who do they want. Who does that group  
2 want? If that's who they prefer, then if it was a  
3 functioning district for them, then that's who would  
4 get elected.

5 **Q. So, when we are talking about a majority-**  
6 **performing district, the person that people in that**  
7 **district choose to elect can be white or non-white,**  
8 **right?**

9 A. Yes. For it to be a performing district,  
10 yes.

11 **Q. If it is a performing district for**  
12 **minorities and they elect a white person to be their**  
13 **representative, does that affect your non-**  
14 **diminishment analysis at all?**

15 A. I think it works the other way. Like if  
16 they elect a black person, say, to that seat, then  
17 that has further evidence or adds to the evidence.  
18 But the basic standard is are they able to elect the  
19 candidate they prefer. It could be there's a black  
20 candidate who is utterly offensive to every other  
21 black voter in the district and the black voters  
22 say, no, not that guy. So, it's really the right of  
23 the voter to make the choice. And the question is  
24 are the people that they chose to represent them the  
25 ones that they are selecting.

1           **Q. Doctor, as you are doing the cohesion and**  
2           **polarization analysis in a plurality black district,**  
3           **have you seen instances where the plurality black**  
4           **district would elect someone other than a black**  
5           **person to be their candidate of their choice?**

6           A. I have not seen the plurality black. I  
7           have seen the plurality Hispanic districts. Like  
8           CD-35 in Texas elected Lloyd Doggett after it was  
9           created as a majority Hispanic district and he ran  
10          against Hispanics in the primary, in the general,  
11          and he beat them. He was clearly the preferred  
12          choice. He just worked super hard for that  
13          community. So, that was their preferred choice.  
14          They chose him. But, again, that configuration of  
15          the district gave them the ability to elect the  
16          person that they wanted.

17          **Q. That Texas district that you just**  
18          **described, it was majority Hispanic, right?**

19          A. That one is, yes. It is majority  
20          Hispanic.

21          **Q. And they elected a white representative.**

22          A. Yes.

23          **Q. If that district went through a**  
24          **redistricting cycle and was reconfigured such that**  
25          **the white person, the incumbent, still got**

1 re-elected but the number of Hispanic voters in that  
2 district declined, what conclusions would you reach  
3 about non-diminishment in that circumstance?

4 A. Well, the question is like, is it now a  
5 majority white district? So, if it's a majority  
6 white district and the whites prefer that person,  
7 then that's a different situation entirely. So,  
8 that first threshold you have to get down.

9 If it's a minority district and the  
10 minorities prefer that candidate and the whites don't  
11 prefer that candidate, Then that masks into the CD-5  
12 situation. That would be a still performing  
13 district, and that is the standard that is used  
14 elsewhere as well. So, there is no inconsistency,  
15 say, between applying that concept here and applying  
16 it in Virginia or in Texas.

17 Q. This is helpful.

18 I would like to go to Page 19 of your  
19 report, Paragraph 92. You say, "None of the enacted  
20 CDs in this area are majority-minority districts in  
21 voter registration. White voters are the  
22 significant majority of registered voters in Enacted  
23 CD-2, Enacted CD-3, Enacted CD-4, and Enacted CD-5."

24 First, Doctor, when you are referring to  
25 "this area," are you referring to the regions in

**1        Pensacola and Jacksonville?**

2            A.    Under the Enacted Plan.

**3            Q.    Yes, sir.**

**4            Doctor, I would like to unpack this**  
**5        section of your report. Are you saying that any**  
**6        Enacted Plan after the 2020 census had to keep the**  
**7        black population in North Florida together so that**  
**8        the black population could elect a candidate of its**  
**9        choice to congress?**

10           A.    Or find another configuration of a  
11        district in this area that didn't diminish. It  
12        didn't have to be that configuration. It could have  
13        been another.

14           A more interesting question, but it's not  
15        one before us, is whether they created a black  
16        district somewhere else in the state, a new black  
17        district, an additional black district, to offset  
18        the reconfiguration in North Florida.

**19           Q.    So, the Enacted Plan should have kept the**  
**20        core of black votes together in the area, right?**

21           A.    Yes, if we are talking about just this  
22        area.

**23           Q.    So, that's a yes if we are talking about**  
**24        just this area.**

25           A.    Yes, but diminishment under Section 5

1 allows states to create other districts elsewhere in  
2 the state. That's not this case. So, I don't know  
3 how it would be answered by Florida. But here we  
4 have a diminishment in the number statewide as a  
5 result of taking this particular district apart.

6 **Q. Doctor, you will agree with me that the**  
7 **state couldn't draw a district that combined the**  
8 **black population in Duval County to, say, the black**  
9 **population all the way to Miami through a small**  
10 **slender string, right? That would not be okay.**

11 A. My sense, based on how the court navigated  
12 this version of CD-5 in the Detzner version, is a  
13 more compact version of the district was available,  
14 and that is the one that is in the Benchmark Map,  
15 than the Detzner Map. So, I think it would have  
16 said -- just guessing, it would have said like that  
17 one wouldn't have been acceptable because an  
18 alternative version was available. I don't know  
19 what the limits of this court or the court's  
20 tolerance for tradeoffs of different standards is.

21 **Q. Understood.**

22 **Doctor, if you will excuses me, I am**  
23 **trying to make sure I capture the questions for**  
24 **everyone.**

25 A. Of course.

1 Do you want to take a break?

2 Q. I think we are good. I just wanted to  
3 make sure that we covered everything that everyone  
4 wanted to cover about North Florida.

5 Doctor, moving on to the Tampa/St. Pete  
6 region, this is Page 23 of your initial report.

7 In Paragraph 112, in the last sentence,  
8 sir, you say, "As the Demonstration Map shows,  
9 alternative versions of CDs in Orlando and Tampa/  
10 St. Petersburg adhere more closely to the Benchmark  
11 Map, have equal populations, split fewer counties or  
12 cities, and are on the whole as compact as the  
13 version of these CDs in the Enacted Map."

14 Here, sir, getting back to our discussion  
15 from earlier today, you were following a minimal  
16 changes approach when drawing the Tampa/St. Pete and  
17 the Orlando regions of the Demonstration Plan,  
18 right?

19 A. Correct, thinking that that version of the  
20 map had passed constitutional muster already. So,  
21 you know, let's see if we can put in equal  
22 population versions of the districts and see what  
23 emerges.

24 Q. Doctor, let's go to Page 27, Paragraph  
25 131.

1           A.     For Orlando?

2           **Q.     Yes, sir. I apologize. It has Orlando**  
3           **and Tampa/St. Pete first.**

4                     **Doctor, in Paragraph 131, the first**  
5           **sentence, you say, "The Enacted Map's division of**  
6           **Volusia County was not required to equalize**  
7           **population."**

8                     **First, Doctor, what is the basis for that**  
9           **conclusion?**

10           A.     So, let's start with CD-6. It's  
11           overpopulated by 27,000 people. So, it needed to  
12           lose 27,000 people. And then CD-7 also needed to  
13           lose 19,000 people. So, that could have been  
14           accomplished -- CD-7's equalization could have been  
15           accomplished by just shrinking its footprint in  
16           Orange County. It didn't need to add 300,000 people  
17           from Volusia County. 300,000 is like -- what are we  
18           doing -- 15 times more population than we needed to  
19           equalize. So, if you are just equalizing, you  
20           wouldn't have moved 300,000 voters.

21           **Q.     I've got it.**

22                     **Then you say, "Benchmark CD-6 was**  
23           **overpopulated by just 27,033 people, which could**  
24           **have been addressed by reducing the footprint of**  
25           **CD-6 in Lake County."**

1                   **Doctor, how many times was Lake County**  
2                   **split in the Enacted Plan?**

3                   A.    I don't recall.

4                   **Q.    Does two sound right?**

5                   A.    It could be.

6                   **Q.    Would Lake County be split more than two**  
7                   **times in the Demonstration Plan?**

8                   A.    I think it was split three times.

9                   **Q.    You are saying that that reduction in**  
10                  **split for Lake County could not be justified if we**  
11                  **are picking up 300,000 people from Volusia County to**  
12                  **reduce that one split in Lake County?**

13                  MS. FORD:  Objection to the form.

14                  A.    So, my understanding is that it's just  
15                  whether the counties split the criterion, the  
16                  criterion that we used last time, as opposed to the  
17                  number of different portions created.

18                  BY MR. JAZIL:

19                  **Q.    So, your question of choice made --**

20                  A.    It's like the rule I follow in the  
21                  Demonstration Map.  But we are looking at the  
22                  Enacted Map and the Benchmark Map.  We are not  
23                  looking at the Demonstration Map.

24                  **Q.    Sure.**

25                  A.    There, if you are looking at the

1 comparison of the Benchmark and what was needed to  
2 change and the amount of change that was put in  
3 place, it far exceeds what was needed for  
4 equalization.

5 **Q. Just to keep talking about the issue, if**  
6 **we go to Page 31, Paragraph 149, where you do talk**  
7 **about the Demonstration Plan, you say, "The changes**  
8 **in the locations of CD-7 and CD-10 in Orange County**  
9 **were unnecessary to equalize population." You are**  
10 **making the same point here that you made earlier in**  
11 **our discussion?**

12 A. Correct. If you look at the overage, you  
13 could have left these districts pretty much in  
14 place.

15 **Q. Doctor, now I would like to turn to Page**  
16 **34, please.**

17 Doctor, in Paragraph 144 you note that,  
18 "The Detzner Map divided Hillsborough and Pinellas  
19 Counties across five CDs." How many congressional  
20 districts does your Demonstration Plan divide the  
21 regions into?

22 A. Let me go to that.

23 **Q. Fair enough.**

24 A. So, Pinellas and Hillsborough are divided  
25 by five CDs.

1           **Q.     In your Demonstration Plan how many times**  
2           **are you splitting Hillsborough County?**

3           A.     Three.

4           **Q.     Do you recall how many times Hillsborough**  
5           **County was split in the Enacted Plan?**

6           A.     I don't remember. I would have to look.

7           **Q.     Take your time, Doctor.**

8           A.     In the Enacted Plan it's split three  
9           times.

10          **Q.     How many times was Pinellas County split**  
11          **in your Demonstration Plan?**

12          A.     It's split between 12 and 13.

13          **Q.     And then the Enacted Plan?**

14          A.     It's split between 13 and 14.

15          **Q.     For Pinellas County, your disagreement**  
16          **with the Enacted Plan comes down to where the split**  
17          **occurs, right?**

18          A.     It divides the City of St. Petersburg, the  
19          Enacted Map does, and it divides the City of Tampa  
20          and it divides the City of Lakeland.

21          **Q.     Understood.**

22                    **Do you have any other disagreements with**  
23          **the Enacted Plan as it relates to the split in**  
24          **Pinellas County?**

25                    MS. FORD: Objection to the form.

1           A.    As it relates to the split in Pinellas  
2 County?

3           BY MR. JAZIL:

4           **Q.    Yes, sir.**

5           A.    It runs through a black community. So, it  
6 ignores the communities of interest. And the way it  
7 divides the area is actually called cracking of  
8 Democratic votes in St. Petersburg and Tampa.

9           **Q.    Understood.**

10                   **Doctor, when you are discussing the Tampa**  
11 **region and -- I apologize for not knowing which**  
12 **report you specifically discussed this in. But you**  
13 **introduced the concept of competitive maps. Pardon**  
14 **me. You introduced the concept of competitive**  
15 **districts. Do you recall that?**

16           A.    I discussed how competitive the districts  
17 are, yes.

18           **Q.    Doctor, what is your definition of a**  
19 **competitive district?**

20           A.    So, there are different definitions that  
21 political scientists use. One is competitiveness.  
22 Like if you are comparing two sets of districts, are  
23 there more districts that are closer to 50/50?

24                   Another definition is plus or minus five  
25 percentage points, around 45 to 55. That's an old

1 definition due to David Mayhew in the 1970s.

2 Another is how many times it's won by one  
3 party or another across multiple elections. Like  
4 you could have a district that is 52/48, but every  
5 time a Democrat wins it's 52/48. So, it's in eight  
6 elections.

7 So, we look at many pieces of the data  
8 now, not just simple margins.

9 **Q. I understand.**

10 **Doctor, the first descriptor you used was,**  
11 **is the district split 50/50. Are you referring to**  
12 **split 50/50 based on party registration?**

13 A. No. There are enough people who are  
14 declining to state or non-partisan if it's close to  
15 50/50. You don't know how it's going to come out.  
16 But I'm using the vote in general elections in that  
17 area.

18 **Q. What is the definition that you prefer**  
19 **when discussing competitive seats?**

20 A. Actually I look at all of these  
21 statistics. There are other indicators, too.

22 **Q. There's no one statistic that you would**  
23 **use to say a particular seat is a competitive seat?**

24 A. Yes. The first thing I would look at is  
25 like how close is the vote margin across a bunch of

1 elections. That is the first number I would look  
2 at, but I wouldn't stop there.

3 **Q. If I understood what you said correctly,**  
4 **even though the vote margin might be close for a**  
5 **particular seat but the seat goes to the same party**  
6 **for election after election, you might consider it**  
7 **to be an uncompetitive seat.**

8 A. Not uncompetitive but less competitive  
9 than -- usually these are in comparison to some  
10 other districts or some other plans.

11 **Q. So, a competitive seat in Florida would**  
12 **mean something different than a competitive seat in**  
13 **New York.**

14 A. I'm not sure about that. But maybe like  
15 the Long Island seats are pretty competitive, but  
16 the Brooklyn seat is not. So, that's like the range  
17 in which -- that's a pretty nice comparison. I'm  
18 trying to think of a good example in Florida. Maybe  
19 some of the south coastal districts are less  
20 competitive than these Tampa/St. Pete.

21 **Q. So, less competitive.**

22 A. Yes, less competitive than the Tampa/St.  
23 Pete districts. But certainly when we compare two  
24 versions of the same district, we can say this is  
25 less competitive or more competitive.

1           **Q.     Understood.**

2                   **So, it's a bit like the eyeball test where**  
3           **you take two districts and put them side by side and**  
4           **check the other metrics to see is one competitive**  
5           **and the other isn't?**

6           A.     No. The problem with the eyeball test is,  
7           it turns out, if you take a map and you turn it  
8           upside down, people have a totally different eyeball  
9           test.

10           **Q.     Fair enough. Why is that?**

11           A.     I don't know what it is about the human  
12           cognition, but it's orientation and things. So,  
13           there are things that our brain plays tricks on us.

14                   These statistics are based on predictive  
15           accuracy. How well can we predict? If we just use  
16           election margin, we can predict pretty well, but  
17           there's a lot of uncertainty still. We augment that  
18           with past history of accuracy or voter registration  
19           statistics. That helps to predict the accuracy.

20                   So, at CBS when we forecast elections on  
21           election night, we come up with before the election  
22           which districts are likely going to go one way or  
23           the other based on whether the nation is swinging  
24           one way or the other and what the districts look  
25           like, and that's based on all of these data.

1           **Q.    So, competitiveness is a concept that**  
2           **includes the evaluation of many different factors.**

3           A.    Yes, indicators. Like how much should I  
4           pay for my house? Well, that depends on all sorts  
5           of things. It depends on the square footage, the  
6           number of bedrooms. How much is a bedroom worth? I  
7           could run a regression and tell you the number, but  
8           that has some uncertainty around it. So, it's  
9           really predictive accuracy in the way that realtors  
10          have knowledge about how much you should pay for  
11          your house.

12          **Q.    Understood.**

13                   **So, when we talk about competitive**  
14                   **districts, it's an indicator of predictive accuracy**  
15                   **of how that district would perform?**

16          A.    That would be one way to put it. You  
17          know, if there was one single indicator, it's  
18          probably the vote margin across a bunch of elections  
19          in the past. That's where you start.

20          **Q.    When we look at the vote margin across a**  
21          **bunch of elections, we don't have a definitive**  
22          **number of elections that we would look at, right?**

23          A.    Well, we would stay more recent. The 2012  
24          election would not be as informative about a 2024  
25          election as, say, a 2020 election. So, the more

1 recent elections are more informative.

2 It's not always the very most recent. At  
3 CBS we will figure out our best predictor, which  
4 election do we think is the best leading indicator  
5 of what's going to happen in a state on election  
6 night.

7 **Q. Doctor, forgive me. Earlier when we**  
8 **talked about why it is that we use more than one**  
9 **election, my understanding was we use more than one**  
10 **election when we are doing our analysis so that we**  
11 **account for the one knife's edge election or the one**  
12 **landside election, right?**

13 A. Correct.

14 **Q. What you are saying now is that, as we are**  
15 **doing our analysis, we should perhaps exclude older**  
16 **elections because they might not be good predictors**  
17 **on how something might happen in the future,**  
18 **correct?**

19 A. There has been a lot of population change  
20 over a decade.

21 **Q. As an example of why that older election**  
22 **would not be appropriate, right?**

23 A. Yes.

24 **Q. So, does it come down to essentially an**  
25 **art when you are figuring out which set of elections**

1       **to use for the purposes of your analyses?**

2           A.    No.  There is experience, but it's like  
3       the three most recent statewide elections or  
4       election years, and all the elections are there.  
5       They are very helpful in predicting.  The further  
6       you get back in time, the less helpful it is.  I  
7       wouldn't use 2008 to predict the future.

8           **Q.    I've got it.**

9           **Doctor, as you are doing your analyses, I**  
10       **notice, for example, you used the 2020 presidential**  
11       **election, right?**

12           **Can you say yes or no?**

13           A.    Yes.  I thought there was another question  
14       coming.

15           **Q.    There is.**

16           **Doctor, the 2020 election was held in the**  
17       **midst of a worldwide pandemic, right?**

18           A.    Correct.

19           **Q.    We had an unusual candidate at the top of**  
20       **the ticket for one of the two major political**  
21       **parties running for president, right?**

22           A.    Correct.

23           **Q.    People changed the method by which they**  
24       **voted.  More vote by mail was used in 2020 than ever**  
25       **before, right?**

1           A.    Vote by mail is an interesting example of  
2           why you might want to us more recent elections  
3           because, in fact, it's been a constant trend upwards  
4           since 2000, since the 2000 election controversy.  
5           Every state has been liberalizing their voting laws  
6           and allowing for more absentee votes. In 2016 it  
7           was 40 percent absentee voting nationwide. In 2020  
8           it was 60 percent absentee. Nationwide 2022 dropped  
9           back to 55 percent.

10           So, 2020 might be very helpful about this  
11           next election because we have got this trend upwards  
12           of absentee voting. That's an example of why --  
13           this is one of the reasons why more recent elections  
14           are more helpful.

15           **Q.    I was going to ask you, why wouldn't you**  
16           **just exclude the 2020 presidential election results**  
17           **from the analysis because it was, you know, the only**  
18           **election in recent memory held during a pandemic**  
19           **with an unusual candidate? Would you ever consider**  
20           **excluding the 2020 election results from your**  
21           **analyses because they might be out of whack?**

22           A.    What I do as part of my election analyst  
23           hat is I routinely see what elections are correlated  
24           with other elections, which ones are exceptional.  
25           Presidential elections, even in exceptional times,

1 tend to be pretty similar to other elections.  
2 Interestingly enough, the most different -- this one  
3 always surprises me -- are governors.

**4 Q. Really?**

5 A. But governors are held accountable for  
6 everything. They tend to be the least strongly  
7 correlated to other elections.

8 So, when I look at data, I look at, okay,  
9 how strong are the correlations among all the  
10 elections? If they are strongly correlated, then  
11 that's an indicator that they are all capturing the  
12 same thing.

13 When we do get really exceptional  
14 elections that I would exclude, it would be like the  
15 Florida election that had a three-party race where  
16 the favorite son, Kendrick Meek, was running as a  
17 Democrat and we had Charlie Crist. That's just not  
18 helpful. We don't have three-party elections like  
19 that.

20 Another example was when Ken Blackwell ran  
21 for senator, I think, or governor of Ohio. Ken is  
22 an African American. The correlation of that  
23 election with every other election was really low  
24 because the whites were voting more Democratic and  
25 the blacks were voting more Republican than normal.

1 So, they didn't like completely split, but it was  
2 enough to move. It was like .6 or so. So, maybe  
3 that's not an election to include in the mix.

4 Q. Doctor, when you prepared this report, did  
5 you do the analysis to see how the eight general  
6 elections that you utilized correlated with one  
7 another?

8 A. Oh, yes. They correlate very highly.

9 Q. That's why you didn't exclude any one of  
10 those elections. You used all eight of those as  
11 part of your --

12 A. Yes. Nothing was unusual to me.

13 Q. Understood.

14 Doctor, let's go back to the Tampa/St.  
15 Pete region again, Paragraph 147, sir.

16 Doctor, this is where you are describing  
17 the splits in the St. Petersburg and Tampa regions,  
18 right --

19 A. Yes.

20 Q. -- in the Detzner Plan?

21 Tell me if I am wrong here. Are you  
22 saying that the splits in the Detzner Plan between  
23 CD-13 and CD-14 are similar to the splits that were  
24 made in the Enacted Plan?

25 A. The division down in the center of St.

1 Petersburg follows 34th Street in both maps.

2 **Q. And you are saying that that division**  
3 **divides a black community in the region.**

4 A. Yes, it does.

5 **Q. You are also saying that that division has**  
6 **the effect of packing Democrats into one of the two**  
7 **districts in the region?**

8 A. Well, it cracks the Democratic vote and  
9 the black vote in St. Petersburg. There are other  
10 Democrats, not just blacks, in that part of St.  
11 Petersburg. So, that's what this piece is about.

12 Then how 14 gets configured is the packing  
13 of Democrats.

14 **Q. Doctor, for the partisanship issue, you**  
15 **would agree with me that the Florida Constitution**  
16 **talks about not drawing districts with the intent to**  
17 **favor one party or another, right?**

18 A. Correct.

19 **Q. So, here do you have any evidence that you**  
20 **have relied on across your four reports that shows**  
21 **that the map drawer was trying to crack or pack**  
22 **Democrats intentionally?**

23 A. So, this is the sort of information that  
24 was relied on in 2015 in the past trial as well as  
25 other information. So, this is one piece of the

1 bigger puzzle. I was not asked to look at any  
2 legislative records or communications or anything  
3 like that, just to look at what happened to these  
4 districts and how that might inform the court's  
5 decision on these questions.

6 **Q. So, you were looking at the partisan**  
7 **effects on the ground in these districts based on**  
8 **how the lines were drawn, right?**

9 A. Looking at where the lines were drawn, how  
10 they assembled older maps. That also was relied on.

11 **Q. Doctor, in one of your reports you**  
12 **mentioned a swing analysis. Do you recall**  
13 **discussing something like that?**

14 A. Not a musical swing.

15 **Q. No.**

16 **I apologize, Doctor. I'm asking other**  
17 **people's questions. I can't point you to where you**  
18 **may have mentioned a swing analysis.**

19 **Are you familiar with what a swing**  
20 **analysis is, Doctor?**

21 A. Well, different things can get called  
22 swings.

23 **Q. Do you conduct a swing analysis?**

24 A. Yes. Usually it's a change over time,  
25 like how much change there would be or how much the

1 vote swung statewide or nationally, how much did  
2 this district swing with it, things like that.

3 **Q. So, does a swing analysis look at a**  
4 **deviation in a given election from what had been a**  
5 **trend?**

6 A. So, usually what a swing analysis is is  
7 like either how responsive -- how the composition of  
8 the state legislature and congressional districts  
9 are to change in the vote, like how much change in  
10 probability they will be, Democrats winning 10  
11 seats, 15 seats, whatever the number is, in response  
12 to a 10-point swing in the vote shared statewide,  
13 not in any district. That's one form of a swing  
14 analysis. Without a reference, it's hard for me to  
15 know where we are going.

16 **Q. Understood.**

17 MS. FORD: It doesn't look like the word  
18 "swing" appears in the doctor's primary report  
19 on the PDF. It does appear once we get into  
20 the supplemental report.

21 BY MR. JAZIL:

22 **Q. I've got it.**

23 **Doctor, I'm looking at Paragraph 16 from**  
24 **your April 28th, 2023 report. You discuss swing**  
25 **analysis in the context of discussing**

1       **competitiveness, and we have covered that topic.**

2           A.    Okay.

3           Q.    **That's fine.**

4                    Doctor, you were kind enough to answer so  
5       many of my questions. I have covered the notes from  
6       my rebuttal report.

7           A.    Wow.

8           Q.    I would like to move on to the  
9       supplemental expert report dated April 10th, 2023.

10                   Doctor, would you mind taking a look at  
11       this. I will mark it as Exhibit 5.

12                   (The documents referred to were marked for  
13       identification as Defendants' Composite Exhibit  
14       No. 5.)

15           BY MR. JAZIL:

16           Q.    Doctor, does this appear to be a fair and  
17       accurate copy of your supplemental expert report  
18       from April 10th, 2023?

19           A.    It is.

20           Q.    Doctor, I had a question about Footnote 2  
21       on Page 6.

22           A.    Okay.

23           Q.    I don't understand it. Can you help me  
24       understand how you went about calculating the  
25       expected number of seats?

1           A.    Oh, okay.  So, under a map you have 28  
2    seats.  You want to know how many of those 28 seats  
3    you are going to expect are going to be won by  
4    Democrats or Republicans.  It's a pretty common  
5    calculation.

6           Each election is a coin toss for every  
7    seat for every district.  So, in 2018 did they get a  
8    majority or did they not get a majority, heads  
9    Republicans, tails Democrats.  You count up 28 coin  
10   tosses, how many times it happens.

11           Now, it's not technically a coin toss.  
12   It's the percentage of the vote they got in Governor  
13   2018.  So, let's say in Governor 2018 you get 17  
14   seats Republicans win and 10 seats Democrats win.  
15   That's the majority of the Governor 2018 vote in  
16   those districts.

17           Then you move on to the U.S. Senate,  
18   president.  You go through all eight elections that  
19   way.  You just count them up.  You make a table, 17  
20   and 10, 17 and 10, 16 and 11, 17 and 10, 16 and 11.  
21   You count them up.  Okay.  What is the average  
22   number of seats that the Republicans won and what is  
23   the average number of seats that the Democrats won?  
24   So, on average Republicans won, you know, whatever  
25   it was, 16.75 in that example.

1           **Q.     Understood.**

2                   **So, as you are doing the coin toss, the**  
3           **coin toss is a weighted coin, right?**

4                   **Can you say yes or no?**

5           A.    Yes.

6           **Q.     The weights are correlated with what the**  
7           **outcome was for the statewide election in a given**  
8           **race within that district.**

9           A.    Well, in this case the coin toss is  
10           determined by the percentage of the vote that they  
11           got in the Governor 2018 election in District 1.  
12           So, the Republicans won that. So, they get the seat  
13           there. In CD-2, Republicans won that. They get one  
14           there. Then you count up how many you get a  
15           majority of the seats.

16           **Q.     Doctor, when you say the Governor 2018,**  
17           **did you do the coin toss based on all eight**  
18           **elections that you considered or just the Governor**  
19           **2018?**

20           A.    For Governor 2018, let's say  
21           hypothetically Republicans got the majority of the  
22           vote in 17 congressional districts and Democrats won  
23           11, whatever the numbers are. We are using the  
24           Governor 2018 in the precincts that are in those  
25           districts, right? So, we are looking at multiple

1 maps. None of them actually had the governor  
2 election because none them ever existed, except for  
3 14-A.

4 So, you take all these precincts and you  
5 add up how many votes did Republicans win in that  
6 election and how many votes did Democrats win in  
7 that election in that district and in those  
8 precincts. You do the same thing repeatedly for  
9 every district using the Governor 2018 and then for  
10 every district using the U.S. Senate and every  
11 district using the president.

12 So, when you count them up, this first  
13 election, the governor election, was, say, 17 to 11.  
14 The next election was 16 to 12. So, the Senate  
15 election or the Ag Commission was 17 to 11 and then  
16 president was 17 to 11. You just count them all up.  
17 Then you ask how much or what the average number of  
18 seats was. That would literally be the expected  
19 number -- the calculation of the expected number of  
20 seats.

21 **Q. That's the last part of this footnote**  
22 **where you are providing the formula, 16.75.**

23 A. Right.

24 **Q. Six times 17 and two times 15, and you add**  
25 **them up and divide by eight, the number of statewide**

1       **elections.**

2           A.    Correct.

3           **Q.    And then --**

4           A.    So, it would be 16.75 out of 28. That  
5       would be your expected number of seats.

6                    Now, it's not a whole number because you  
7       are averaging other things. But, you know, in  
8       betting and forecasting and predicting, things are  
9       rarely whole numbers.

10          **Q.    I understand.**

11                    **Doctor, earlier we talked about how you**  
12       **didn't use the 2022 statewide races because you**  
13       **didn't have the election data, right?**

14          A.    Yes. I would need the election data in  
15       the precincts merged in with all of the other data.

16          **Q.    So, Doctor, do you know the results of the**  
17       **Florida election in 2022 for the governor's race?**

18          A.    Yes. Ron DeSantis won.

19          **Q.    Do you know whether he won by a large**  
20       **margin or a small margin?**

21          A.    I think he got like 58 percent of the  
22       vote. I don't remember. It was about there. It  
23       was certainly higher than his margin last time where  
24       he won by less than a percent.

25          **Q.    If I represented to you that in the 2022**

1 elections the Republican candidate for Governor, the  
2 Republican candidate for Chief Financial Officer,  
3 the Republican candidate for Commissioner of  
4 Agriculture and the Republican candidate for  
5 Attorney General all won their races, do you have  
6 any reason to doubt that?

7 A. No.

8 Q. If I represented to you that all of those  
9 statewide officers won by ten points or more and you  
10 factored in those election results into your  
11 analysis here, would that reduce or would that  
12 increase the Republican share of seats?

13 A. It might increase it. It might reduce it.  
14 I'm guessing. It depends on how those votes  
15 translated to the district. That's the problem with  
16 packing. If you pack, like a party ends up wasting  
17 all of its surplus votes. Its good fortune gets  
18 spent in places it shouldn't have been. So, if one  
19 party is overly packed, you can see the other party  
20 is doing very well, picking up no additional seats  
21 as a result of the packing.

22 Q. Understood.

23 You said it could increase their share of  
24 seats. Is that because that one election result in  
25 and of itself would just be one of -- pardon me.

1       **Let me ask the question another way.**

2                   **You said it might increase the share of**  
3       **the Republican seats, right?**

4           A.    Yes.  I said it depends.

5           **Q.    It depends in part because that would be**  
6       **one set of statewide elections, right?**

7           A.    Yes.

8           **Q.    And your model is looking at a broader**  
9       **trend over several years, right?**

10          A.    Well, this calculation is for this graph,  
11       which is a comparison trend across versions of the  
12       plans that were drawn and the expected number of  
13       seats, showing that those were increasing.

14          **Q.    Fair enough.  Over eight specific**  
15       **elections.**

16          A.    Yes, over the eight elections I have been  
17       analyzing throughout.

18          **Q.    And if we were to add the 2022 election**  
19       **results, the denominator in Footnote 8 at the very**  
20       **end would change to 12.**

21          A.    Yes.  If there are four additional  
22       elections, it would change to 12, and then whatever  
23       those numbers are enumerated there.

24          **Q.    Understood.**

25          A.    Does that make sense?  Does that

1 calculation make sense?

2 Q. That calculation does make sense.

3 I guess what I am trying to get at is you  
4 said it depends in part on how the map shakes out  
5 because we are increasing the denominator and we are  
6 going to change what happens in the numerator based  
7 on how the results work out in each of the  
8 individual districts on a precinct-by-precinct  
9 level, right?

10 A. Yes, and I have no idea.

11 Q. Understood. I just wanted to understand  
12 that.

13 A. I've got it.

14 Q. Do you mind taking a five-minute break?  
15 Let me just make sure I have captured everyone's  
16 questions.

17 A. Yes. Thank you.

18 MR. JAZIL: Mr. Reporter, we are going to  
19 take a short break.

20 (Recess 2:51 p.m. until 3:00 p.m.)

21 BY MR. JAZIL:

22 Q. Doctor, I have a few cleanup questions.  
23 Like all my questions, they are in no particular  
24 order.

25 Doctor, when you were assessing the

1 **partisan effect of the Enacted Map, did you use the**  
2 **efficiency gap method?**

3 A. No.

4 **Q. Did you use the declination method?**

5 A. No.

6 **Q. Did you use the mean median method?**

7 A. No.

8 **Q. Did you use the symmetry method?**

9 A. No.

10 **Q. What method did you use when you were**  
11 **doing your analysis of the partisan effect of the**  
12 **Enacted Map?**

13 A. I examined the districts in question.  
14 Those apply to the entire map. I was focused on  
15 particular areas of the map. So, I was focusing on  
16 CD-13, 14, 9, 10, 7 and 5.

17 **Q. Understood.**

18 **Doctor, the Benchmark District 5 that the**  
19 **Florida Supreme Court drew, do you know whether the**  
20 **Romo plaintiffs submitted that version of Benchmark**  
21 **District 5 to the Florida Supreme Court for**  
22 **consideration?**

23 A. Yes, though I don't think it's exactly the  
24 same as the version that was in the Romo plaintiffs.  
25 It maybe changed slightly. But something very

1 similar was proposed by the Romo plaintiffs.

2 **Q. The Florida Supreme Court drew what became**  
3 **Congressional District 5 in the Benchmark Plan,**  
4 **right?**

5 A. That's my understanding.

6 **Q. And the very similar map that the Romo**  
7 **plaintiffs submitted to the Florida Supreme Court,**  
8 **did you draw that plan?**

9 A. I did.

10 MR. JAZIL: I have no further questions.

11 I do not think that Mr. Nordby or Mr.  
12 Bardos have any, but I will let them speak for  
13 themselves?

14 MR. BARDOS: Nothing here. Thanks.

15 MR. NORDBY: This is Dan Nordby. No  
16 questions from me. Thank you.

17 MS. FORD: I just have two quick  
18 questions.

19 CROSS-EXAMINATION

20 BY MS. FORD:

21 **Q. I'm using my best memory of the**  
22 **terminology we used before. So, forgive me if I**  
23 **don't use the exact wording you used before.**

24 **Doctor, earlier in the deposition Mr.**  
25 **Jazil asked you about your use of aggregate data and**

1 if you had used partisan data for your report or  
2 not. Do you remember that discussion?

3 A. Yes. That was early on.

4 Q. Generally?

5 A. Yes.

6 Q. My question is simply, did you consult  
7 partisan data in your map drawing when you drew the  
8 Demonstration Map?

9 A. No. I used the partisan data in doing the  
10 analysis that is presented in the report. I was  
11 drawing districts that were similar to the existing  
12 map. I was following the map. So, it made it  
13 easier. I didn't need much other guidance from  
14 anything. It's just where the other lines were.

15 Q. When you say you used partisan data in  
16 your analysis, you are referring to like a  
17 functional analysis?

18 A. The functional analysis and the analysis  
19 of partisan performance in the districts.

20 Q. My second question is, earlier we also  
21 spoke about -- Mr. Jazil asked you about if you sort  
22 of looked at how Hispanic voters voted in any  
23 particular precinct in CD-5. My memory is that you  
24 said that Hispanic voters were too dispersed within  
25 the precincts for you to make a very accurate --

1 reach a very accurate conclusion as to how Hispanic  
2 voters alone voted in a particular precinct. That's  
3 what I remember. Is that a fair summary of the  
4 conversation?

5 A. That's a fair summary of the conversation.

6 Q. My question then is, the fact that you  
7 aren't able to estimate Hispanic voters alone in any  
8 given precinct in CD-5, does that affect your  
9 conclusion about whether black voters have the  
10 ability to elect their candidate of choice in CD-5?

11 A. No. My conclusion is based on the voting  
12 behavior of whites and the voting behavior of  
13 blacks, the voting behavior of all minorities  
14 collectively, and showing that the black voters have  
15 the ability to elect their preferred candidates  
16 because their preferred candidates won all the  
17 elections we analyzed. And also, blacks are the  
18 dominant share of the Democratic electorate in the  
19 primary. So, they would then determine who gets  
20 nominated.

21 MS. FORD: That's all I have.

22 REDIRECT EXAMINATION

23 BY MR. JAZIL:

24 Q. Doctor, I have just a line of follow-up  
25 based on what my friend asked you.

1           If I understand this right, you drew a map  
2       first and then you looked at partisan data to assess  
3       how a minority group might perform in a particular  
4       district within the map that you drew, right?

5           A.     Right. I mean the nice thing about using  
6       the Benchmark as my guide is the big pieces were  
7       already in place. So, the first step was to put  
8       those into the context, like Benchmark CD-13 and 14  
9       into the context of the Enacted Map, then 9, 10 and  
10      7 into the context of the Enacted Map, and then see  
11      what needed to be done to equalize populations  
12      around that.

13           MR. JAZIL: Thank you. No further  
14      questions.

15           I will take a transcript.

16           THE STENOGRAPHER: Ms. Ford, would you  
17      like a copy?

18           MS. FORD: Yes, please, and we'll read it.

19           (The deposition was concluded at 3:06  
20      p.m.)

21

22

23

24

25

CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, the undersigned authority, certify  
that STEPHEN ANSOLABEHHERE remotely appeared  
before me and was duly sworn on the 14th day of  
June, 2023.

Signed this 21st day of June, 2023.



---

CRAIG W. TAYLOR, STENOGRAPHER  
Notary Public, State of Florida  
My Commission No. HH 84400  
Expires: 3/28/25

CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, CRAIG W. TAYLOR, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing remote deposition of STEPHEN ANSOLABEHERE, Pages 1 through 137; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 21st day of June, 2023.



---

CRAIG W. TAYLOR, STENOGRAPHER

June 21, 2023

STEPHEN ANSOLABEHERE  
C/O Christina Ford, Esq.  
(cford@elias.law)

Re: BLACK VOTERS MATTER V. CORD BYRD  
Case No.: 2022 CA 0666  
Type of Proceeding: Deposition on June 14, 2023

Please take notice the on the 14th day of June, 2023 you gave your deposition in the above case. At that time you did not waive your signature.

The above-addressed attorney has ordered a copy of this transcript and will make arrangements with you to read their copy. Please execute the Errata Sheet, which can be found at the back of the transcript, and have it returned to us for distribution to all parties.

If you do not sign the transcript within 30 days, the original, which has already been forwarded to the ordering attorney, may be filed with the Clerk of the Court.

If you wish to waive your signature now, please sign your name on the line at the bottom of this letter and return it to the e-mail address listed below.

Very truly yours,



\_\_\_\_\_  
CRAIG W. TAYLOR, STENOGRAPHER  
LEXITAS  
fl.production@lexitaslegal.com

I do hereby waive my signature.

\_\_\_\_\_  
STEPHEN ANSOLABEHERE



<hr/> <b>Exhibits</b> <hr/>	<b>10-point</b> 124:12	110:17	<hr/> <b>2</b> <hr/>
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The Florida Senate  
**HOUSE MESSAGE SUMMARY**

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Prepared By: The Professional Staff of the Committee on Reapportionment

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[2022s00102.hms.re]

BILL: CS/SB102

INTRODUCER: Reapportionment Committee and Senator Rodrigues

SUBJECT: Establishing the Congressional Districts of the State

DATE: March 4, 2022

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**I. Amendments Contained in Message:**

**House Amendment 1 – 269533** (body with title)

**II. Summary of Amendments Contained in Message:**

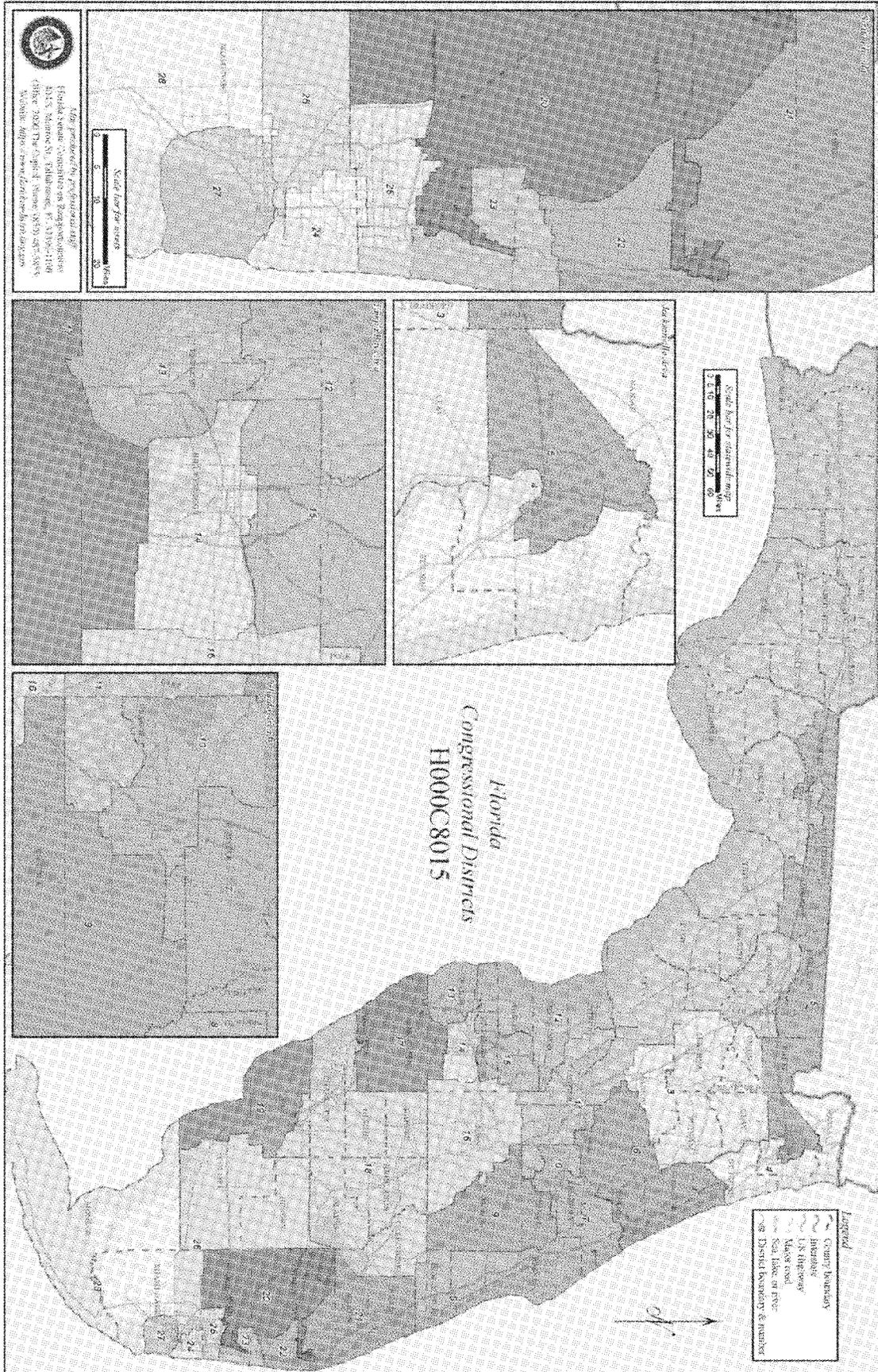
**House Amendment 1 – Barcode 269533** replaces the substance of Redistricting Plan S035C8060 with plans H000C8019 and H000C8015.

Plan H000C8019, the “primary” plan, apportions the state into 28 single-member congressional districts. This plan will serve as the map for elections beginning in 2022 and thereafter unless Congressional District 5 is invalidated by a court.

Plan H000C8015, the “secondary” plan, apportions the state into 28 single-member congressional districts. If Congressional District 5 in the “primary” map is invalidated, Plan H000C8015 will take immediate effect and serve as Florida’s congressional districts for elections beginning in 2022 and thereafter.

House Amendment 1 additionally provides that any action challenging this act shall be commenced within 30 days upon becoming law.

The attached maps and statistical analysis provide details for congressional plans H000C8019 and H000C8015 in House Amendment 1.



3/3/2022

Census and Boundary Statistics

Plan H000C8015

Dist	Deviation		Voting Age Population		Area (sq.mil.)	Perim. (mi.)	Census		Political and Geographic Boundaries		Non-Pop/Cen.								
	%		Black	Hispanic			Whole Parts	Water	City	County		Road	Water	Rail					
1	0.000%	15.544%	24.99%	255.04	273.8	0.87	0.49	0.54	47	52	393	42	18%	59%	15%	39%	1%	3%	13%
2	0.000%	13.54%	6.99%	4,416	341	0.72	0.25	0.31	15	4	16	0	8%	78%	10%	52%	0%	0%	3%
3	0.000%	14.53%	6.37%	15,766	884	0.89	0.54	0.71	5	1	28	0	18%	78%	5%	25%	0%	0%	15%
4	0.000%	16.11%	10.49%	3,751	295	0.54	0.18	0.33	1	2	7	1	23%	76%	17%	55%	2%	2%	2%
5	0.000%	10.24%	8.94%	1,725	350	0.56	0.11	0.11	4	4	16	2	12%	73%	23%	13%	0%	0%	2%
6	0.000%	13.48%	9.24%	3,648	545	0.77	0.34	0.48	1	4	20	2	17%	45%	14%	36%	3%	3%	22%
7	0.000%	10.23%	9.75%	2,737	315	0.82	0.40	0.50	1	2	12	2	26%	47%	19%	31%	0%	0%	13%
8	0.000%	11.42%	21.14%	914	189	0.81	0.38	0.39	2	1	22	0	3%	92%	1%	54%	0%	0%	2%
9	0.000%	9.69%	12.00%	2,263	272	0.86	0.34	0.48	1	1	2	1	2%	86%	10%	36%	0%	0%	4%
10	0.000%	13.13%	50.84%	1,956	270	0.77	0.39	0.50	0	1	9	1	20%	55%	23%	20%	0%	0%	15%
11	0.000%	28.00%	24.60%	377	110	0.81	0.31	0.32	1	4	19	1	12%	50%	15%	13%	1%	1%	31%
12	0.000%	8.35%	15.88%	2,031	289	0.51	0.27	0.40	1	3	7	1	10%	72%	6%	52%	0%	0%	13%
13	0.000%	4.53%	13.60%	2,089	312	0.91	0.63	0.68	0	1	23	1	46%	70%	0%	86%	0%	0%	1%
14	0.000%	11.66%	9.77%	675	112	0.87	0.53	0.45	0	1	0	2	23%	19%	28%	32%	1%	1%	36%
15	0.000%	20.26%	26.08%	456	104	0.84	0.49	0.47	0	2	5	1	7%	51%	39%	6%	7%	7%	7%
16	0.000%	13.09%	26.65%	826	146	0.92	0.42	0.52	1	1	17	1	2%	84%	2%	26%	3%	3%	12%
17	0.000%	14.94%	23.21%	2,198	255	0.92	0.57	0.50	1	1	7	0	72%	57%	5%	51%	0%	0%	14%
18	0.000%	7.55%	14.29%	1,953	207	0.92	0.45	0.48	6	2	12	1	13%	74%	6%	29%	0%	0%	4%
19	0.000%	5.58%	15.79%	5,827	404	0.78	0.38	0.33	2	2	7	1	13%	62%	14%	61%	0%	0%	8%
20	0.000%	1.867	22.88%	1,867	247	0.77	0.28	0.50	0	2	13	8	28%	37%	15%	13%	3%	3%	22%
21	0.000%	80.11%	22.88%	2,397	330	0.77	0.28	0.50	0	2	13	8	28%	37%	15%	13%	3%	3%	22%
22	0.000%	12.48%	15.14%	1,888	219	0.82	0.49	0.50	2	1	16	2	9%	68%	7%	48%	0%	0%	10%
23	0.000%	15.88%	24.65%	345	102	0.74	0.42	0.44	0	1	1	1	36%	24%	18%	36%	0%	0%	24%
24	0.000%	13.17%	20.51%	254	105	0.79	0.29	0.50	0	2	11	5	29%	28%	16%	35%	9%	9%	20%
25	0.000%	40.31%	38.46%	183	69	0.90	0.48	0.48	0	2	18	2	36%	36%	32%	46%	0%	0%	10%
26	0.000%	17.52%	42.26%	237	88	0.81	0.38	0.42	0	1	8	3	64%	29%	12%	20%	0%	0%	15%
27	0.000%	7.11%	7.43%	3,684	365	0.57	0.35	0.40	1	2	10	1	9%	69%	20%	19%	0%	0%	4%
28	0.000%	7.07%	44.83%	281	70	0.95	0.73	0.71	0	1	7	1	10%	18%	34%	59%	0%	0%	7%
	0.000%	103.7%	44.83%	6,710	591	0.55	0.24	0.22	1	1	8	0	1%	88%	3%	86%	0%	0%	1%

District lines and City and County Boundaries	In Plan H000C8015	Overall numbers of county and city splits:
Number of Counties	67	
Counties with only one district	47	
Districts with only one county	6	
Counties split into more than one district	20	
Counties with all population in a single district	47	
Aggregate number of county splits	52	
Aggregate number of splits with population	52	
Number of Cities	412	
Cities with only one district	303	
Cities split into more than one district	19	
Cities with all population in only one district	394	
Aggregate number of city splits	42	
Aggregate number of splits with population	41	

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Split Counties and Cities

Plan H00008015

County	Counties included in more than one district				County	Counties included in more than one district				County	Counties included in more than one district			
	Dist	Total Pop	Pop %	Dist Area		Dist	Total Pop	Pop %	Dist Area		Dist	Total Pop	Pop %	Dist Area
Broward	23	553,522	27.5%	880.4	68.0%									
Broward	23	561,713	28.9%	171.5	13.9%									
Broward	24	78,118	4.0%	30.9	0.8%									
Broward	25	769,221	39.6%	236.7	18.5%									
Citrus	11	83,338	4.2%	246.2	8.0%									
Citrus	12	68,927	3.4%	614.9	64.0%									
Collier	18	201,247	9.9%	63.6	14.1%									
Collier	19	172,965	8.6%	1,978.3	74.9%									
Columbia	2	63,874	3.1%	44.8	36.0%									
Columbia	2	63,874	3.1%	52.8	44.0%									
Duval	4	462,814	22.8%	438.2	47.9%									
Duval	5	509,733	25.2%	480.3	51.3%									
Flagler	14	76,823	3.7%	436.3	34.2%									
Flagler	15	523,243	26.0%	322.4	24.6%									
Flagler	16	44,178	2.2%	188.0	14.1%									
Flagler	17	112,722	5.6%	353.2	26.7%									
Jefferson	3	4,210	0.2%	400.3	30.8%									
Jefferson	3	10,100	0.5%	2,725	40.9%									
Lake	6	251,639	12.5%	588.4	44.3%									
Lake	11	282,337	14.1%	7,580	57.7%									
Lake	18	187,848	9.3%	1,239.9	81.9%									
Levin	19	967,974	47.8%	7,780	59.2%									
Levin	2	170,713	8.4%	511.5	39.2%									
Levin	3	121,487	6.0%	1,903	14.6%									
Levin	5	124,227	6.2%	761.7	58.6%									
Madison	6	102,705	5.1%	942.1	72.6%									
Madison	11	117,282	5.8%	2,368	18.3%									
Madison	24	691,102	34.0%	172.0	13.3%									
Madison	28	553,957	27.4%	53.6	4.1%									
Manatee	27	769,221	38.0%	2,807	21.8%									
Manatee	28	686,947	33.8%	1,620.1	12.4%									
Orange	7	83,712	4.1%	18.2	1.4%									
Orange	9	380,945	18.8%	4,500	34.8%									
Orange	10	760,271	37.4%	3,710	28.6%									
Orange	11	768,816	37.8%	147.3	11.4%									
Orange	23	223,559	11.1%	1,267.8	97.3%									
Polk	21	281,244	13.9%	447.3	34.6%									
Polk	22	769,220	37.7%	3,423	26.4%									
Polk	23	287,808	14.1%	82.8	6.4%									
Polk	32	306,913	15.0%	321.4	24.9%									
Polk	33	228,528	11.2%	493.3	37.9%									
Polk	34	189,886	9.3%	231.7	17.9%									
Polk	35	769,221	37.7%	6,148	47.5%									
Polk	36	236,788	11.6%	3,743	28.9%									
Polk	37	177,148	8.6%	541.5	41.6%									
Polk	38	243,025	11.8%	3,603	27.9%									
Polk	39	80,370	3.9%	281.1	21.6%									
Polk	40	303,989	14.9%	804.4	61.9%									
Polk	41	212,851	10.5%	393.0	30.1%									
Polk	42	282,131	13.9%	88.0	6.8%									
Polk	43	47,946	2.3%	822.8	63.8%									
Polk	44	27,527	1.3%	381.5	29.3%									

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Split Counties and Cities

Plan H000C8015

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City	Cities included in report this year starting				Cities included in report this year ending			
	Dist	Total Pop	Pop %	Total Area	Dist	Total Pop	Pop %	Total Area
Cape Coral	12	5,422	4.3%	11.1	12	5,422	4.3%	11.1
Cherwell Beach	19	185,884	93.7%	108.3	19	185,884	93.7%	108.3
Cherwell Beach	20	17,868	82.7%	3.8	20	17,868	82.7%	3.8
Fort Lauderdale	23	58,881	67.8%	12.4	23	58,881	67.8%	12.4
Fort Lauderdale	20	25,418	26.3%	12.4	20	25,418	26.3%	12.4
Fort Lauderdale	75	119,461	57.9%	18.6	75	119,461	57.9%	18.6
Fort Lauderdale	28	21,731	11.9%	5.3	28	21,731	11.9%	5.3
Jacksonville	4	471,734	44.4%	396.3	4	471,734	44.4%	396.3
Jacksonville	5	538,537	53.8%	478.3	5	538,537	53.8%	478.3
Melbourne	26	11,080	18.9%	1.6	26	11,080	18.9%	1.6
Melbourne	23	47,822	81.1%	7.4	23	47,822	81.1%	7.4
Melbourne	24	46,644	29.0%	14.1	24	46,644	29.0%	14.1
Melbourne	26	56,430	15.0%	5.7	26	56,430	15.0%	5.7
Melbourne	27	282,167	65.4%	36.3	27	282,167	65.4%	36.3
Melbourne	28	56,729	42.1%	8.9	28	56,729	42.1%	8.9
Melbourne	23	77,992	57.9%	24.2	23	77,992	57.9%	24.2
Oakland Park	20	15,027	34.0%	3.5	20	15,027	34.0%	3.5
Oakland Park	23	24,194	66.0%	4.7	23	24,194	66.0%	4.7
Oakton	12	14,887	99.9%	10.2	12	14,887	99.9%	10.2
Oakton	13	11	0.1%	0.0	13	11	0.1%	0.0
Orange City	6	12,827	100.0%	7.9	6	12,827	100.0%	7.9
Orange City	7	3	0.0%	0.0	7	3	0.0%	0.0
Orange City	9	79,396	23.9%	60.6	9	79,396	23.9%	60.6
Orange City	10	211,340	72.8%	53.4	10	211,340	72.8%	53.4
Orlando	14	6,275	2.0%	2.9	14	6,275	2.0%	2.9
Orlando	31	16,656	41.9%	7.8	31	16,656	41.9%	7.8
Orlando	16	23,109	59.1%	23.7	16	23,109	59.1%	23.7
Orlando	20	44,313	48.3%	9.3	20	44,313	48.3%	9.3
Orlando	33	47,423	51.7%	12.8	33	47,423	51.7%	12.8
Orlando	20	79,611	44.5%	10.9	20	79,611	44.5%	10.9
Orlando	25	62,335	53.9%	19.8	25	62,335	53.9%	19.8
Orlando	6	67,268	76.4%	18.8	6	67,268	76.4%	18.8
Orlando	7	14,799	23.6%	17.0	7	14,799	23.6%	17.0
Orlando	20	29,104	77.7%	8.8	20	29,104	77.7%	8.8
Orlando	21	3,400	22.3%	2.8	21	3,400	22.3%	2.8
Orlando	2	136,205	94.1%	72.0	2	136,205	94.1%	72.0
Orlando	3	80,995	45.0%	31.0	3	80,995	45.0%	31.0
Orlando	14	236,612	74.3%	137.5	14	236,612	74.3%	137.5
Orlando	13	59,413	23.3%	28.4	13	59,413	23.3%	28.4
Orlando	20	59,949	51.0%	15.2	20	59,949	51.0%	15.2
Orlando	21	21,957	13.7%	9.9	21	21,957	13.7%	9.9
Orlando	22	33,559	30.3%	13.8%	22	33,559	30.3%	13.8%



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Functional Analysis - Summary

Plan H000C8015

Dist	2023 Census			Average Primary Election District			Average General Election District			Average General Election District			High Voters with age			Overall Election Performance in Statewide Election 2013-2020												
	Blk	His	DEM	Blk	His	DEM	Blk	His	DEM	Blk	His	DEM	Blk	His	DEM	Blk	His	DEM	Wins	Loss	Margin	Avg						
5	43,488	9,295	64,176%	1,13%	2,72%	1,21%	57,47%	29,38%	13,25%	64,06%	2,50%	3,25%	2,67%	25,84%	6,54%	80,62%	2,25%	8,30%	45,17%	25,94%	28,23%	57,6%	40,9%	14	0	D +1.0%	0 +5.3%	D -17.2%
9	11,115	34,868	19,075%	36.32%	1,06%	14,46%	41.53%	29,04%	27,43%	17,82%	44,90%	1,93%	15,94%	0,20%	42,95%	78,60%	3,91%	12,42%	52,61%	15,52%	31,84%	57,2%	41,0%	12	2	D +14.0%	D +0.6%	D -16.6%
10	24,816	24,603	44,895%	8.28%	1,75%	4,80%	45.65%	31.63%	21,72%	42,47%	13,40%	2,08%	7,11%	13,84%	17,55%	84,33%	2,79%	12,94%	50,78%	18,23%	30,87%	58,3%	40,9%	11	2	D +3.0%	R +0.3%	D -19.9%
20	20,119	21,908	34,900%	4.45%	6,38%	10,02%	65.49%	14,54%	18,97%	62,40%	8,78%	6,96%	14,86%	19,00%	36,64%	86,64%	7,11%	11,19%	49,92%	18,74%	31,05%	75.4%	20.9%	6	0	D +6.7%	D +5.1%	D -57.8%
24	33,123	28,632	61,028%	10.97%	5,97%	40,95%	65.57%	12,25%	21,17%	64,27%	15,70%	7,35%	43,92%	11,00%	34,66%	87,44%	1,89%	10,50%	44,74%	23,50%	31,60%	80.9%	18.9%	3	0	D +6.5%	D +48.9%	D -61.5%
26	7,114	30,746	20,884%	40.24%	0,40%	58,67%	31.54%	42,55%	25,91%	16,81%	50,40%	0,52%	36,42%	2,48%	65,42%	83,44%	3,55%	12,09%	29,02%	42,50%	28,67%	43.5%	55.2%	2	1	R +1.2%	R +0.5%	R +11.0%
27	7,074	36,728	17,864%	36.74%	0,39%	75,67%	35,72%	38,10%	26,18%	15,24%	45,67%	0,33%	72,01%	63,12%	64,28%	85,81%	3,12%	12,96%	28,84%	49,71%	27,44%	50.6%	48.3%	0	5	D +17.4%	R +0.6%	D +1.7%
28	10,328	30,246	22,56%	36.21%	0,50%	65,41%	35,69%	38,75%	27,55%	21,17%	47,57%	0,78%	64,17%	4,66%	64,28%	82,78%	3,05%	14,07%	28,65%	41,91%	30,00%	50.7%	48.0%	0	5	D +15.7%	R +2.2%	D -3%

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Functional Analysis - Returns

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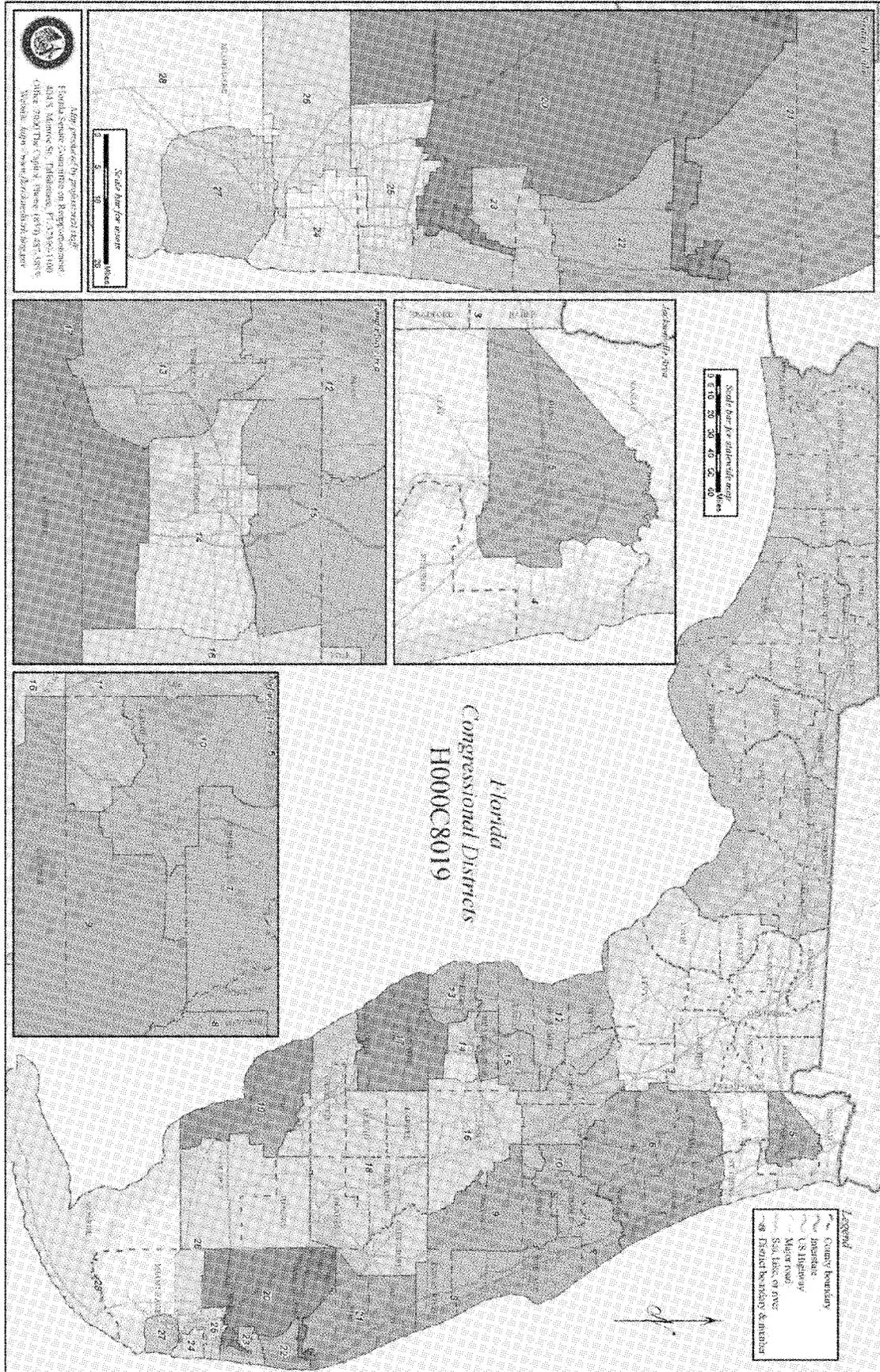
		5	9	10	11	14	16	17	20	
2015	Plan HQ00000315 Primary Elections	R_Balistreri	63.48%	13.13%	28.82%	50.11%	42.17%	7.11%	7.07%	10.32%
		R_Destanis	0.73%	0.53%	0.70%	1.45%	1.93%	1.86%	1.51%	1.82%
		R_Dewine	20.16%	19.7%	49.98%	62.28%	66.84%	66.34%	67.70%	67.73%
		R_Lungford	1.13%	1.97%	1.44%	2.05%	3.26%	2.61%	3.13%	3.31%
		R_Mercadante	0.45%	1.29%	0.75%	1.53%	1.95%	1.42%	1.56%	1.70%
		R_Nellian	0.73%	0.91%	0.82%	1.52%	2.21%	1.86%	2.16%	2.03%
		R_Pattam	40.50%	38.28%	42.16%	25.44%	16.79%	21.84%	18.87%	18.11%
		F_White	1.60%	2.65%	2.06%	2.84%	3.90%	2.58%	3.49%	3.51%
		D_Gillum	58.22%	30.12%	43.54%	53.43%	50.66%	29.57%	28.97%	31.80%
		D_Graham	22.15%	28.52%	29.90%	13.31%	11.07%	20.77%	22.66%	21.12%
D_Greene	5.78%	14.13%	8.51%	10.21%	9.33%	9.95%	7.98%	10.56%		
D_Kege	1.44%	4.21%	4.78%	0.91%	0.76%	2.47%	1.56%	2.11%		
D_Levine	10.87%	19.02%	12.06%	21.28%	27.36%	34.02%	37.17%	32.26%		
D_Lundmark	0.48%	1.17%	0.48%	0.29%	0.38%	1.42%	0.79%	0.90%		
D_Wetherbee	0.84%	1.63%	0.67%	0.37%	0.32%	1.32%	0.76%	0.96%		
Attorney General (REP)	R_Moody	57.23%	58.31%	36.30%	58.46%	59.14%	52.04%	54.81%	54.83%	
	R_White	42.22%	45.68%	43.69%	44.16%	46.51%	47.93%	45.27%	45.11%	
Attorney General (DEM)	D_Shaw	78.50%	60.80%	74.52%	81.41%	82.21%	85.09%	74.10%	69.58%	
	D_Torres	21.44%	39.20%	25.40%	18.54%	17.77%	34.87%	25.97%	30.43%	
Agriculture Commissioner (REP)	R_Calvelli	35.47%	38.31%	34.41%	43.07%	39.87%	43.31%	40.15%	42.08%	
	R_Grimley	20.72%	14.39%	31.13%	26.45%	31.49%	29.28%	32.66%	31.53%	
	R_McCallister	8.64%	16.44%	15.37%	20.87%	16.88%	12.74%	16.76%	16.54%	
	R_Trouman	34.98%	15.21%	19.04%	8.59%	11.33%	15.55%	10.38%	9.57%	
Agriculture Commissioner (DEM)	D_Fried	60.27%	55.02%	55.68%	63.96%	56.13%	51.02%	59.89%	55.23%	
	D_Porter	19.99%	18.80%	16.93%	16.09%	17.30%	20.36%	15.15%	20.47%	
	D_Walker	18.99%	26.22%	27.41%	19.91%	23.59%	24.87%	24.89%	26.19%	
US Senate (REP)	R_DeLaHuente	10.02%	9.94%	12.08%	15.12%	15.72%	9.61%	12.66%	11.23%	
	R_Scott	88.92%	90.04%	87.89%	84.46%	90.34%	87.34%	87.34%	87.83%	
US Senate (DEM)	R_Beruff	22.65%	17.33%	17.72%	14.86%	8.95%	9.21%	5.63%	6.40%	
	R_Rivera	3.62%	3.25%	2.39%	4.55%	3.20%	2.21%	1.52%	2.03%	
	R_Rubio	67.77%	71.55%	74.24%	70.37%	86.78%	84.82%	88.89%	85.70%	
	R_Young	5.77%	7.64%	5.44%	9.04%	7.31%	3.65%	3.50%	4.84%	
2016	US Senate (DEM)	D_DeLaHuente	4.09%	15.35%	4.00%	3.13%	5.63%	19.80%	12.21%	13.69%
		D_Grawson	17.41%	48.21%	38.94%	10.08%	10.80%	11.46%	11.25%	11.07%
		D_Keith	15.22%	9.85%	11.54%	14.72%	13.70%	14.16%	17.89%	15.57%
		D_Lusier	12.35%	19.31%	2.13%	2.22%	2.70%	1.97%	1.53%	1.65%
		D_Murphy	30.72%	28.14%	41.23%	69.53%	65.98%	52.07%	56.92%	57.52%
		R_Adelstein	1.29%	1.74%	1.86%	2.51%	2.89%	1.45%	1.82%	1.75%
		R_Cuevas Neander	7.97%	12.33%	10.24%	14.70%	16.26%	10.38%	13.29%	15.11%
		R_Scott	96.59%	85.81%	87.79%	81.70%	80.61%	87.99%	84.85%	82.94%
		D_Craig	74.06%	76.41%	77.66%	82.45%	84.36%	76.00%	79.98%	78.45%
		D_Rich	25.81%	23.58%	22.27%	16.90%	15.62%	23.65%	25.94%	21.30%
2014	attorney General (DEM)	D_Sheldon	80.76%	80.80%	50.70%	38.33%	46.60%	61.45%	63.55%	
	D_Ministion	59.20%	59.06%	49.15%	61.50%	59.40%	58.12%	58.41%		
2012	US Senate (REP)	R_Mack	57.94%	49.02%	58.52%	65.27%	71.89%	75.40%	79.63%	
	R_McCallister	18.40%	12.08%	10.13%	17.41%	6.67%	8.19%	5.27%	7.31%	
	R_Stuart	5.99%	6.81%	4.77%	6.66%	13.36%	12.07%	13.00%	13.19%	
	R_Weldon	17.27%	31.78%	26.25%	13.83%	7.69%	6.14%	4.50%	5.63%	
	D_Burket	22.15%	19.73%	13.70%	13.97%	14.22%	21.30%	14.82%	18.34%	
	D_Nelson	77.28%	80.23%	86.25%	88.94%	85.75%	76.45%	83.13%	81.50%	

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Functional Analysis - Returns

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		5	9	10	11	12	13	14	15	16	17	18
	Plan H000000015 Special Election	BVAP 9.24%	13.13%	28.80%	24.60%	22.90%	20.13%	42.17%	38.46%	7.11%	7.07%	10.52%
2000	President	D. Biden 39.14%	58.33%	58.33%	62.78%	75.63%	74.33%	43.31%	49.45%	46.47%	50.01%	52.99%
	Governor	D. Gillum 37.39%	61.57%	63.30%	79.93%	81.45%	81.45%	44.85%	53.18%	52.49%	52.49%	52.49%
	Attorney General	R. Desantis 40.03%	37.08%	51.67%	19.45%	17.83%	53.70%	45.75%	45.75%	45.31%	45.31%	45.31%
2018	Chief Financial Officer	D. Shaw 40.03%	58.23%	59.28%	78.44%	80.05%	80.05%	43.09%	51.99%	50.86%	50.86%	50.86%
	Agriculture Commissioner	R. Nibody 40.03%	39.75%	58.97%	20.26%	18.30%	54.93%	48.10%	48.10%	48.94%	48.94%	48.94%
	US Senate	D. King 39.45%	62.07%	61.24%	79.79%	81.52%	81.52%	44.45%	52.59%	51.92%	51.92%	51.92%
	President	R. Perrotti 40.35%	39.21%	58.75%	20.20%	18.46%	55.30%	47.41%	47.41%	48.07%	48.07%	48.07%
	Governor	D. Field 39.45%	62.07%	63.21%	82.00%	82.00%	82.00%	45.64%	54.69%	53.44%	53.44%	53.44%
	US Senate	R. Caldwell 38.55%	60.73%	63.31%	80.00%	81.96%	81.96%	45.20%	54.47%	53.46%	53.46%	53.46%
2016	President	K. Scott 38.55%	60.73%	63.31%	80.00%	81.96%	81.96%	45.20%	54.47%	53.46%	53.46%	53.46%
	Governor	D. Clinton 38.23%	61.80%	60.80%	77.83%	81.05%	81.05%	51.27%	57.42%	56.46%	56.46%	56.46%
	US Senate	R. Trump 39.23%	34.59%	35.49%	20.39%	17.28%	75.53%	45.45%	40.05%	40.81%	40.81%	40.81%
	Governor	D. Murphy 44.58%	40.91%	40.45%	72.42%	21.90%	58.70%	50.11%	44.93%	44.93%	44.93%	44.93%
2014	Chief Financial Officer	D. Crist 40.89%	55.04%	55.47%	79.92%	82.18%	82.18%	41.24%	50.00%	51.20%	51.20%	51.20%
	Attorney General	R. Scott 42.21%	42.21%	39.64%	17.97%	16.24%	56.03%	47.55%	45.89%	45.89%	45.89%	45.89%
	Governor	D. Sheldon 45.27%	48.95%	52.75%	78.13%	79.80%	38.85%	46.03%	45.82%	45.82%	45.82%	45.82%
	US Senate	F. Bondi 52.66%	49.04%	49.58%	78.48%	79.08%	80.82%	51.08%	51.75%	51.75%	51.75%	51.75%
	Attorney General	D. Renta 47.37%	50.80%	50.43%	24.50%	20.95%	61.75%	46.57%	46.04%	46.04%	46.04%	46.04%
	Chief Financial Officer	R. Altabe 45.25%	47.89%	49.87%	77.03%	79.70%	37.88%	44.30%	44.30%	46.04%	46.04%	46.04%
	Agriculture Commissioner	K. Putnam 60.17%	61.57%	59.68%	80.63%	82.82%	49.53%	52.22%	54.89%	54.89%	54.89%	54.89%
2012	President	D. Obama 39.01%	37.59%	39.48%	19.06%	16.83%	49.98%	47.27%	44.61%	44.61%	44.61%	44.61%
	US Senate	D. Nelson 33.30%	31.47%	33.54%	16.82%	15.49%	45.52%	44.15%	42.03%	42.03%	42.03%	42.03%



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Census and Boundary Statistics

Plan H000C8019

Dist	Deviation		Voting Age Population		Area (sq.m)	Permi (mi)	Center		Popper	Ratio	Ratio	Counties		Cities		Political and Geographic Boundaries						
	Total	%	Black	Hisp			Full	Popper				Whole	Parts	Whole	Parts	City	County	Road	Water	Rail	Non-Po/Geo	
1	0	0.00%	13.54%	6.69%	4,416	341	0.37	0.48	0.56	0.46	0.56	3	1	16	0	8%	78%	10%	53%	0%	0%	3%
2	0	0.00%	23.09%	6.42%	12,839	578	0.82	0.48	0.53	0.53	0.53	14	2	50	0	5%	84%	7%	49%	0%	0%	3%
3	0	0.00%	15.61%	9.97%	8,230	443	0.91	0.53	0.53	0.53	10	2	41	0	5%	82%	3%	31%	0%	0%	13%	
4	0	0.00%	8.91%	7.95%	2,190	408	0.68	0.17	0.40	0.40	2	2	12	1	25%	80%	5%	46%	0%	0%	10%	
5	0	0.00%	35.33%	10.75%	630	131	0.90	0.45	0.52	0.52	0	1	1	1	65%	55%	10%	29%	1%	0%	21%	
6	0	0.00%	10.89%	9.69%	3,856	312	0.92	0.50	0.71	0.71	2	4	21	2	14%	49%	14%	37%	0%	0%	18%	
7	0	0.00%	11.42%	21.14%	914	169	0.82	0.40	0.50	0.50	1	2	12	2	26%	47%	1%	31%	0%	0%	15%	
8	0	0.00%	9.69%	10.00%	2,263	272	0.81	0.38	0.29	0.29	2	1	22	0	3%	92%	1%	54%	0%	0%	2%	
9	0	0.00%	13.13%	30.68%	1,956	270	0.86	0.34	0.48	0.48	1	1	2	2	2%	86%	10%	36%	0%	0%	4%	
10	0	0.00%	28.80%	24.60%	377	110	0.77	0.39	0.50	0.47	0	1	1	9	20%	55%	23%	20%	0%	0%	19%	
11	0	0.00%	8.53%	15.87%	1,923	274	0.79	0.32	0.36	0.36	1	4	22	2	12%	48%	15%	17%	1%	0%	29%	
12	0	0.00%	4.53%	10.60%	2,089	312	0.61	0.27	0.40	0.40	1	3	7	7	10%	72%	6%	57%	0%	0%	13%	
13	0	0.00%	11.46%	9.77%	675	112	0.91	0.63	0.58	0.58	0	1	21	1	44%	70%	0%	86%	0%	0%	1%	
14	0	0.00%	20.26%	26.08%	456	104	0.87	0.53	0.45	0.45	0	1	0	2	23%	19%	28%	32%	1%	0%	36%	
15	0	0.00%	13.09%	26.65%	816	146	0.84	0.49	0.47	0.47	0	2	5	1	7%	51%	39%	6%	7%	0%	7%	
16	0	0.00%	14.94%	23.21%	2,198	255	0.92	0.42	0.52	0.52	1	1	17	1	2%	84%	2%	26%	3%	0%	12%	
17	0	0.00%	7.55%	14.29%	1,953	207	0.92	0.57	0.50	0.50	1	2	7	0	22%	57%	5%	51%	0%	0%	14%	
18	0	0.00%	7.69%	15.79%	5,827	404	0.82	0.45	0.48	0.48	6	2	12	1	13%	74%	6%	29%	0%	0%	4%	
19	0	0.00%	5.53%	15.79%	1,867	247	0.78	0.38	0.33	0.33	0	2	7	1	13%	52%	14%	61%	0%	0%	8%	
20	0	0.00%	30.11%	22.98%	2,297	330	0.77	0.28	0.50	0.50	0	2	13	8	28%	37%	15%	12%	3%	0%	22%	
21	0	0.00%	12.46%	15.14%	1,888	219	0.92	0.49	0.50	0.50	2	1	16	2	9%	60%	7%	46%	0%	0%	16%	
22	-1	0.00%	15.88%	24.65%	345	102	0.74	0.42	0.44	0.44	1	1	19	1	36%	24%	18%	36%	0%	0%	24%	
23	0	0.00%	13.11%	20.51%	254	105	0.79	0.29	0.50	0.50	0	2	11	5	29%	28%	16%	38%	9%	0%	20%	
24	0	0.00%	40.11%	38.48%	183	89	0.90	0.48	0.48	0.48	0	2	18	2	36%	36%	32%	46%	0%	0%	10%	
25	0	0.00%	17.52%	42.26%	237	88	0.81	0.38	0.42	0.42	0	1	8	3	64%	29%	12%	20%	0%	0%	15%	
26	0	0.00%	7.11%	7.43%	3,694	385	0.67	0.35	0.40	0.40	2	2	10	1	9%	69%	20%	19%	0%	0%	4%	
27	0	0.00%	7.07%	7.43%	281	70	0.95	0.73	0.71	0.71	1	1	7	1	10%	18%	34%	59%	0%	0%	7%	
28	0	0.00%	10.37%	4.43%	6,710	591	0.55	0.24	0.22	0.22	1	1	8	0	1%	88%	8%	85%	0%	0%	14%	

District lines and City and County Boundaries	In Plan H000C8019
Number of Counties	67
Counties with only one district	49
Districts with only one county	7
Counties split into more than one district	18
Counties with all population in a single district	49
Aggregate number of county splits	48
Aggregate number of splits with population	48
Number of Cities	412
Cities with only one district	394
Cities split into more than one district	18
Cities with all population in only one district	395
Aggregate number of city splits	40
Aggregate number of splits with population	39

Overall numbers of county and city splits:

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Split Counties and Cities

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County	Counties included in more than one district				County	Counties included in more than one district				County	Counties included in more than one district			
	Dist	Counties	Pop	Total Area		Dist	Counties	Pop	Total Area		Dist	Counties	Pop	Total Area
Broward	23	553,932	27,526	899.4	23	553,932	27,526	899.4	23	553,932	27,526	899.4		
Broward	24	78,119	4,026	30.9	24	78,119	4,026	30.9	24	78,119	4,026	30.9		
Broward	25	769,221	39,626	2,567	25	769,221	39,626	2,567	25	769,221	39,626	2,567		
Citrus	11	55,336	62,026	3,462	11	55,336	62,026	3,462	11	55,336	62,026	3,462		
Citrus	12	58,807	38,026	6,145	12	58,807	38,026	6,145	12	58,807	38,026	6,145		
Collier	13	201,347	53,406	6,568	13	201,347	53,406	6,568	13	201,347	53,406	6,568		
Collier	25	179,505	46,406	1,978	25	179,505	46,406	1,978	25	179,505	46,406	1,978		
Duval	4	226,346	22,726	2,966	4	226,346	22,726	2,966	4	226,346	22,726	2,966		
Duval	5	769,221	52,726	4,263	5	769,221	52,726	4,263	5	769,221	52,726	4,263		
Hallebach	14	553,942	36,026	3,880	14	553,942	36,026	3,880	14	553,942	36,026	3,880		
Hallebach	15	44,175	3,026	1,880	15	44,175	3,026	1,880	15	44,175	3,026	1,880		
Hallebach	17	112,726	7,726	3,552	17	112,726	7,726	3,552	17	112,726	7,726	3,552		
Ladyburg	2	1,721	2,026	433	2	1,721	2,026	433	2	1,721	2,026	433		
Ladyburg	6	306,811	27,226	4,873	6	306,811	27,226	4,873	6	306,811	27,226	4,873		
Lake	11	277,143	72,226	6,634	11	277,143	72,226	6,634	11	277,143	72,226	6,634		
Lake	18	167,248	15,426	2,750	18	167,248	15,426	2,750	18	167,248	15,426	2,750		
Lee	19	967,248	74,726	12,346	19	967,248	74,726	12,346	19	967,248	74,726	12,346		
Madison	8	206,535	53,026	6,156	8	206,535	53,026	6,156	8	206,535	53,026	6,156		
Madison	6	56,449	23,726	2,687	6	56,449	23,726	2,687	6	56,449	23,726	2,687		
Madison	11	72,078	19,526	1,804	11	72,078	19,526	1,804	11	72,078	19,526	1,804		
Madison	23	552,587	29,626	3,165	23	552,587	29,626	3,165	23	552,587	29,626	3,165		
Madison	27	769,221	28,526	2,807	27	769,221	28,526	2,807	27	769,221	28,526	2,807		
Madison	28	686,547	23,426	2,420	28	686,547	23,426	2,420	28	686,547	23,426	2,420		
Orange	7	85,712	6,026	782	7	85,712	6,026	782	7	85,712	6,026	782		
Orange	9	380,565	26,826	4,500	9	380,565	26,826	4,500	9	380,565	26,826	4,500		
Orange	10	769,221	32,826	3,710	10	769,221	32,826	3,710	10	769,221	32,826	3,710		
Orange	11	165,410	13,426	1,472	11	165,410	13,426	1,472	11	165,410	13,426	1,472		
Orange	20	255,558	15,226	1,307	20	255,558	15,226	1,307	20	255,558	15,226	1,307		
Orange	21	281,944	16,926	4,473	21	281,944	16,926	4,473	21	281,944	16,926	4,473		
Orange	22	769,221	51,826	3,453	22	769,221	51,826	3,453	22	769,221	51,826	3,453		
Polk	23	707,568	13,826	628	23	707,568	13,826	628	23	707,568	13,826	628		
Polk	12	526,933	34,126	3,214	12	526,933	34,126	3,214	12	526,933	34,126	3,214		
Polk	13	223,578	42,026	4,393	13	223,578	42,026	4,393	13	223,578	42,026	4,393		
Polk	14	189,886	19,226	2,317	14	189,886	19,226	2,317	14	189,886	19,226	2,317		
Polk	15	769,221	58,226	6,243	15	769,221	58,226	6,243	15	769,221	58,226	6,243		
Polk	17	236,708	39,226	6,343	17	236,708	39,226	6,343	17	236,708	39,226	6,343		
Polk	19	177,218	40,826	3,415	19	177,218	40,826	3,415	19	177,218	40,826	3,415		
Polk	4	234,278	85,226	3,216	4	234,278	85,226	3,216	4	234,278	85,226	3,216		
Polk	6	305,469	64,126	2,993	6	305,469	64,126	2,993	6	305,469	64,126	2,993		
Polk	7	212,659	34,426	5,940	7	212,659	34,426	5,940	7	212,659	34,426	5,940		
Polk	8	241	0,226	880	8	241	0,226	880	8	241	0,226	880		
Polk	3	47,246	43,726	8273	3	47,246	43,726	8273	3	47,246	43,726	8273		
Polk	2	27,257	58,726	5,873	2	27,257	58,726	5,873	2	27,257	58,726	5,873		

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Split Counties and Cities

Plan H000C8019

City	Cities included in more than one district					City	Cities included in more than one district					City	Cities included in more than one district							
	Dist	Pop	Area	Pop	Area		Dist	Pop	Area	Pop	Area		Dist	Pop	Area	Pop	Area			
Cape Coral	18	8,427	4.2%	95.7%	11.1	9,316	18	8,427	4.2%	95.7%	11.1	9,316	18	8,427	4.2%	95.7%	11.1	9,316		
Dunfield Beach	30	27,966	32.1%	67.8%	3.8	25,536	30	27,966	32.1%	67.8%	3.8	25,536	30	27,966	32.1%	67.8%	3.8	25,536		
Fort Lauderdale	20	55,428	50.3%	11.4	44.1%	11.4	44.1%	20	55,428	50.3%	11.4	44.1%	20	55,428	50.3%	11.4	44.1%	11.4	44.1%	
Fort Lauderdale	28	105,001	97.8%	1.8	51.2%	1.8	51.2%	28	105,001	97.8%	1.8	51.2%	28	105,001	97.8%	1.8	51.2%	1.8	51.2%	
Fort Lauderdale	4	21,731	11.9%	5.3	14.7%	5.3	14.7%	4	21,731	11.9%	5.3	14.7%	4	21,731	11.9%	5.3	14.7%	5.3	14.7%	
Jacksonville	5	141,756	131.8%	756.6	2541%	617.8	707.7%	5	141,756	131.8%	756.6	2541%	617.8	707.7%	141,756	131.8%	756.6	2541%	617.8	707.7%
Key Biscayne	20	11,060	10.0%	1.6	17.8%	1.6	17.8%	20	11,060	10.0%	1.6	17.8%	20	11,060	10.0%	1.6	17.8%	1.6	17.8%	
Key Biscayne	23	47,032	81.1%	7.4	32.2%	7.4	32.2%	23	47,032	81.1%	7.4	32.2%	23	47,032	81.1%	7.4	32.2%	7.4	32.2%	
Miami	24	85,044	19.0%	14.1	25.1%	14.1	25.1%	24	85,044	19.0%	14.1	25.1%	24	85,044	19.0%	14.1	25.1%	14.1	25.1%	
Miami	26	85,433	19.0%	5.7	10.1%	5.7	10.1%	26	85,433	19.0%	5.7	10.1%	26	85,433	19.0%	5.7	10.1%	5.7	10.1%	
Miami	27	289,167	65.4%	38.3	64.8%	38.3	64.8%	27	289,167	65.4%	38.3	64.8%	27	289,167	65.4%	38.3	64.8%	38.3	64.8%	
Miami	28	56,719	42.1%	8.9	22.3%	8.9	22.3%	28	56,719	42.1%	8.9	22.3%	28	56,719	42.1%	8.9	22.3%	8.9	22.3%	
Miami	29	77,982	57.9%	2.8	7.7%	2.8	7.7%	29	77,982	57.9%	2.8	7.7%	29	77,982	57.9%	2.8	7.7%	2.8	7.7%	
Oakland Park	20	15,047	34.0%	3.5	43.0%	3.5	43.0%	20	15,047	34.0%	3.5	43.0%	20	15,047	34.0%	3.5	43.0%	3.5	43.0%	
Oakland Park	23	28,152	66.0%	4.7	57.0%	4.7	57.0%	23	28,152	66.0%	4.7	57.0%	23	28,152	66.0%	4.7	57.0%	4.7	57.0%	
Orlando	12	10,847	99.9%	1.8	100.0%	1.8	100.0%	12	10,847	99.9%	1.8	100.0%	12	10,847	99.9%	1.8	100.0%	1.8	100.0%	
Orlando	13	11	0.1%	0.0	0.0%	0.0	0.0%	13	11	0.1%	0.0	0.0%	13	11	0.1%	0.0	0.0%	0.0	0.0%	
Orange City	6	12,482	100.0%	7.9	136.0%	7.9	136.0%	6	12,482	100.0%	7.9	136.0%	6	12,482	100.0%	7.9	136.0%	7.9	136.0%	
Orange City	7	0	0.0%	0.0	0.0%	0.0	0.0%	7	0	0.0%	0.0	0.0%	7	0	0.0%	0.0	0.0%	0.0	0.0%	
Orlando	9	79,758	72.0%	65.6	51.0%	65.6	51.0%	9	79,758	72.0%	65.6	51.0%	9	79,758	72.0%	65.6	51.0%	65.6	51.0%	
Orlando	10	211,340	202.9%	53.4	46.0%	53.4	46.0%	10	211,340	202.9%	53.4	46.0%	10	211,340	202.9%	53.4	46.0%	53.4	46.0%	
Orlando	11	6,235	2.0%	2.9	2.4%	2.9	2.4%	11	6,235	2.0%	2.9	2.4%	11	6,235	2.0%	2.9	2.4%	2.9	2.4%	
Orlando	14	15,055	41.9%	20.7	72.5%	20.7	72.5%	14	15,055	41.9%	20.7	72.5%	14	15,055	41.9%	20.7	72.5%	20.7	72.5%	
Orlando	16	23,109	59.1%	9.5	42.0%	9.5	42.0%	16	23,109	59.1%	9.5	42.0%	16	23,109	59.1%	9.5	42.0%	9.5	42.0%	
Orlando	20	44,215	48.5%	12.8	56.0%	12.8	56.0%	20	44,215	48.5%	12.8	56.0%	20	44,215	48.5%	12.8	56.0%	12.8	56.0%	
Orlando	33	47,423	51.7%	13.9	44.1%	13.9	44.1%	33	47,423	51.7%	13.9	44.1%	33	47,423	51.7%	13.9	44.1%	13.9	44.1%	
Orlando	20	69,811	64.5%	15.8	53.9%	15.8	53.9%	20	69,811	64.5%	15.8	53.9%	20	69,811	64.5%	15.8	53.9%	15.8	53.9%	
Port Orange	4	97,893	76.4%	18.8	53.9%	18.8	53.9%	4	97,893	76.4%	18.8	53.9%	4	97,893	76.4%	18.8	53.9%	18.8	53.9%	
Port Orange	7	10,795	23.8%	11.0	34.7%	11.0	34.7%	7	10,795	23.8%	11.0	34.7%	7	10,795	23.8%	11.0	34.7%	11.0	34.7%	
Port Orange	20	29,504	17.3%	6.8	70.7%	6.8	70.7%	20	29,504	17.3%	6.8	70.7%	20	29,504	17.3%	6.8	70.7%	6.8	70.7%	
Port Orange	21	8,440	27.3%	7.8	79.3%	7.8	79.3%	21	8,440	27.3%	7.8	79.3%	21	8,440	27.3%	7.8	79.3%	7.8	79.3%	
Port Orange	14	288,651	74.5%	137.5	79.2%	137.5	79.2%	14	288,651	74.5%	137.5	79.2%	14	288,651	74.5%	137.5	79.2%	137.5	79.2%	
Port Orange	15	298,528	23.0%	38.4	21.8%	38.4	21.8%	15	298,528	23.0%	38.4	21.8%	15	298,528	23.0%	38.4	21.8%	38.4	21.8%	
Port Orange	20	21,927	13.7%	3.9	20.2%	3.9	20.2%	20	21,927	13.7%	3.9	20.2%	20	21,927	13.7%	3.9	20.2%	3.9	20.2%	
Port Orange	22	25,599	20.5%	8.0	13.8%	8.0	13.8%	22	25,599	20.5%	8.0	13.8%	22	25,599	20.5%	8.0	13.8%	8.0	13.8%	

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Dist.	2020 General			2020 General Election														
	Ballot	Ballot	Ballot	DEM	REP	OTH	Ballot	Ballot	Ballot	DEM	REP	OTH	Ballot	Ballot	Ballot	DEM	REP	OTH
5	35.32%	10.75%	46.52%	31.48%	22.20%	24.83%	5.87%	45.83%	48.43%	51.99%	3.39%	15.03%	40.04%	23.13%	36.85%	61.32%	5.07%	3.75%
9	13.13%	26.44%	41.74%	23.23%	32.03%	9.40%	45.83%	48.43%	71.95%	3.90%	21.05%	45.07%	13.80%	39.44%	61.32%	1.61%	1.61%	1.61%
10	18.60%	24.60%	46.86%	25.41%	28.23%	24.53%	37.16%	41.16%	77.85%	3.20%	18.97%	45.07%	14.94%	38.11%	61.32%	3.08%	10.08%	16.47%
20	19.11%	22.98%	61.33%	13.79%	24.88%	48.81%	15.27%	15.27%	61.47%	2.53%	15.98%	45.07%	17.48%	36.51%	61.32%	8.57%	19.75%	38.08%
24	21.23%	28.46%	60.65%	13.89%	27.37%	48.33%	27.38%	32.62%	82.62%	2.44%	14.98%	42.28%	20.07%	37.09%	60.56%	8.52%	19.18%	34.08%
26	71.18%	74.17%	30.43%	37.27%	32.10%	5.62%	27.88%	27.88%	77.83%	4.40%	17.02%	39.03%	36.02%	36.72%	14.58%	0.68%	60.25%	0.68%
27	74.07%	74.07%	34.21%	33.59%	32.01%	6.10%	27.88%	27.88%	78.63%	3.49%	17.42%	38.03%	36.90%	35.00%	13.97%	0.68%	50.91%	0.68%
28	10.92%	33.82%	35.82%	32.59%	38.51%	8.08%	27.88%	27.88%	77.57%	3.44%	18.87%	28.78%	35.48%	35.75%	19.84%	0.92%	51.25%	0.92%



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Functional Analysis - Returns

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Year	Office	Candidate	Party	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
2018	Governor (REP)	R. Baldruf	REP	10.75%	0.71%	0.99%	0.70%	1.45%	1.93%	1.86%	1.52%	1.82%	1.82%	1.82%
		R. Desantis	REP	58.21%	52.35%	49.98%	62.28%	68.81%	66.34%	67.70%	67.70%	67.70%	67.70%	67.70%
		R. Langford	REP	1.01%	1.47%	1.87%	1.82%	1.93%	1.41%	1.56%	1.70%	1.70%	1.70%	1.70%
	Governor (DEM)	R. Mercurante	DEM	0.51%	1.29%	0.75%	1.53%	2.21%	1.65%	2.18%	2.18%	2.09%	2.09%	2.09%
		R. Malinin	DEM	0.76%	0.51%	0.82%	1.52%	2.71%	1.10%	1.41%	1.41%	1.41%	1.41%	1.41%
		R. Putnam	DEM	34.98%	38.28%	42.16%	25.44%	16.79%	21.84%	18.87%	18.11%	18.11%	18.11%	18.11%
	Attorney General (REP)	R. White	REP	1.57%	2.65%	2.05%	2.84%	3.00%	2.58%	3.09%	3.09%	3.15%	3.15%	3.15%
		D. Gillum	DEM	54.23%	30.12%	43.54%	53.45%	30.66%	23.57%	28.97%	28.97%	31.80%	31.80%	31.80%
		D. Greene	DEM	21.58%	29.52%	29.90%	13.11%	11.07%	20.77%	22.65%	22.65%	21.12%	21.12%	21.12%
	Attorney General (DEM)	D. King	DEM	1.70%	4.25%	4.78%	0.91%	0.75%	2.47%	1.56%	2.11%	2.11%	2.11%	2.11%
		D. Levine	DEM	14.26%	19.02%	12.08%	21.23%	27.38%	34.05%	37.79%	37.46%	37.46%	37.46%	37.46%
		D. Lundmark	DEM	0.48%	1.17%	0.49%	0.29%	0.38%	1.42%	0.79%	0.90%	0.90%	0.90%	0.90%
Agriculture Commissioner (REP)	D. Wetherbee	REP	0.78%	1.03%	0.07%	0.37%	0.32%	1.32%	0.70%	0.90%	0.90%	0.90%	0.90%	
	R. Moody	REP	57.28%	54.31%	56.32%	53.46%	53.14%	52.04%	54.81%	54.81%	54.81%	54.81%	54.81%	
	R. White	REP	42.75%	45.68%	43.69%	44.18%	46.91%	47.93%	48.20%	48.20%	48.20%	48.20%	48.20%	
Agriculture Commissioner (DEM)	D. Shaw	DEM	75.95%	60.80%	74.52%	81.41%	82.23%	85.99%	74.10%	65.58%	65.58%	65.58%	65.58%	
	D. Torrens	DEM	24.04%	39.20%	25.48%	18.58%	17.77%	13.87%	13.87%	23.90%	30.43%	30.43%	30.43%	
	R. Callaway	DEM	32.18%	36.91%	34.31%	43.02%	39.87%	42.18%	40.18%	40.18%	40.18%	40.18%		
Agriculture Commissioner (REP)	R. Gennady	REP	16.70%	31.93%	31.13%	26.93%	31.49%	29.28%	32.68%	31.93%	31.93%	31.93%	31.93%	
	R. McCalister	REP	7.96%	16.42%	15.37%	20.87%	16.88%	12.74%	16.78%	16.54%	16.54%	16.54%	16.54%	
	F. Troutman	REP	43.14%	15.21%	19.04%	8.59%	11.31%	15.95%	10.33%	9.57%	9.57%	9.57%	9.57%	
Agriculture Commissioner (DEM)	D. Fried	DEM	62.76%	55.00%	55.66%	63.96%	59.13%	51.02%	59.89%	53.25%	53.25%	53.25%	53.25%	
	D. Porter	DEM	20.10%	18.82%	16.93%	16.09%	17.30%	23.46%	15.13%	20.42%	20.42%	20.42%	20.42%	
	D. Walker	DEM	17.12%	26.22%	27.41%	19.91%	22.59%	23.37%	24.89%	24.89%	24.89%	24.89%	24.89%	
US Senate (REP)	R. Scott	REP	9.48%	9.94%	12.08%	13.12%	15.72%	9.61%	11.61%	12.23%	12.23%	12.23%	12.23%	
	R. De La Huenta	REP	90.52%	90.04%	87.89%	84.48%	84.02%	90.24%	87.89%	87.89%	87.89%	87.89%	87.89%	
	R. Bertrf	REP	28.79%	17.33%	17.72%	14.48%	8.38%	9.21%	5.65%	6.46%	6.46%	6.46%	6.46%	
US Senate (REP)	R. Rivera	REP	3.30%	3.85%	2.30%	4.55%	3.20%	2.21%	1.02%	2.95%	2.95%	2.95%	2.95%	
	R. Rubio	REP	67.90%	71.55%	74.24%	70.97%	80.78%	84.85%	88.89%	85.70%	85.70%	85.70%	85.70%	
	R. Young	REP	5.02%	7.68%	5.44%	9.04%	7.31%	3.65%	3.50%	4.84%	4.84%	4.84%	4.84%	
US Senate (DEM)	D. De La Puente	DEM	3.44%	15.35%	4.00%	3.13%	5.63%	13.80%	12.21%	13.69%	13.69%	13.69%	13.69%	
	D. Grasson	DEM	11.94%	45.21%	39.94%	10.08%	10.80%	11.46%	11.26%	11.07%	11.07%	11.07%	11.07%	
	D. Keith	DEM	15.88%	9.85%	12.58%	14.72%	13.78%	14.16%	14.16%	17.89%	15.57%	15.57%	15.57%	
Governor (REP)	D. Ustery	REP	17.28%	1.31%	2.13%	2.22%	2.70%	1.97%	1.55%	1.55%	1.55%	1.55%	1.55%	
	D. Murphy	REP	51.70%	28.14%	41.29%	69.93%	68.98%	52.07%	56.90%	57.52%	57.52%	57.52%	57.52%	
	R. Adestina	REP	0.96%	1.74%	1.86%	2.51%	7.89%	1.45%	1.81%	1.75%	1.75%	1.75%	1.75%	
Governor (DEM)	R. Cuevas Neundor	DEM	6.83%	12.32%	10.24%	14.70%	16.26%	10.38%	13.29%	15.11%	15.11%	15.11%	15.11%	
	R. Scott	DEM	92.24%	85.81%	87.79%	81.70%	87.99%	84.83%	82.94%	82.94%	82.94%	82.94%	82.94%	
	D. Ciri	DEM	69.80%	76.41%	77.66%	81.88%	84.36%	76.00%	73.98%	73.98%	73.98%	73.98%		
Attorney General (DEM)	D. Rich	DEM	30.37%	22.58%	22.27%	15.67%	15.67%	23.65%	23.94%	21.30%	21.30%	21.30%		
	D. Sheldon	DEM	58.23%	60.92%	50.75%	38.39%	46.60%	61.45%	65.55%	61.36%	61.36%	61.36%		
	D. Thurston	DEM	41.87%	59.06%	49.18%	61.59%	53.40%	38.12%	54.43%	38.41%	38.41%	38.41%		
US Senate (REP)	R. Mack	REP	62.83%	49.02%	58.59%	65.77%	71.88%	73.40%	77.15%	78.63%	78.63%	78.63%		
	R. McClister	REP	16.59%	10.08%	10.19%	12.41%	6.67%	8.19%	5.22%	7.31%	7.31%	7.31%		
	R. Stuart	REP	5.77%	6.81%	4.77%	6.66%	13.36%	12.07%	13.00%	13.19%	13.19%	13.19%		
US Senate (DEM)	R. Walden	DEM	14.86%	31.78%	26.25%	13.82%	7.69%	6.14%	4.50%	5.63%	5.63%	5.63%		
	D. Burkett	DEM	21.01%	19.73%	13.70%	13.92%	14.22%	21.30%	14.82%	18.34%	18.34%	18.34%		
	D. Nelson	DEM	78.99%	80.23%	86.18%	86.94%	86.75%	78.65%	85.13%	81.50%	81.50%	81.50%		

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Year	Position	Holder	5	9	16	23	24	26	27	28
2020	General Elections	D. Biden	55.52%	13.13%	28.82%	50.11%	42.17%	7.11%	7.07%	10.31%
		R. Trump	40.21%	40.65%	36.18%	22.52%	25.28%	59.15%	50.01%	52.99%
		D. Gillum	42.37%	37.08%	35.67%	19.45%	17.83%	53.73%	45.75%	46.31%
		R. Desantis	45.35%	35.75%	38.97%	20.26%	18.39%	54.95%	46.19%	46.94%
		D. Fing	54.27%	60.69%	61.24%	79.79%	81.53%	44.45%	52.59%	51.92%
		R. Patronis	45.73%	39.31%	38.76%	20.20%	18.46%	55.53%	47.41%	48.07%
2018	Chief Financial Officer	D. Fried	55.15%	62.07%	63.21%	80.09%	82.00%	45.64%	54.63%	53.44%
		R. Caldwell	44.85%	37.93%	36.79%	19.89%	18.00%	54.35%	45.38%	46.56%
		D. Nelson	55.54%	60.28%	63.31%	80.00%	81.96%	45.70%	54.47%	53.46%
		R. Scott	44.36%	39.77%	36.69%	20.00%	18.64%	54.25%	45.52%	46.53%
		D. Clinton	52.29%	61.86%	60.80%	77.83%	81.05%	51.21%	57.42%	56.46%
		R. Trump	44.38%	34.55%	35.48%	20.39%	17.28%	45.49%	40.05%	40.81%
2016	US Senate	D. Murphy	44.53%	54.99%	55.69%	75.64%	75.93%	41.07%	47.78%	47.69%
		R. Rubio	51.97%	40.91%	40.45%	22.42%	21.99%	56.76%	50.17%	48.92%
		D. Crist	46.95%	52.69%	55.47%	79.92%	82.18%	41.24%	50.00%	51.20%
		R. Scott	46.80%	42.21%	39.64%	17.97%	16.24%	45.03%	47.55%	45.89%
		D. Sheldon	43.89%	48.96%	52.75%	76.13%	79.80%	36.85%	46.03%	45.82%
		R. Bondi	53.40%	48.12%	44.23%	22.42%	18.77%	60.87%	51.06%	51.75%
2014	Attorney General	D. Fannin	44.48%	49.04%	49.58%	75.48%	79.06%	33.24%	43.49%	45.87%
		R. Aivatar	55.52%	50.85%	50.47%	24.50%	20.93%	61.75%	58.52%	54.13%
		D. Hamilton	47.42%	47.38%	49.85%	77.02%	79.78%	37.86%	44.30%	46.04%
		R. Putnam	52.58%	52.11%	50.13%	22.99%	20.21%	62.23%	53.66%	53.95%
		D. Obama	52.96%	61.57%	59.68%	80.52%	82.83%	40.53%	52.22%	54.83%
		R. Romney	46.20%	37.55%	39.48%	19.06%	16.83%	43.98%	47.77%	44.61%
2012	US Senate	D. Nelson	57.33%	66.05%	64.54%	81.07%	83.46%	51.33%	54.47%	56.33%
		R. Mack	39.83%	31.47%	33.54%	16.82%	15.49%	46.52%	44.15%	42.03%