

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.

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

Defendants.

Case No. 2022-ca-000666

PLAINTIFFS' BRIEF ON OUTSTANDING LEGAL ISSUES

The Parties now agree that the Enacted Map diminishes the electoral power of Black voters in North Florida, who were previously able to elect their candidates of choice in North Florida under last decade's Benchmark Map, *see* Stip. IV(B) & Stip. Ex. 1 at ¶ 3(o), but are no longer able to do so under the Enacted Map, *id.* ¶ 4(o). Under binding Florida Supreme Court precedent, that alone is enough to prove a diminishment claim under Article III, Section 20(a) of the Florida Constitution.

With the facts of diminishment beyond dispute, Defendants' only recourse to avoid liability is to upend Florida precedent. This Court should reject Defendants' invitation to adopt a new standard for diminishment claims. The Florida Supreme Court has *never* required a minority group to constitute 50% of the voting age population of a district before it can be protected from diminishment. Indeed, just last year, Defendants Florida House and Florida Senate disavowed any such requirement before the Florida Supreme Court.

This Court should also reject Defendants' affirmative defenses under the Equal Protection Clause, which Defendants Florida House and Florida Senate themselves frequently rebuffed as the

Governor’s “novel legal theory” during the redistricting cycle. Not only do Defendants lack standing to raise this theory in the first place, but they do not and cannot meet their burden to establish that compliance with the non-diminishment provision of the Florida Constitution necessitates racial gerrymandering in violation of the Equal Protection Clause of the U.S. Constitution.

Ultimately, Defendants’ legal arguments are foreclosed by binding precedent, and they do nothing to change the outcome of this straightforward challenge under Florida’s Fair Districts Amendments. This Court should enter judgment in Plaintiffs’ favor on Count I.

BACKGROUND

I. The Fair Districts Amendments protect minority voters from redistricting plans that diminish their ability to elect their candidates of choice.

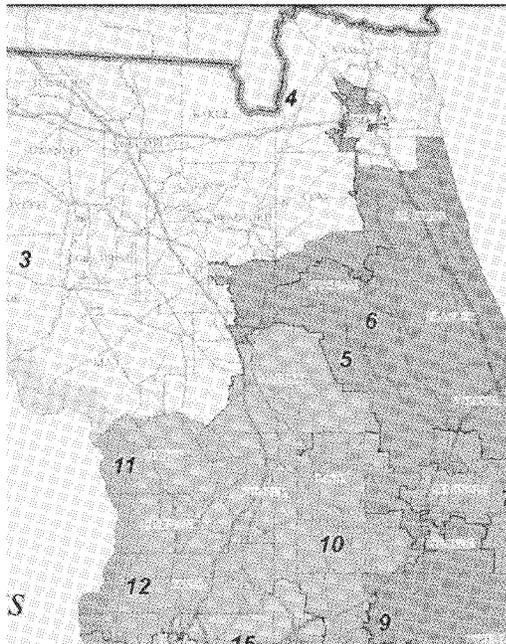
A decade ago, an overwhelming majority of Floridians voted to adopt the Fair Districts Amendments to the Florida Constitution. The Amendments explicitly constrain the Legislature’s exercise of its reapportionment power, as enumerated within two “tiers” in Article III, Sections 20 and 21 of the Florida Constitution.¹ Tier I of Article III, Section 20(a) states, in relevant part: “[D]istricts 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 recognized this provision contains two separate requirements: A non-dilution requirement and a non-diminishment requirement. *In re S. J. Res. of Legis. Apportionment 1176 (“Apportionment P”)*, 83 So. 3d 597, 619 (Fla. 2012).

¹ The Fair Districts Amendments provide “identical standards” for congressional redistricting in Section 20 and state legislative redistricting in Section 21. *Apportionment I*, 83 So. 3d at 598 n.1 (Fla. 2012). The Florida Supreme Court has indicated that the same substantive standards apply to each section. *See League of Women Voters of Fla. v. Detzner*, 172 So. 3d 363, 373-74 (Fla. 2015) (“*LWV P*”) (applying standards articulated in state legislative redistricting case to congressional redistricting case).

The “non-diminishment provision” prohibits map drawers from “eliminat[ing] majority-minority districts or weaken[ing] other historically performing minority districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625. To evaluate a diminishment claim, courts must determine whether minority voting strength has diminished under the new plan when compared to the previous plan (referred to as the “Benchmark Map”). *Id.* at 624–25.

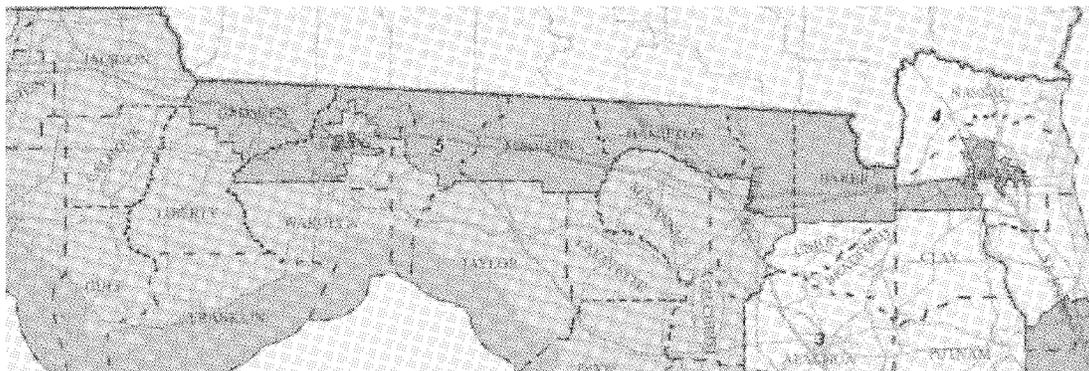
II. The Florida Supreme Court ordered the adoption of Benchmark CD-5 in 2015 after affirming that the previous district did not comply with the Florida Constitution.

In the last redistricting cycle, several plaintiffs challenged the state’s 2012-enacted Congressional District 5 (“CD-5”) after the Legislature artificially packed Black voters into a district to advantage the Republican Party. As the trial court explained at the time, the district “is visually not compact, bizarrely shaped, and does not follow traditional political boundaries as it winds from Jacksonville to Orlando,” narrowing at one point to the “width of Highway 17.” *Romo v. Detzner*, No. 2012-CA-000412, 2014 WL 3797315, at *9 (Fla. Cir. Ct. July 10, 2014). An image of the district appears below. **Ex. 1**, 2012 Congressional Districts.



At the time, the Legislature publicly justified the shape of this district not as an effort to advantage the Republican Party, but to increase the Black voting age population (BVAP) above 50% to comply with the Florida Constitution. *See Romo*, 2014 WL 3797315, at *9. As the trial court explained, however, neither the non-diminishment provision nor the non-dilution provision of the Florida Constitution required the district to be drawn as a majority-Black district. In particular, the district did not need to be drawn at 50% BVAP to comply with the non-diminishment provision of the Florida Constitution: the previous district had been a “plurality BVAP district,” and the district could continue to elect a Black candidate of choice with less than 50% BVAP. *See id.* at *9–10.

In *LWV I*, the Florida Supreme Court affirmed the trial court’s findings as to District 5 and ordered the new CD-5 (now commonly known as “Benchmark CD-5”) to be drawn in an East-West configuration from Tallahassee to Jacksonville across Florida’s northern border. 172 So. 3d at 403. An image of Benchmark CD-5 is shown below. *See* Stip. Ex. 3.



As the Florida Supreme Court explained, Benchmark CD-5 made marked improvements in Tier II compliance as compared to its predecessor. While acknowledging that the “East-West orientation is longer,” “there is ... no doubt that the numerical compactness scores ... favor the East–West orientation,” which also “allows for fewer incorporated city and county splits than the Legislature’s North-South district.” *LWV I*, 172 So. 3d at 406.

At the time of its adoption, Benchmark CD-5 had a BVAP of 45.12%. *Id.* at 404. As the Florida Supreme Court explained, the predecessor versions of this district had “perform[ed] for the black candidate of choice in every election from 2000 through the present” with BVAP percentages below 50%, including those within a 42-47% BVAP range. *Id.* at 404. In approving Benchmark CD-5 at the final remedial stage of the litigation, the Florida Supreme Court specifically found that this configuration would preserve a historically performing Black district. *League of Women Voters of Fla. v. Detzner*, 179 So. 3d 258, 272 (Fla. 2015) (“*LWV IP*”). It concluded that, in Benchmark CD-5, “the ability of black voters to elect a candidate of their choice is not diminished.” *Id.*

Benchmark CD-5 was in place during the 2016, 2018, and 2020 congressional elections. *See* Stip. IV(B). Black voters were able to elect their candidate of choice, Rep. Al Lawson, in each of those elections. *See* Stip. Ex. 1 ¶ 3(j)-(k).

III. At the Governor’s urging, Florida’s new redistricting plan eliminated a historically performing minority district.

Throughout the 2020 redistricting cycle, the Legislature concluded that Benchmark CD-5 should be protected under Florida’s non-diminishment standard. *See, e.g., Ex. 2*, Nov. 16, 2021 Fla. Senate Tr. at 17:19-23 (Senate affirming that “[d]istrict five is an effective minority district protected under Tier-One of Article three, section 20 of the Florida Constitution from diminishment”); *Ex. 3*, Jan. 13, 2022 Fla. House Tr. at 11:5-12:13 (House affirming same for the district, which they had renumbered as District 3). For months, the chambers proposed and voted on congressional redistricting plans that retained the East-West configuration of CD-5. *See, e.g., id.* at 13:9-13.

Governor Ron DeSantis, however, wanted to eliminate Benchmark CD-5 and sought the Florida Supreme Court’s blessing to do so, notwithstanding the Court’s precedent. On February 1,

2022, Governor DeSantis requested the Florida Supreme Court’s opinion on whether the “the Florida Constitution’s non-diminishment standard” required a district from Tallahassee to Jacksonville which allowed Black voters to elect the candidates of their choice, “even without a majority.” *See Ex. 4*, Feb. 1, 2022 Advisory Op. Request at 4. The Governor’s Advisory Request acknowledged that existing precedent from the Florida Supreme Court “suggest[s] that the answer is ‘yes.’” *Id.* at 4. The Governor’s Advisory Request nonetheless asked the Florida Supreme Court to clarify “what the non-diminishment standard does require,” both generally and as applied to CD-5 in North Florida. *Id.* at 5.

On February 10, 2022, the Florida Supreme Court declined the Governor’s request to issue an advisory opinion providing new guidance either on the non-diminishment standard generally or on CD-5 specifically. *See Advisory Op. to Governor re Whether Article III, Section 20(a) of Fla. Const. Requires Retention of a Dist. in N. Fla.*, 333 So. 3d 1106, 1108 (Fla. 2022). In other words, contrary to the Governor’s request, the Florida Supreme Court did not revisit its precedent to authorize the Governor to eliminate a historically performing district in North Florida.

After the Florida Supreme Court rejected the Governor’s advisory request, the Legislature continued to propose redistricting plans which retained an East-West CD-5. *See Ex. 5*, Feb. 18, 2022 Fla. House Tr. at 13:7-16. Undeterred, however, the Governor sent an ambassador, Mr. Robert Popper, to the Florida House to persuade the Legislature to abandon the district. *Id.* at 77:7-17. The Republican-led House Redistricting Committee was not receptive to Mr. Popper’s arguments, which, as the committee members pointed out, were inconsistent with existing precedent. *See, e.g., id.* at 103:4-12 (Chair Sirios remarking to Mr. Popper, “Sir, in your written testimony that you provided . . . , I think you said that Florida’s non-diminishment standard protects only majority-minority districts. What is your strongest legal authority for that proposition? And

didn't the Florida Supreme Court say the exact opposite in its first apportionment decision in 2012?"); *id.* at 90:1-6 (Rep. Harding: "[A]re you aware of any court decision holding a state constitutional provision that protects minority voting rights that is insufficient to justify the use of race to draw a district?" Mr. Popper: "Well, no."). The House Redistricting Committee ultimately passed a redistricting plan containing an East-West configuration of CD-5 out of committee, with Chair Sirios remarking, "This is a legally sound map. It's a constitutionally compliant map." *Id.* at 131:7-8.

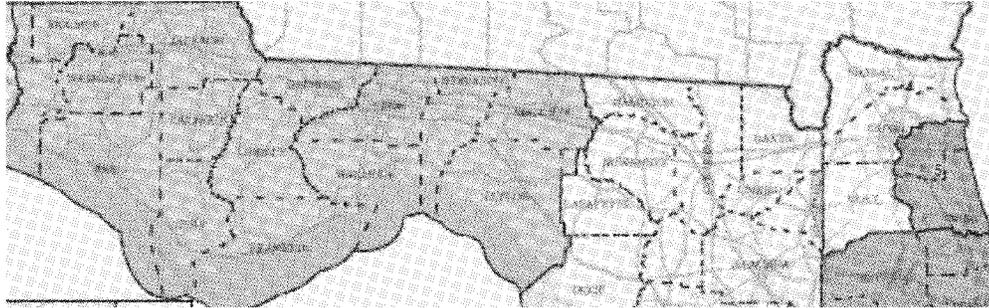
In March 2022, responding to continuing threats from the Governor's Office to veto plans retaining a district resembling Benchmark CD-5, the Florida Legislature passed a redistricting plan that contained both a "Primary Map" (Plan 8019) and a "Secondary Map" (Plan 8015) with two different configurations of CD-5, both of which the Legislature maintained would comply with the non-diminishment provision. **Ex. 6**, Fla. S. Comm. on Reapportionment, CS/SB 102 (2022), House Message Summary; **Ex. 7**, Mar. 4, 2022 Fla. Senate Tr. at 22:18-24:22. The Primary Map (Plan 8019) contained a configuration of CD-5 including only portions of Duval County. *Ex. 6* at 10. As the Legislature explained at the time, the Primary Map was intended "to address the novel legal theory raised by the Governor" about the East-West configuration of CD-5. **Ex. 8**, Feb. 25, 2022 Fla. House Tr. at 24:6-10. The Secondary Map (Plan 8015) retained the East-West configuration of CD-5. *Ex. 6* at 2. The Legislature intended that the Secondary Map would take effect "[i]f Congressional District 5 in the primary map is invalidated" by a court as a violation of the Florida Constitution's non-diminishment provision. *Id.* at 1.

On March 29, 2022, Governor DeSantis vetoed the Legislature's Primary and Secondary Maps. *See Ex. 9*, Veto of CS/SB 102 (2022) (letter from Governor DeSantis to Sec'y of State Laurel Lee, Mar. 29, 2022); **Ex. 10**, Memorandum from Ryan Newman to Ron DeSantis re

Constitutionality of CS/SB 102 (Mar. 29, 2022). In the Governor’s veto message, the Governor’s legal counsel pointed to the Florida Supreme Court’s non-diminishment precedent and acknowledged that CD-5 in Plan 8015 (which maintained Benchmark CD-5’s East-West configuration and had a BVAP of 43%) “complies with the Florida’s Constitution’s non-diminishment requirement.” Ex. 10 at 5, 7 (citing *Apportionment I*, 83 So. 3d at 624–25). The Governor understood that the elimination of a minority group’s ability to elect a candidate of choice for this district would “violate[] the Florida Constitution’s non-diminishment requirement as interpreted by the Florida Supreme Court.” *Id.* at 6. The Governor nonetheless vetoed the plan under the theory that Plan 8015 would violate the Equal Protection Clause of the U.S. Constitution. *Id.*

The same day the Governor vetoed the Legislature’s redistricting plans, he called a special session to consider the Governor’s preferred congressional plan (hereinafter the “Enacted Map”), which eliminated the historically performing Black district in North Florida. **Ex. 11**, Proclamation of Governor DeSantis Declaring Special Session (Mar. 9, 2022). In advance of the special session, the Legislature’s professional redistricting staff performed a functional analysis of certain districts in the Enacted Map and confirmed that, unlike the Benchmark Map, it did not include a district in North Florida which provided Black voters the ability to elect their candidate of choice. *See Ex. 12*, Apr. 20, 2022 Fla. House Tr. at 35:2-3. Throughout the session, even Republican legislators who ultimately voted for the map acknowledged the Governor’s legal theory for eliminating CD-5 was not based on any existing precedent. *See, e.g., Ex. 13*, Apr. 20, 2022 Fla. Senate Tr. at 41:4-7 (Senator Burgess recognizing the Governor’s map put forward a “novel legal argument”); **Ex. 14**, Apr. 21, 2022 Fla. House Tr. at 68:1 (Representative Fine

acknowledging the Governor’s argument was “novel”). The Legislature nonetheless passed the Enacted Map, and Governor DeSantis signed it into law.



The Enacted Map does not contain any district resembling Benchmark CD-5, as shown in the image above. *See* Stip. Ex. 4. Instead, the Enacted Map splits Benchmark CD-5 into four new districts: CD-2, CD-3, CD-4, and CD-5. *See* Stip. Ex. 1 ¶ 4(c). Whereas Black voters made up 46.2% of the voting age population in Benchmark CD-5, Black voters now make up only 23.1%, 15.9%, 31.7%, and 12.8% of the voters in these new districts, respectively. *Id.* at ¶ 4(d).

PROCEDURAL HISTORY

I. Temporary Injunction Proceedings

On April 22, 2022, the same day that Governor DeSantis signed his plan into law, Plaintiffs filed suit, alleging the plan violated the Florida Constitution. Compl. at 38. Plaintiffs include Black Voters Matter Capacity Building Institute, the League of Women Voters of Florida, Inc., the League of Women Voters of Florida Education Fund, Inc., Equal Ground Education Fund, Florida Rising Together, and individual Florida voters, including Black voters who resided in Benchmark CD-5. Compl. ¶¶ 11-27. In May 2022 they sought a temporary injunction against the Enacted Map exclusively on the basis that it resulted in the diminishment of Black voters’ ability to elect their candidate of choice in North Florida, in violation of the non-diminishment provision of the Florida Constitution, Art. III, § 20(a). *See generally* Pls.’ Mot. for Temporary Injunction. At this stage of the litigation, Plaintiffs put forward a potential remedial redistricting plan—known as “Plan A”—

which inserted the same East-West version of CD-5 from the Legislature’s Plan 8015 straight into the Enacted Map. Defendants opposed Plaintiffs’ motion primarily on Equal Protection grounds. *See* Sec’y’s Resp. in Opp’ to Prelim. Inj. (May 9, 2022).

In May 2022, Judge J. Layne Smith held an evidentiary hearing and heard testimony from Plaintiffs’ expert, Dr. Stephen Ansolabehere. *See Black Voters Matter Capacity Bldg. Inst., Inc.*, No. 2022-ca-000666, 2022 WL 1684950, (Fla. Cir. Ct. May 12, 2022). Upon review of Dr. Ansolabehere’s functional analysis and live testimony, the trial court found that his conclusions were credible, *id.* at *4, and that they were “buttressed by analysis from the Florida Legislature’s redistricting staff, which conducted its own functional analysis and found that Black voters would not have the ability to elect their preferred candidates to Congress under the Enacted Map in [North Florida],” *id.* at *5. Judge Smith ultimately held that Plaintiffs had shown the Enacted Map violated the Florida Constitution’s non-diminishment provision, *id.* at *4, and that Defendants had not shown that CD-5 from Plan 8015 would violate the Equal Protection Clause, *id.* at *5–7. Judge Smith ordered Plan A to go into effect for the 2022 elections. *Id.* at *9–10.

After Judge Smith vacated the automatic stay, the First DCA issued a preliminary order staying the trial court’s temporary injunction. *Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.*, 339 So. 3d 1070 (Fla. 1st DCA), *writ denied*, 340 So. 3d 475 (Fla. 2022). It did so not on the merits of Judge Smith’s decision, but because the First DCA concluded that Judge Smith erred procedurally in ordering a new redistricting plan in a temporary injunction proceeding. *Id.* at 1073, 1082–83. As the First DCA explained, it “could not reach whether [the Enacted Map] comports with [the Fair Districts Amendments]” because there had been “no final adjudication.” *Id.* at 1073. Plaintiffs sought the Florida Supreme Court’s intervention, but the Florida Supreme Court declined to issue a constitutional writ, without addressing any of the merits of Plaintiffs’ claim. *Black Voters*

Matter Capacity Bldg. Inst., Inc. v. Byrd, 340 So. 3d 475 (Fla. 2022). The First DCA ultimately vacated the trial court’s temporary injunction for the same reasons it had previously stayed it. *Byrd v. Black Voters Matter Capacity Bldg. Inst., Inc.*, 340 So. 3d 569, 571 (1st DCA 2022).

II. The Parties’ Stipulation and Plaintiffs’ Diminishment Claim

Following the temporary injunction proceeding, the parties exchanged discovery, produced expert reports, conducted depositions, and filed summary judgment motions. In advance of a hearing on Plaintiffs’ motion for summary judgment on their diminishment claim, the parties reached a stipulation to streamline the issues for the Court’s consideration by limiting the case to Plaintiffs’ diminishment claim and stipulating to the facts relevant to proving diminishment under the Florida Constitution. *See* Stipulation, Exhibit 1.

Under the Stipulation, the only remaining legal disputes for this Court to resolve are as follows:

1. Whether Plaintiffs must satisfy the preconditions in *Thornburg v. Gingles*, 478 U.S. 30 (1986), for the non-diminishment provision to apply.
2. Whether the non-diminishment provision’s application to North Florida violates the Equal Protection Clause to the U.S. Constitution.
3. Whether the non-diminishment provision facially violates the Equal Protection Clause to the U.S. Constitution.
4. Whether the public official standing doctrine bars the Secretary’s affirmative defenses based on the Equal Protection Clause to the U.S. Constitution.

Should Plaintiffs prevail, the parties have agreed that the Legislature will have the opportunity enact a remedial map for the 2024 elections. *See* Stip. VII.

ARGUMENT

Under the Parties’ Stipulation, there is no dispute that the Enacted Map diminishes Black voting power in North Florida. The remaining legal questions are simply an attempt by Defendants to justify this diminishment. This Court should decline the invitation to rewrite the non-

diminishment standard in contravention of binding precedent or to take the extraordinary step of finding that the Florida Constitution is *itself* unconstitutional.

I. Under binding precedent, the Enacted Map violates the non-diminishment standard of Article III, Section 20.

The Parties' factual stipulation resolves Plaintiffs' diminishment claim under Florida law. As the Florida Supreme Court has explained, the non-diminishment standard proscribes redistricting plans "that have the purpose of *or will have the effect of* diminishing the ability of any citizens on account of race or color to elect their preferred candidates of choice." *Apportionment I*, 83 So. 3d at 620 (cleaned up) (emphasis added). Under the non-diminishment 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 non-diminishment standard accordingly calls for a comparative analysis: "The existing plan of a covered jurisdiction serves as the 'benchmark' against which the 'effect' of voting changes is measured." *Id.* at 624. And whether a minority group's voting power has been diminished is determined by a "functional analysis" of "whether a district is likely to perform for minority candidates of choice." *Id.* at 625.

To prevail on their diminishment claim, Plaintiffs must show that a minority group is "less able" to elect their candidate of choice under the new plan than it was under the old plan. *Id.* at 624–25. In other words, they must establish that (1) the Benchmark district (in this case, Benchmark CD-5) allowed Black voters the ability to elect the candidate of their choice, and (2) the Enacted Map weakens Black voters' ability to elect the candidate of their choice. Plaintiffs have unquestionably done so. It is now beyond dispute that:

- Plaintiffs have standing to bring their diminishment claim in North Florida, *see* Stip. III.B;
- Black voters had the ability to elect their candidate of choice in Benchmark CD-5, *see* Stip. Ex. 1 ¶ 3(o);

- The Enacted Map eliminates the ability of Black voters in North Florida to elect their preferred candidates, *see id.* ¶ 4(o).

This is the very definition of diminishment. *See Apportionment I*, 83 So. 3d at 625; *see also* Ex. 10 at 5 (Governor’s legal counsel stating, “[w]here 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.”) (citing *Apportionment I*, 83 So. 3d at 625).

Defendants’ remaining arguments either seek to reinvent the legal standard for diminishment claims under the Florida Constitution, *see* Stip. IV.A.1 (“Question 1”), or contend that the non-diminishment provision itself violates of the U.S. Constitution, *see* Stip. IV.A.2, 3 (“Questions 2 and 3”). This Court should reject Defendants’ attempt to upend Florida law.

II. The *Gingles* preconditions do not apply to the non-diminishment provision (Question 1).

Because they cannot deny that the Enacted Map violates the non-diminishment standard set forth in *Apportionment I*, Defendants attempt to rewrite that standard altogether by requiring Plaintiffs to satisfy the preconditions in *Thornburg v. Gingles*, 478 U.S. 30 (1986), to trigger application of the non-diminishment provision. *See* Stip. IV.A.1. In so doing, Defendants ask this Court to adopt a standard that is contrary not only to binding precedent but also to the positions already taken by *Defendants themselves* about what this standard requires. This Court must apply the non-diminishment provision just as the Florida Supreme Court has and reject Defendants’ invitation to rewrite the standard.

A. Non-diminishment and non-dilution are distinct standards with distinct requirements.

Defendants’ novel interpretation of Florida’s *non-diminishment* provision erroneously conflates that provision with Florida’s *non-dilution* standard. The Florida Constitution imposes two *distinct* imperatives for the protection of minority voting rights in redistricting. First, it

prohibits districts drawn “with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process.” Art. III, § 20(a), Fla. Const. (non-dilution standard). Second, it prohibits districts drawn with the intent or result “to diminish [minorities’] ability to elect representatives of their choice.” *Id.* (non-diminishment standard). As Defendants correctly acknowledge, Florida’s non-dilution standard “is essentially a restatement of Section 2 of the Voting Rights Act,” Sec’y’s Resp. at 3 (citing *Apportionment I*, 83 So. 3d at 619),² while the non-diminishment/retrogression provision reflects Section 5 of the Voting Rights Act (VRA), *see id.* (citing *Apportionment I*, 83 So. 3d at 620).³ Because the Fair Districts Amendments’ minority voting protections “follow almost verbatim the requirements embodied in the Federal Voting Rights Act,” Florida courts’ “interpretation of Florida’s corresponding provision is guided by prevailing United States Supreme Court precedent.” *Apportionment I*, 83 So. 3d at 619–20.

Section 2 of the VRA (non-dilution) guards against vote dilution in redistricting plans under certain conditions; a successful claim “requires a showing that a minority group was denied a majority-minority district that, but for the purported dilution, could have potentially existed.” *Apportionment I*, 83 So. 3d at 622. In *Thornburg v. Gingles*, 478 U.S. 30 (1986), the U.S. Supreme Court identified three “necessary preconditions” (“*Gingles* preconditions”) for a Section 2 vote dilution claim: (1) the minority group must be “sufficiently large and geographically compact to constitute a majority in a single-member district”; (2) the minority group must be “politically cohesive”; and (3) the majority must vote “sufficiently as a bloc to enable it . . . usually to defeat

² Secretary’s Response refers to the Secretary’s Response Brief in Opposition to Plaintiffs’ Motion for Summary Judgment on Count I (Diminishment), which was served on July 14, 2023. On the same day, the Florida House and Florida Senate filed a response joining the Secretary’s opposition.

³ Florida courts use the terms “diminishment” and “retrogression” interchangeably. *See Apportionment I*, 83 So. 3d at 625 (“[B]y including the ‘diminish’ language of recently amended Section 5, Florida has now adopted the retrogression principle as intended by Congress in the 2006 amendment.”).

the minority’s preferred candidate.” *Id.* at 50–51. As relevant here, the first *Gingles* precondition requires the minority group to constitute at least 50% of the voting age population of the district. *Bartlett v. Strickland*, 556 U.S. 1, 18–20 (2009). Significantly, a successful Section 2 vote dilution claim requires the creation of a *new* minority district in the relevant jurisdiction. *See, e.g., Caster v. Merrill*, No. 2:21-CV-1536-AMM, 2022 WL 264819, at *3 (N.D. Ala. Jan. 24, 2022) (where plaintiffs established likelihood of success on Section 2 claim, “the appropriate remedy is a congressional redistricting plan” that includes an “additional district” in which Black voters have an opportunity to elect their preferred candidates), *aff’d sub nom. Allen v. Milligan*, 143 S. Ct. 1487 (2023).

Section 5 of the VRA (non-diminishment), by contrast, does not require states to affirmatively create *new* minority districts; it simply protects against backsliding in *existing* districts where a minority group has had the ability to elect a candidate of their choice. *See Apportionment I*, 83 So. 3d at 619–20. Thus, Section 5’s non-diminishment standard “does not require a covered jurisdiction to maintain a particular numerical minority percentage” in a district. *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 275 (2015). Instead, it requires the state to “maintain a minority’s ability to elect a preferred candidate of choice” in any new redistricting plan, which the state should accomplish by conducting “a functional analysis of the electoral behavior within the particular jurisdiction or election district.” *Id.*, 575 U.S. at 275–76 (citing Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act, 76 Fed. Reg. 7471 (2011)); *see also Apportionment I*, 83 So. 3d at 625 (“To undertake a retrogression evaluation requires an inquiry into whether a district is likely to perform for minority candidates of choice. This has been termed a ‘functional analysis.’”).

Under the test as articulated by the Florida Supreme Court, in determining whether a previously-existing district “performs” for the minority group’s candidate of choice—and is therefore protected from diminishment in the new map—one considers (1) “whether the minority group votes cohesively,” (2) “whether the minority candidate of choice is likely to prevail in the relevant contested party primary,” and (3) “whether that candidate is likely to prevail in the general election.” *LWV II*, 179 So. 3d at 287 n.11. This three-part test for non-diminishment is plainly different from the three-part test required for vote dilution under *Thornburg v. Gingles*, 478 U.S. 30 (1986), and for good reason: non-dilution and non-diminishment are different requirements, seeking to guard against different harms. *See Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 477 (1997) (explaining, “we have consistently understood [Section 2 and Section 5] to combat different evils and, accordingly, to impose very different duties upon the States”); *see also Holder v. Hall*, 512 U.S. 874, 883 (1994) (explaining that Section 2 and Section 5 of the VRA “differ in structure, purpose, and application”).

Defendants concede that Plaintiffs have established the three-part test for non-diminishment set forth in *LWV II*, *see* Stip. Ex. 1 at ¶ 3 (e)-(n), but assert that Plaintiffs must *also* establish the three *Gingles* preconditions applicable to non-dilution cases to prevail on their diminishment claim. *See* Sec’y’s Resp. at 2–6. But Defendants’ attempt to conflate the non-diminishment standard with the non-dilution standard cannot be reconciled with Florida Supreme Court precedent.

In *Apportionment I*, the Court engaged in an exacting analysis of this constitutional text. It concluded that the minority voting provision of the Fair Districts Amendments “imposes two requirements that plainly serve to protect racial and language minority voters in Florida: prevention of impermissible vote dilution *and* prevention of impermissible diminishment of a minority

group’s ability to elect a candidate of its choice.” 83 So. 3d at 619 (emphasis added). These are two separate requirements, “*each of which must be satisfied.*” *Id.* (quoting *Advisory Op. at Att’y Gen. re Standards For Establishing Legis. Dist. Boundaries*, 2 So. 3d 175, 189 (Fla. 2009)). Defendants’ attempt to collapse these “dual constitutional imperatives” into a single standard thus has already been considered—and rejected—by the Florida Supreme Court. *Id.*; *see also* Ex. 10 at 5 (Governor’s veto message recognizing Florida’s non-dilution provision and non-diminishment provision as imposing two separate requirements under existing precedent).⁴

Based on the constitutional text, and as set forth above, the Florida Supreme Court has not required that the relevant minority group constitute 50% of the voting age population of the district at issue for the non-diminishment provision to apply. Instead, under Florida’s non-diminishment provision, a map drawer “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.” *Apportionment I*, 83 So. 3d at 625 (emphasis added). Because a “majority-minority” district is, by definition, a district in which a minority group comprises a numerical majority (50%) of the district’s voting age population, *see id.* at 622–23, “other historically performing minority districts” necessarily refers to districts in which the minority group does *not* comprise 50% of the district.

The Florida Supreme Court’s actual application of the non-diminishment provision—both in the last redistricting cycle and in the current cycle—confirms that the first *Gingles* factor is not prerequisite for a diminishment claim. In the last redistricting cycle, when the Florida Supreme

⁴ Beyond this precedent, reading Florida’s non-dilution and non-diminishment provisions as Defendants suggest would render the non-diminishment provision superfluous. But just as “words in a statute should not be construed as mere surplusage,” *Sch. Bd. of Palm Beach Cnty. v. Survivors Charter Sch., Inc.*, 3 So. 3d 1220, 1233 (Fla. 2009), this Court must assume that the non-diminishment provision has independent meaning in Florida’s Constitution.

Court adopted Benchmark CD-5 to remedy partisan intent violations, the Court carefully considered the fact that Benchmark CD-5’s predecessor—with a BVAP of 46.9%—was a Black ability-to-elect district protected under the non-diminishment provision. *See LWV I*, 172 So. 3d at 403–05. In this redistricting cycle, the Court approved the Florida House’s and Florida Senate’s state legislative districts, holding that both chambers complied with the non-diminishment provision for all districts that performed for minority voters, regardless of whether they were majority-minority districts. *See In re S. J. Res. Of Legis. Apportionment 100*, 334 So. 3d 1282, 1289–90 (Fla. 2022).

B. Defendants have never argued that the *Gingles* prerequisites apply to diminishment claims—until now.

Defendants’ new-found insistence that Florida’s non-diminishment standard requires a Plaintiff to prove the first *Gingles* factor not only conflicts with binding precedent, but also is directly at odds with the position taken by Defendants Florida House and Florida Senate before the Florida Supreme Court. In February 2022 in a brief to the Florida Supreme Court, the Florida House explicitly advanced *the exact opposite position* that it does today. As the Florida House wrote then, any “suggest[ion] that the non-diminishment standard incorporates . . . the *Gingles* prerequisites” would directly conflict with U.S. Supreme Court precedent and would eliminate “the line between vote dilution (section 2) and non-diminishment (section 5).” **Ex. 15**, Brief of the Florida House of Representatives at 27 n. 10, *In re J. Res. Of Legis. Apportionment*, No. SC22-131 (Feb. 19, 2022); *see also id.* at 20–21 (explaining that “the text [of the Florida Constitution] does not limit the non-diminishment standard to majority-minority districts” and that “[a]ny district in which a minority group has sufficient effective control over both primary and general elections to elect its preferred candidates is entitled to protection”); *id.* (explaining that eleven House districts with BVAPs under 50% were protected by the non-diminishment standard). The

Florida Senate’s briefing supported the same position. **Ex. 16**, Brief of the Florida Senate Supporting the Validity of the Apportionment at 34–38, *In re J. Res. Of Legis. Apportionment*, No. SC22-131 (Feb. 19, 2022) (not addressing or applying *Gingles* factors when discussing its compliance with the non-diminishment provision in drawing state legislative districts); *id.* at 33 (Defendant Florida Senate explaining that four Senate districts with BVAPs under 50% were protected by the diminishment standard).⁵ In approving the Legislature’s districts, the Florida Supreme Court held that both chambers complied with the state’s non-diminishment provision. *See In re S. J. Res. Of Legis. Apportionment 100*, 334 So. 3d 1282, 1289–90 (Fla. 2022). Because the Florida House and Florida Senate prevailed on these arguments before the Florida Supreme Court—that is, the Court did not require either chamber to satisfy the *Gingles* criteria for the districts that each chamber maintained were required under Florida’s non-diminishment provision—both chambers are estopped from making any such arguments now. *See Blumberg v. USAA Cas. Ins. Co.*, 790 So. 2d 1061, 1066 (Fla. 2001); *see also* Fla. Stat. § 57.105(1)(b) (permitting sanctions where parties “knew or should have known” that a defense “presented to the court” “would not be supported by” existing law).

Defendants’ argument before this Court also presents an about-face from the positions they took during the legislative process and at the outset of this case. For months throughout the redistricting cycle, the Legislature plainly understood that CD-5, with a BVAP of 46.2%, *see* Stip. Ex. 1 ¶ 3(a), should be protected from diminishment. *See supra* Background III; *see also* **Ex. 20**, Sept. 20, 2022 Fla. Senate Tr. at 43:17-24, 45:21-25 (Staff Director Jay Ferrin telling Senate

⁵ A trial court may take judicial notice of court records, including the pleadings and briefs “of other actions filed which bear a relationship to the case at bar.” *Falls v. National Environmental Products*, 665 So. 2d 320, 321 (Fla. 4th DCA 1995) (citing *Gulf Coast Home Health Servs. of Fla., Inc. v. Dep’t of HRS*, 503 So. 2d 415 (Fla. 1st DCA 1987)).

Reapportionment Committee during its first meeting that “[a]n effective majority district” for purposes of non-diminishment standard “is a district that contains sufficient voting age population to provide the minority community with an opportunity to elect a candidate of choice but falls short of a majority”); Ex. 5, at 103:4-12 (Chair Sirios remarking to the Governor’s ambassador Mr. Popper, “Sir, in your written testimony that you provided [], I think you said that Florida’s non-diminishment standard protects only majority-minority districts. What is your strongest legal authority for that proposition? And didn’t the Florida Supreme Court say the exact opposite in its first apportionment decision in 2012?”). In fact, counsel to the Senate Committee Daniel E. Nordby—the same counsel representing Defendant Florida Senate in this litigation—explained that, per the Florida Supreme Court’s precedent, the non-diminishment provision protects any district—including those with less than 50% minority population “[i]n addition to majority-minority districts”—“that previously provided minority groups with the ability to elect a preferred candidate under the benchmark plan.” Ex. 18, Oct. 11, 2021 Fla. Senate Tr. at 73:12-21. Mr. Nordby further underscored that “the legislature must perform a functional analysis to evaluate retrogression, and to determine whether a district is likely to perform for minority candidates of choice. . . . There is no predetermined or fixed demographic percentage used at any point in that functional analysis.” *Id.* at 74:3-17.

The Governor, too, understood that CD-5 did not need a 50% BVAP to be protected by the non-diminishment provision, otherwise he would not have concluded that CD-5 in Plan 8015, with a BVAP of 43%, “complies with the Florida’s Constitution’s non-diminishment requirement.” Ex. 10 at 5, 7. Similarly, the Secretary did not make any argument that the *Gingles* preconditions were required for Plaintiffs to state a diminishment claim at the temporary injunction stage, where, as here, the sole question was whether the Enacted Map violates the non-diminishment provision of

the Florida Constitution in North Florida. In over 150 pages of briefing before this Court, the First District Court of Appeals, and the Florida Supreme Court, the Secretary failed to so much as mention the *Gingles* preconditions he now asserts “bar the use of the Florida Constitution’s non-diminishment provision.” Sec’y’s Resp. at 5. While Defendants are free to take new litigation strategies as the case progresses, they cannot invent novel theories that are not grounded in law or precedent to avoid their otherwise plain liability under the Florida Constitution.

For all of these reasons, the answer to Question 1—whether Plaintiffs must satisfy the *Gingles* preconditions for the non-diminishment provision to apply—is no. Under the Parties’ Stipulation, Defendants concede that once the Court determines that the non-diminishment standard applies in the absence of the *Gingles* preconditions, Plaintiffs have established that there is no Black-performing district where there previously was, *see* Stip. IV(B), which is sufficient to prove their diminishment claim, *see supra* Argument I.

III. Defendants fail to establish the non-diminishment provision violates the U.S. Constitution.

The only way Defendants can avoid judgment, then, is to prove their affirmative defenses that the non-diminishment provision itself—either on its face or as applied—violates the Equal Protection Clause of the U.S. Constitution. *See Hough v. Menses*, 95 So. 2d 410, 412 (Fla. 1957) (holding that defendant has burden to prove affirmative defenses); *Ellingham v. Fla. Dep’t of Child. & Fam. Servs.*, 896 So. 2d 926, 927 (Fla. 1st DCA 2005) (same). Defendants cannot meet this burden. As Plaintiffs have argued, Defendants are barred from even pursuing these affirmative defenses. But even if the Court could consider Defendants’ audacious attempt to strike out a provision of the Florida Constitution altogether, their arguments fail under binding precedent and the demanding standard for establishing racial gerrymandering claims under the U.S. Constitution.

A. The public official standing doctrine bars the Secretary’s affirmative defenses based on the Equal Protection Clause of the U.S. Constitution (Question 4).

As a threshold matter, the Secretary is jurisdictionally barred from asserting that he is excused from a legal duty because that duty is *itself* unconstitutional.⁶ Under Florida’s public official standing doctrine, it is well established that public officials lack standing to challenge the constitutionality of their legal duties in court. *See State ex rel. Atl. Coast Line R.R. Co. v. State Bd. of Equalizers*, 94 So. 681 (Fla. 1922). This is because, under foundational separation of powers principles, executive and legislative officers must assume that duties assigned to them by law are constitutional “*until* judicially declared otherwise.” *Id.* at 683 (emphasis added). Accordingly, they cannot raise the unconstitutionality of their legal duties either affirmatively, *see Dep’t of Revenue v. Markham*, 396 So. 2d 1120, 1121 (Fla. 1981) (“Disagreement with a constitutional or statutory duty, or the means by which it is to be carried out, does not create a justiciable controversy or provide an occasion to give an advisory judicial opinion.”), or as an affirmative defense, *see Atl. Coast Line*, 94 So. at 682 (holding that because “the allegation . . . that [a provision] is unconstitutional means that it has been so declared by a court of competent jurisdiction,” any allegation of unconstitutionality before such a judicial declaration has been made is not “true” and therefore “no defense”).

Under that longstanding precedent, this Court has already held that the public official standing doctrine applies to the Secretary’s standing to challenge the constitutionality of the Fair Districts Amendments. Ex. 17 at 62:23–63:4. Because Florida Rule of Civil Procedure 1.140(h)(2)

⁶ Plaintiffs first raised the public official standing doctrine in a motion to strike. This Court held a hearing on the motion on June 5, 2023, and denied Plaintiffs’ motion as untimely. Ex. 17, Mot. to Strike Hearing Tr. 63:5–10. Plaintiffs then re-raised their arguments in a motion for judgment on the pleadings, which remains pending. *See* Stip. at 2 n.2. Plaintiffs incorporate by reference all of the arguments set forth in the motion for judgment on the pleadings briefing but briefly summarize the arguments here to frame the outstanding legal issues for the Court.

would allow Plaintiffs to raise their objection under the public official standing doctrine as late as trial itself, this Court should now dismiss the Secretary’s affirmative defenses related to the Equal Protection Clause.⁷

B. The non-diminishment provision does not facially violate the Equal Protection Clause of the U.S. Constitution (Question 3).⁸

The Secretary’s challenge to the facial validity of the non-diminishment provision under the Equal Protection Clause is foreclosed by binding Florida Supreme Court precedent, which has followed prevailing U.S. Supreme Court precedent in interpreting the provision. Like Section 5 of the VRA, the non-diminishment provision decidedly “does not require [Florida] to maintain a particular numerical minority percentage” because there is no “mechanically numerical view as to what counts as forbidden retrogression.” *Ala. Legis. Black Caucus*, 575 U.S. at 277. In rejecting the Legislature’s earlier contention that “the minority population in each district . . . is somehow fixed to an absolute number under Florida’s minority protection provision,” the Florida Supreme Court concluded: “To hold otherwise would run the risk of permitting the Legislature to engage in racial gerrymandering to avoid diminishment. However, the United States Supreme Court has cautioned: ‘[W]e do not read . . . any of our other § 5 cases to give covered jurisdictions *carte blanche* to engage in racial gerrymandering in the name of nonretrogression.’” *Apportionment I*, 83 So. 3d at 627 (citing *Shaw v. Reno*, 509 U.S. 630, 642 (1993)). Accordingly, the non-

⁷ The Court previously held that the public official standing doctrine does not bar the House’s and Senate’s affirmative defenses. Ex. 17 at 62:11–16. Plaintiffs have preserved that issue for appeal in their motion for judgment on the pleadings, and, of course, “[a] trial court may sua sponte reconsider and amend or vacate its interlocutory orders prior to final judgment.” *Seigler v. Bell*, 148 So. 3d 473, 479 (Fla. 5th DCA 2014) (citing *Silvestrone v. Edell*, 721 So. 2d 1173, 1175 (Fla. 1998)).

⁸ If the Court agrees with Plaintiffs on Question 4, *see supra* Argument III.A, then it need not reach the merits of the Secretary’s facial challenge to the non-diminishment provision under the Equal Protection Clause. The Secretary is the only party that raised this affirmative defense. *See* Sec’y of State’s Answer to Am. Compl. ¶ 2, at 14 (raising facial affirmative defense under the Equal Protection Clause; *see also* Fla. House Answer to Am. Compl. at 16 (raising only as-applied affirmative defense under the Equal Protection Clause); Fla. Senate Answer to Am. Compl. at 26 (not raising Equal Protection Clause affirmative defense).

diminishment provision, as interpreted by the Florida Supreme Court, specifically *avoids* any “risk” of permitting—let alone requiring—racial gerrymandering. Where the Florida Supreme Court “do[es] not read” the non-diminishment provision to *authorize* racial gerrymandering in violation of the Equal Protection Clause, the Secretary can hardly contend that this Court *must* read it to *require* racial gerrymandering in violation of the Equal Protection Clause. That alone requires rejecting the Secretary’s affirmative defense challenging the facial validity of the non-diminishment provision.

Even if this Court could entertain this claim, the Secretary has no hope of satisfying it. A facial constitutional challenge considers only the text of the law, not its application to a particular set of circumstances. *Fraternal Order of Police, Miami Lodge 20 v. City of Miami*, 243 So. 3d 894, 897 (Fla. 2018). And to succeed, “the challenger must demonstrate that no set of circumstances exists in which the [law] can be constitutionally valid.” *Id.* The difficulty of this task is well recognized. *Miami-Dade Cnty. v. Miami Gardens Square One, Inc.*, 314 So. 3d 389, 392 (Fla. 3d DCA 2020). To prove that the non-diminishment provision *on its face* violates the Equal Protection Clause of the U.S. Constitution, the Secretary must show that the constitutional text *requires* (1) that race “predominate” over all other considerations in the drawing of district lines, and (2) that it does so in a way that is never “narrowly tailored to serve a compelling state interest.” *Ala. Legis. Black Caucus*, 575 U.S. at 260–61 (citations omitted). The Florida Constitution’s non-diminishment provision does neither.

First, the Secretary cannot establish his “demanding” burden to prove that the non-diminishment provision requires race to predominate over all other districting considerations. *See Miller v. Johnson*, 515 U.S. 900, 916 (1995) (holding that burden to establish predominance lies with party claiming unconstitutional racial gerrymandering); *see also id.* at 928 (O’Connor, J.,

concurring). Certainly, the plain text of the provision requires no such thing. All it requires is that districts retain racial or language minorities' ability to elect representatives of their choice—not that race predominate to achieve that result. *See* Art. III, § 20(a). While the non-diminishment provision may require Florida to give *some* consideration to race, the U.S. Supreme Court “never has held that race-conscious state decisionmaking is impermissible in *all* circumstances.” *Shaw*, 509 U.S. at 642. “Redistricting legislatures will . . . almost always be aware of racial demographics; but it does not follow that race predominates in the redistricting process.” *Miller*, 515 U.S. at 916 (citations omitted); *see also Shaw*, 509 U.S. at 646.

Indeed, just recently in a case out of Alabama, the U.S. Supreme Court rejected the state's “contention that mapmakers must be entirely ‘blind’ to race” under the Equal Protection Clause, *Allen*, 143 S. Ct. at 1512 (plurality opinion), and reaffirmed “[t]he line that we have long drawn [] between consciousness and predominance” of race, *id.* Notably, upon vetoing the Florida Legislature's original plan, Governor DeSantis acknowledged that the Legislature had sought “to follow the case law from the last decade” but speculated that the existing law may not “end up being good law” based on the U.S. Supreme Court's decision to hear “the Alabama case.” **Ex. 19**, Mar. 29, 2022 Governor DeSantis Press Conference Tr. at 18:12-19:8. The Governor predicted that “[the U.S. Supreme Court] would not have taken that case under that posture unless they're going to limit the role that race plays in congressional redistricting. I think that's almost assured[.]” *Id.* at 19:3-8. The Governor's prediction turned out to be wrong. Contrary to his expectations, the Supreme Court reaffirmed long-standing federal precedent “authoriz[ing] race-based redistricting as a remedy for state districting maps that violate [anti-discrimination laws].” *Allen*, 143 S. Ct. at 1516-17 (majority opinion). In so doing, the Court undermined the very foundation of the Equal Protection Clause theory upon which Defendants' affirmative defenses are based.

Nor could the Secretary establish racial predominance in the abstract, divorced from any specific district. This is because the question of racial predominance is a district-specific evidentiary inquiry that requires the proving party “to show, either through circumstantial evidence of a district’s shape and demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature’s decision to place a significant number of voters within or without a particular district.” *Miller*, 515 U.S. at 916. The U.S. Supreme Court has made clear that “the basic unit of analysis for racial gerrymandering claims in general, and for the racial predominance inquiry in particular, is the district.” *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 191 (2017); *see also Ala. Legis. Black Caucus*, 575 U.S. at 262–63 (“We have consistently described a claim of racial gerrymandering as a claim that race was improperly used in the drawing of the boundaries of *one or more specific electoral districts*.” (emphasis added) citations omitted)). The Secretary’s attempt to establish racial predominance as a *general matter* on a universal basis is thus foreclosed by the legal standard for proving racial predominance in the first place. And if the Secretary has not proved the Fair Districts Amendments require race to predominate in all circumstances, strict scrutiny does not apply and the inquiry must end. *See Bush v. Vera*, 517 U.S. 952, 958–59 (1996).

Second, even if the Secretary could overcome the racial-predominance threshold, his facial Equal Protection claim would still fail because the use of race under the non-diminishment provision would be “narrowly tailored to serve a compelling state interest.” *Ala. Legis. Black Caucus*, 575 U.S. at 260–61; *see also Abbott v. Perez*, 138 S. Ct. 2305, 2315 (2018). Compliance with the non-diminishment provision of the Florida Constitution is a compelling state interest. As the Florida Supreme Court has explained, Florida’s non-diminishment provision “follow[s] almost verbatim the requirements embodied in the [Federal] Voting Rights Act.” *Apportionment I*, 83 So.

3d at 619 (citation omitted and second alteration in original). And the U.S. Supreme Court has repeatedly assumed that compliance with the VRA constitutes a compelling state interest. *See, e.g., Wis. Legis. v. Wis. Elections Comm’n*, 142 S. Ct. 1245, 1248 (2022) (“We have assumed that complying with the VRA is a compelling interest.”); *Abbott*, 138 S. Ct. at 2315 (“In technical terms, we have assumed that complying with the VRA is a compelling state interest.” (citations omitted)); *Bethune-Hill*, 580 U.S. at 193 (“[T]he Court assumes, without deciding, that the State’s interest in complying with [§ 5 of] the Voting Rights Act was compelling.”); *LULAC v. Perry*, 548 U.S. 399, 518 (2006) (Scalia, J., concurring in the judgment in part and dissenting in part) (“I would hold that compliance with § 5 of the Voting Rights Act can be” a compelling state interest).

Given the substantive similarity between Section 5 of the VRA and the Fair Districts Amendments’ non-diminishment provision, compliance with the latter likewise constitutes a compelling state interest, as several legislators recognized during the redistricting cycle. *See Ex. 21*, Apr. 19, 2022 House Tr. at 60:20-23, 146:12-17; *Ex. 12* at 85:12-17.⁹ Indeed, Defendant Florida Senate asserted as much last year when defending its state legislative districts. *See Ex. 16* at 38 (“[T]he Senate has also presumed—consistent with Supreme Court precedent as to the federal Voting Rights Act—that compliance with the Florida Constitution’s analogous protections for racial and language minorities represents a ‘compelling interest’ justifying the consideration of race.”). Defendants can hardly contend that complying with the non-diminishment provision is a “compelling interest” when drawing legislative maps but not when drawing congressional maps.

⁹ As Representative Valdez explained on the House Floor, “[t]here are decades of precedents of the redistricting processes and countless historical examples of the process being used to marginalize and dilute the power of certain types of voters. That’s why the U.S. Congress passed the Voting Rights Act. It’s why Florida voters passed the Fair District Amendment in 2010. These are not simply polite suggestions. Following the law and the Constitution is our sacred duty as elected officials.” *Ex. 14* at 11:16-25.

The consideration of race under the non-diminishment provision would also be narrowly tailored. Even setting aside that evaluating “narrow tailoring” in the context of a facial constitutional attack—without a particular district to consider—is illogical, *see, e.g., McTernan v. City of York*, 564 F.3d 636, 656 (3d Cir. 2009) (cautioning against courts trying to determine narrow tailoring “in the abstract”), the “narrow tailoring” standard requires only that a mapdrawer have “good reasons to believe” that its use of race in drawing a particular district was necessary to comply with the non-diminishment provision. *Bethune-Hill*, 580 U.S. at 182 (quoting *Ala. Legis. Black Caucus*, 575 U.S. at 278). Here, there are certainly “good reasons to believe” that Florida’s congressional map needs to comply with the non-diminishment provision based on existing Florida Supreme Court precedent, which Defendants the Florida House and Florida Senate repeatedly recognized during the legislative process. *See, e.g., Ex. 18* at 71:12-75:18 (citing Florida Supreme Court’s application of non-diminishment provision).

At bottom, the Secretary’s facial affirmative defense is nonsensical: the Secretary has not demonstrated and cannot demonstrate that the non-diminishment provision, by its very terms, violates the U.S. Constitution. Even the Governor’s ambassador, Mr. Popper, who urged the Florida House to reject CD-5, agreed the Fair Districts Amendments is not facially unconstitutional: “I do not suggest, and my testimony is not to suggest that the Fair District Amendment would be unconstitutional in all its applications. It absolutely wouldn’t.” *Ex. 5* at 101:12-15.

C. The non-diminishment provision’s application to North Florida does not violate the Equal Protection Clause of the U.S. Constitution (Question 2).

Defendants’ as-applied Equal Protection challenge to the non-diminishment provision fares no better.¹⁰ Once again, to prove that a remedial district in North Florida would be an unconstitutional racial gerrymander, Defendants must show (1) that race “predominated” over all other considerations in the drawing of district lines and, if so, (2) that the remedial district is not “narrowly tailored to serve a compelling state interest.” *Ala. Legis. Black Caucus*, 575 U.S. at 260–61 (citations omitted). Defendants cannot show either.

To begin with, Defendants’ prior contention that “any district like benchmark CD-5” would necessarily stem from racial predominance, Sec’y’s Resp. at 12, defies the district-specific analysis the racial-predominance inquiry demands. *See supra* Argument III(B). Unless and until a “particular” district is drawn to remedy Plaintiffs’ diminishment claim, Defendants cannot establish racial predominance.

And there is no evidence that race predominated in the drawing of the North Florida district that the Legislature put forth in Plan 8015—the only remedial district that the parties have contemplated thus far. *See* Stip. Ex. 2 (Proposed Map A); *Order Granting Plaintiffs’ Motion for Temporary Injunction* (May 12, 2022) at 19 (describing Proposed Map A as “a narrow remedy” because it “takes the Legislature’s version of CD-5 from Plan 8015, and places it within the existing Enacted Map”). As Judge Smith found, “[r]ace neutral reasons exist for Plan 8015’s CD-5.” *Id.* at 11. The Legislature expressed an explicit desire to maintain and preserve the “existing district” in passing Plan 8015, *see* Ex. 7 at 9:18-10:2, and in so doing drew the district consistent

¹⁰ Here, Defendants refer only to the Secretary and the Florida House, which, unlike the Florida Senate, raised as-applied affirmative defenses under the Equal Protection Clause. *See* Sec’y of State’s Answer to Am. Compl. ¶ 1, at 14 (raising as-applied affirmative defense under the Equal Protection Clause); Fla. House Answer to Am. Compl. at 16 (same); *see also* Fla. Senate Answer to Am. Compl. at 26 (not raising Equal Protection Clause affirmative defense).

with the “legitimate state objective” of “preserving the cores of prior districts.” *Karcher v. Daggett*, 462 U.S. 725, 740 (1983); *see also Tennant v. Jefferson Cnty. Comm’n*, 567 U.S. 758, 764 (2012) (“The desire to minimize population shifts between districts is clearly a valid, neutral state policy”) (citations omitted). The legislative record also reveals that the Legislature’s purpose in drawing Plan 8015’s CD-5 was to comply with the Florida Constitution, both generally, *see, e.g.*, Ex. 8 at 25:6-27:24, 44:4-45:4, and specifically with respect to CD-5, *id.* at 45:9-48:9 (Chair Sirois describing how CD-5 in Plan 8015 was drawn to comply with both Tier I and Tier II metrics). Indeed, Plan 8015 was originally put forward to automatically replace the Legislature’s Primary Map if a court found the Primary Map illegal because the Legislature knew Plan 8015 was “legally compliant under the current law.” *Id.* at 23:16-20. The Legislature’s desire to avoid protracted litigation undermines Defendants’ claim of racial predominance. *See, e.g.*, Ex. 8 at 7:24-8:5 (Chair Leek noting, “We have hired outside counsel to advise us in this process because we want the House to be successful, because we want our maps to be upheld, . . . because we do not want to spend years in litigation”). As the U.S. Supreme Court has explained, a desire to avoid litigation is specifically one of the race-neutral reasons that may motivate a Legislature to adopt a plan. *See Abbott*, 138 S. Ct. at 2327 (finding race did not predominate where the Legislature chose a plan which would “bring the litigation about the State’s districting plans to an end as expeditiously as possible”).

Relatedly, no circumstantial evidence suggests that race predominated in the drawing of Plan 8015’s CD-5, particularly where 8015’s CD-5 hews closely to Benchmark CD-5. *See Lee v. City of L.A.*, 908 F.3d 1175, 1185 (9th Cir. 2018) (holding that “[t]he circumstantial evidence . . . fails to create a genuine dispute on racial predominance” where the challenged congressional district was “not any more bizarrely shaped than it was with its previous boundaries”). Indeed,

Benchmark CD-5 made marked improvements in Tier II compliance as compared to its predecessor. *See supra* Background II; *LWVI*, 172 So. 3d at 405–06 (emphasizing that “length is just one factor to consider in evaluating compactness” and noting that Benchmark CD-5 “is visually less ‘unusual’ and ‘bizarre’ than” its predecessor, that “the numerical compactness scores actually favor the East-West orientation,” and that it “allows for fewer incorporated city and county splits than the Legislature’s North-South district”).

In any event, even if Defendants could show that racial considerations predominated in the drawing of 8015’s CD-5, they would have a heavy burden to demonstrate that the Legislature’s configuration of CD-5 is not narrowly tailored to advance compelling state interests under existing federal precedent. As set forth above, compliance with the Fair Districts Amendments’ non-diminishment provision is a compelling state interest. *See supra* Argument III.B.

Likewise, Plan 8015’s CD-5 is narrowly tailored to address this compelling state interest. First, the Florida Supreme Court’s installation of Benchmark CD-5 itself provided a “good reason[] to believe” that the Legislature’s use of race was necessary to comply with the non-diminishment provision. *See Abbott*, 138 S. Ct. at 2332 (holding that the legislature had “good reasons” because plaintiff groups had argued that it was mandated by the Voting Rights Act and a court had previously approved it). And the legislative record includes detailed testimony that Plan 8015’s configuration of CD-5 is necessary to ensure minority voters’ continued ability to elect candidates of their choice. *See, e.g.*, Ex. 8 at 24:20-22 (Chair Leek noting the Committee’s aim “to protect the minority group’s ability to elect a candidate of their choice”). The Legislature, which conducted a functional analysis on Plan 8015, *see* Ex. 7 at 25:7-19, thus “had good reasons to believe that” 8015’s configuration of CD-5 “was necessary . . . to avoid diminishing the ability of black voters to elect their preferred candidates.” *Bethune-Hill*, 580 U.S. at 182; *see also id.* at 193-

94 (crediting legislature’s functional analysis to find narrow tailoring). This “strong showing of a pre-enactment analysis with justifiable conclusions,” amply demonstrates narrow tailoring. *Abbott*, 138 S. Ct. at 2335; *see id.* at 2332 (upholding district against racial gerrymandering challenge because “Legislature had ‘good reasons’ to believe that the district at issue . . . was a viable Latino opportunity district”).

* * *

Ultimately, each of Defendants’ federal affirmative defenses is a strawman that they set up to distract from their goal of dismantling a provision that Florida voters overwhelmingly voted to enshrine in their constitution, and that the Florida Supreme Court has approved and applied multiple times over the past decade. Defendants cannot carry their burden on either of them, and under binding precedent, all of their arguments fail.

CONCLUSION

The Florida Supreme Court has made clear that “[i]t is this Court’s duty, given to it by the citizens of Florida, to enforce adherence to the constitutional requirements and to declare a redistricting plan that does not comply with those standards constitutionally invalid.” *Apportionment I*, 83 So. 3d at 607. By dismantling a congressional district that enabled Black voters to elect their candidates of choice under the previous plan, the Enacted Map indisputably violates the Florida Constitution, and this Court should (once again) declare it invalid. Plaintiffs respectfully request the Court enter final judgment on their claim that the Enacted Map results in diminishment in contravention of Article III, Section 20(a) of the Florida Constitution.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 16, 2023, I electronically filed the foregoing using the State of Florida ePortal Filing System, which will serve an electronic copy to counsel in the Service List below.

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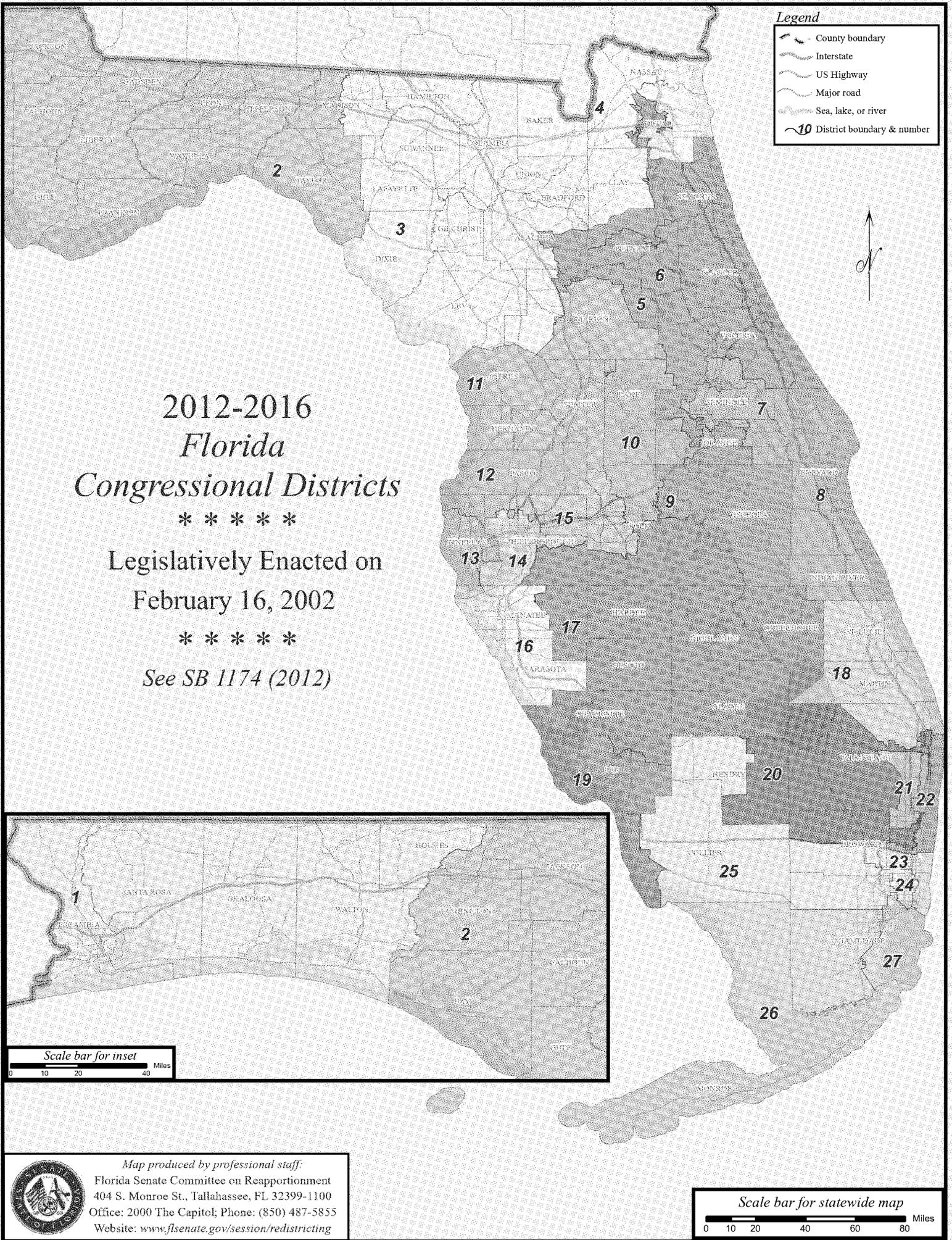
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EXHIBIT 1



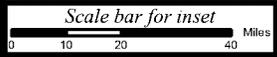
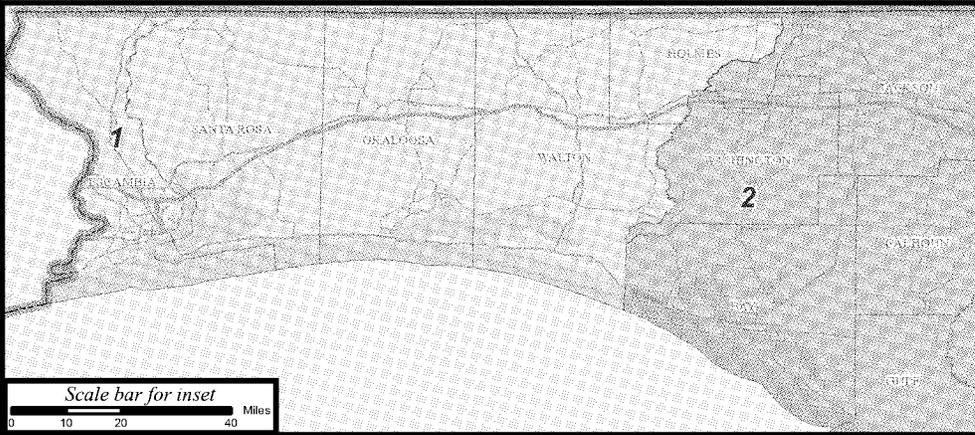
Legend

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

2012-2016
Florida
 Congressional Districts

Legislatively Enacted on
 February 16, 2002

See SB 1174 (2012)



Map produced by professional staff:
 Florida Senate Committee on Reapportionment
 404 S. Monroe St., Tallahassee, FL 32399-1100
 Office: 2000 The Capitol; Phone: (850) 487-5855
 Website: www.flsenate.gov/session/redistricting

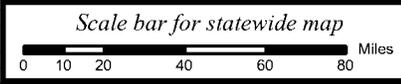


EXHIBIT 2

Common Cause, et al.)
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v.) 4:22-cv-109
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TRANSCRIPT OF VIDEO-RECORDED
HEARING OF THE FLORIDA SENATE SELECT
SUBCOMMITTEE ON CONGRESSIONAL REAPPORTIONMENT
NOVEMBER 16, 2021

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

1 SEN. BRADLEY: All right. Well, the Senate
2 Subcommittee on Congressional Reapportionment will now
3 come to order. Uh, Dana, please call the roll.

4 CLERK: Chair Bradley.

5 SEN. BRADLEY: Here.

6 CLERK: Senator Bean.

7 SEN. BEAN: Here.

8 CLERK: Senator Harrell.

9 SEN. HARRELL: Here.

10 CLERK: Senator Rouson.

11 SEN. ROUSON: Here.

12 CLERK: Senator Stewart.

13 SEN. STEWART: Here.

14 CLERK: A quorum is present.

15 SEN. BRADLEY: Thank you. Please silence all
16 electronic devices. Anyone wishing to testify before
17 the subcommittee must fill out an appearance card and
18 hand it to a member of the sergeant's office. Should
19 you select to waive your speaking time, your position
20 will be read into the record.

21 Members, we have a number of items on our agenda
22 today, but before we continue, I'd like to take a
23 moment to talk about the process we're about to embark
24 on. Under Senate Rules, select subcommittees do not
25 consider legislation.

1 We study or investigate a specific issue
2 following within the jurisdiction of the standing
3 committee. In this case, that issue is the redrawing
4 of Florida's Congressional districts, and so we will
5 use the time allotted to workshop the staff, produce
6 maps, and provide feedback and guidance to staff where
7 appropriate.

8 Our feedback and guidance should conform to the
9 directives issued unanimously by the full committee,
10 and you'll find a copy of the directives in your
11 meeting materials.

12 Our feedback and guidance to staff should also be
13 consistent with the cautions expressed in the
14 memorandum we received last week from President
15 Simpson, President-Designate Passidomo and Leader
16 Book.

17 Our responsibility as a select subcommittee is to
18 assist the full committee in proposing a
19 constitutional Congressional map free of any improper
20 intent. I know that every member of this subcommittee
21 shares that goal.

22 I would caution members in their questions,
23 feedback, or guidance to staff today to express
24 themselves carefully so that nothing said in this
25 meeting is misperceived as motivated by any

1 impermissible purpose.

2 In the future, we will submit a recommendation,
3 which will include a map or set of maps to the full
4 committee. When Chair Rodriguez reconvenes the full
5 committee to consider our recommendations, members may
6 offer amendments.

7 Accordingly, the maps that will be work shopping
8 today are not final, any alterations that are
9 proposed, whether it's guidance and feedback to the
10 staff or as an amendment offered in the future, should
11 adhere to the constitutional principles and apply them
12 consistently throughout the state.

13 I have been advised by counsel that all plans
14 brought forward by staff today comply with the complex
15 layering of federal and state standards and contain
16 various trade-offs within the equal Tier-Two standards
17 presented in each plan.

18 It is within the balancing of these trade-offs
19 that we must exercise our legislative discretion and
20 produce a constitutionally compliant map. Staff has
21 also informed me that while no senators have requested
22 that staff review the publicly submitted comments or
23 plans for consideration while developing the maps we
24 are workshopping today. Members of the public have
25 been continuing to submit plans and comments to

1 Florida redistricting.gov.

2 I've reviewed some of these myself and I would
3 like to make sure that members of the committee are
4 aware of them. They can be reviewed on the submitted
5 plans and get involved pages of the website. Are there
6 any questions before we proceed to public comment and
7 presentations on our agenda? All right. Senator
8 Rouson.

9 SEN. ROUSON: Thank you very much. Would you
10 clarify, you said that no staff -- staff has not
11 advised you that they've received any maps from the
12 public. Is that what you said? I'm sorry.

13 SEN. BRADLEY: No staff has -- uh, any maps that
14 have been received are on the joint -- uh, they're on
15 the joint website.

16 SEN. ROUSON: Okay. Thank you.

17 SEN. BRADLEY: Any further questions? All right.
18 Mr. Ferrin, you're recognized for a walkthrough of the
19 staff prepared plans. Um, we will start with the first
20 map in a comprehensive fashion and go through the
21 entire state.

22 Um, and then as we reach the subsequent maps,
23 we'll focus on the differences between that and the
24 first map. Uh, we'll stop for questions after each
25 region as opposed to waiting to the end. I think

1 they'll be more relevant and help our discussion. So,
2 Mr. Ferrin, you're recognized.

3 MR. FERRIN: Thank you, Madam Chair. So we've
4 produced a series of maps since receiving the
5 directives. Uh, the last time the full committee met
6 on October 18th, the -- the plans will be workshopping
7 today, districts have been numbered to be roughly, uh,
8 analogous to the benchmark districts.

9 The exception of course in the Congressional case
10 is district 28 -- 28, which didn't exist in the
11 benchmark plan. We relied on the plain language of the
12 constitution and existing judicial precedent to ensure
13 that plans comply with the complex layering of federal
14 and state standards.

15 And we drew these districts to balance the COE
16 co-equal Tier-Two standards of Article three sections
17 20 and 21 of the Florida Constitution unless doing so
18 would conflict with the Tier-One standards.

19 To comply with the Tier-One standards, we drew
20 these districts without reviewing any political data
21 other than where it was required to perform an
22 appropriate functional analysis to evaluate whether or
23 not a district denied or abridged a racial or language
24 minorities group's ability to participate in the
25 political process or diminish their ability to elect

1 representatives of their choice.

2 Districts were drawn without the use of any
3 resident's information of any sitting member of the
4 Florida legislature or of Congress and districts were
5 drawn without regard to the preservation of existing
6 district boundaries.

7 To comply with the Tier-Two standards, we drew
8 the districts to be nearly as -- nearly equal in
9 population as practicable with district population
10 deviations of plus or minus one person of the ideal
11 population of 769,221.

12 Districts were drawn to be visually compact in
13 relation to their shape and geography. Mathematical
14 scores were used where appropriate. Districts were
15 drawn to use county boundaries where feasible and in
16 less populated areas, whole counties were grouped
17 together to make a district or a set of districts and
18 in more populated areas where it was feasible to do
19 so, districts were kept wholly within a county.

20 The plans were also drawn to use geographic
21 features that are easily recognizable and readily
22 ascertainable, such as, uh, for district boundaries
23 we're feasible. The boundary analysis for each plan
24 illustrates the rate at which railways, interstates,
25 federal and state highways and large water bodies were

1 used as district boundaries for each district. To keep
2 cities whole, we drew the plans to keep cities whole.

3 We're doing so as feasible while recognizing that
4 the Impermanent and irregular shapes of the municipal
5 boundaries were present and if or when a city was
6 split, we sought out, uh, static geographic features
7 to use these district boundaries. And accordingly as a
8 result of all this, the plans we have before us today
9 illustrate a number of trade-offs within these co-
10 equal Tier-Two criteria and are presented to the
11 committee for exercise of the legislative discretion.

12 All these plans, uh, were published, uh, last
13 Wednesday, and they're available on Florida
14 redistricting.gov where they can be viewed inter
15 interactively or downloaded from the submitted plan --
16 plans page for independent analysis.

17 Each one of these links in the PowerPoint, if
18 anybody has their laptop up with that running, will
19 link to a, uh, interactive map for each plan. The
20 reference layers can be added to that to show county
21 boundaries, city boundaries, uh, major roads and
22 railways, uh, so that members can zoom in and around -
23 - around -- in and around the map and follow along
24 that way if they choose.

25 As, uh, part of the meeting materials, we

1 published, uh, these plan packets, uh, each member
2 here has received a hard copy of those. Those are also
3 available on the select subcommittee's, uh, webpage,
4 uh, for the public, uh, consumption.

5 These plan packets contain everything used to
6 analyze a redistricting plan. The data comes from the
7 redistricting application and is simply reformatted
8 for easier consumption. They -- the cover page for
9 these contains a statewide map with insets of South
10 Florida, Jacksonville, Tampa Bay, and Orlando.

11 It also contains a pages of sensors and
12 boundaries statistics, contains lists of split --
13 split counties and cities and a functional analysis of
14 districts protected from non-diminishment standards in
15 the Constitution.

16 We've included in the meeting materials a copy of
17 the over-under map as well, uh, that shows the
18 existing boundaries as they are either over or
19 underpopulated and is color coded accordingly.

20 And we've also included a, uh, packet of the
21 benchmark, uh, plans that were drawn in 2016. The
22 census and boundary statistics page shows the
23 district's population deviation from the ideal and is
24 also ex- -- expressed as a percentage.

25 It also shows the voting age population for, uh,

1 BVAP, which is black voting age, and that includes
2 respondents who identified as being black, either
3 singly or in combination with some other race and or
4 ethnicity.

5 That includes Hispanic and Hispanic blacks or
6 blacks who responded that they were also Hispanic. The
7 HVAP is also there. That's the Hispanic Voting Age
8 population that includes respondents who identified as
9 Hispanic and being of any race or in combination of
10 races. That also includes black Hispanics as well.

11 So just a word of caution if you were to add
12 those two together, you would incidentally be, uh,
13 double counting the Hispanic blacks, but they're
14 reported separately so that each is included in their
15 totality and that's consistent with DOJ guidelines.

16 The reports also contain district area and square
17 miles, perimeter and miles, and the compactness scores
18 for each district, that's the Convex Hull, Polsby-
19 Popper and Reock report con- -- includes counts of
20 whole and partial counties and partial -- whole and
21 partial cities within each district.

22 Counts of counties and cities that have all their
23 population in only one district. And each district
24 boundaries coincidence with certain types of features
25 that have been identified by the US, uh, Census

1 Bureau.

2 And those include the same kind of features that
3 were identified or recognized by the Florida Supreme
4 Court as being political and geographic boundaries.

5 So that's city boundaries, county boundaries,
6 primary and secondary roads, which include
7 interstates, US highways and state highways,
8 railroads, and then, uh, water features with a
9 contiguous area of greater than 10 acres.

10 The report also concludes a, uh, field that shows
11 the portion of each district's boundary that does not
12 coincide with these features, and that's labeled as
13 not -- not or non poly go.

14 So on the, uh, the next pages in the analysis,
15 the plan packets include the list of split counties
16 and split cities. And just one note, while we do
17 include the benchmark plan here for 2016, that has the
18 2020 population in geography.

19 Uh, note on the Congressional plan, uh, the
20 benchmark is specifically as it relates to cities.
21 When it was drawn, it was drawn to only split 13
22 cities, but without moving any district lines, the
23 benchmark plan now splits three times as many so that
24 -- that count rises to 39. And that's due to the
25 Impermanent and ever-changing nature of the municipal

1 annexations.

2 The last few pages in a plan packet include the
3 functional analysis. So the summary pages, there's two
4 summary pages. The first, uh, all of the functional
5 analysis documents list only the districts for which
6 is necessary to evaluate whether or not a district
7 denies or bridges a racial or language minority
8 group's ability to participate in the political
9 process or diminishes their ability to elect
10 representatives of their choice.

11 We again, re -- report the BVAP and HVAP, uh,
12 population percentages. And then on the first summary
13 page, we have the 2020 general election voter
14 registration information for registration by party,
15 registration by race or ethnicity, registration by
16 race or ethnicity and party, and then registration by
17 party and race or ethnicity.

18 The second summary page, uh, includes an average
19 of voter turnout in 2012, 2014, 2016, 2018, and 2020
20 primary elections. And that includes turnout
21 percentages by party and by race or ethnicity. We also
22 include an average of voter turnout in the 2012, 2014,
23 2016, 2018, and 2020 general elections.

24 That's broken out, uh, for turnout by party,
25 turnout by party and race or ethnicity, and then

1 turnout by race or ethnicity and party.

2 Finally, we have the general election for
3 performance in statewide elections for 2012 to 2020,
4 and this includes average performance, which is - is
5 vote share for the Democrat and Republican candidate
6 in that county -- in that district for those years,
7 includes a count of wins and statewide contests for
8 Democrat and Republican candidates.

9 And then we have, uh, a series of margins. So we
10 show the max -- maximum margin of victory in a
11 statewide contest for either the Democrat or
12 Republican candidate.

13 We show the minimum margin of victory in a
14 statewide contest for either the Democratic or
15 Republican candidate, and then the average margin of
16 victory in the statewide contest. Then the final, uh,
17 page of the -- the plan packet is the functional
18 analysis that shows the returns for elections.

19 So on the other pages we kind of summarize those
20 in by counts. This actually shows the percentage of
21 votes received by each candidate in the contest for
22 which there was a statewide primary election, which is
23 2012, 2014, 2016, and 2018. There was no statewide
24 primary contest in 2020.

25 And it also shows the percentage of the votes

1 received by each candidate in contest for which there
2 was a statewide general election in 2012, 2014, 2016,
3 2018, and 2020.

4 So before we jump into the first plan, uh, Madam
5 Chair, you want to take any questions on the reports
6 and how those are laid out?

7 SEN. BRADLEY: Members have any questions about
8 what Mr. Ferrin just described? Senator Rouson?

9 SEN. ROUSON: Thank you very much, Madam Chair.
10 On slide four, you talk about large water bodies and
11 the role that they may have played in the calculation.
12 Is it fair to say -- to ask the question now about
13 CD14 and to what impact, if any, did old Tampa Bay or
14 that large body of water have to do with what was
15 drawn?

16 SEN. BRADLEY: Senator Rouson if -- I think that
17 if we could hold that until we get to that region, um,
18 and we can consider it kind of comprehensively at that
19 time. Is that okay with you? Okay.

20 SEN. ROUSON: Go ahead --

21 MR. FERRIN: All right. So the first plan is Plan
22 S000C8002, and pursuant to the directives given to
23 staff, this plan was drawn to be consistent with the
24 plain language of the Florida Constitution, Federal
25 law and existing judicial precedent balances the co-

1 equal criteria outlined in the Tier-Two standards of
2 Article three, section 20 of the Florida Constitution,
3 except we're doing so conflicts with Tier-One
4 standards. Functional analysis of the minority
5 districts and the plan confirm that it does not
6 diminish the ability for racial and language
7 minorities to elect candidates of their choice.

8 When we were drawing these visually compact
9 districts, county boundaries were used where it was
10 feasible to do so. When a county was split, static
11 geographic features such as major roads, railroads,
12 and water bodies were used in a manner that sought to
13 keep cities whole where feasible.

14 In cases where a city was split, static
15 geographic features were used. Where none were
16 available, or in cases where it was possible to
17 illustrate the tradeoff between using political or
18 geographic features, a municipal boundary may have
19 been used.

20 The plan has an overall deviation of one person,
21 which is zero percent, has average compactness scores
22 of 0.80 Convex hull, 0.41 Polsby-Popper and 0.44
23 Reock.

24 The average use of non-political or geographic
25 boundaries is 11 percent, which means that 89 percent

1 of the district boundaries fallen features identified
2 by the US census bureau's, geographic layers as either
3 city boundaries, county boundaries interstates, US
4 highways or state roads, contiguous water bodies of
5 greater than 10 acres or railroads.

6 This plan has 46 whole counties, five districts
7 wholly located within a county, 351 cities with all of
8 their population contained within a single district
9 and 362 cities -- excuse me, 351 cities with all their
10 boundaries contained within a single district and 362
11 that have all their population contained a single
12 district.

13 Like the benchmark plan, this plan has three
14 effective minority districts for African Americans,
15 and that's Congressional District five, 20, which is
16 majority minority, and 24.

17 There's one district that provides African
18 Americans with the opportunity to elect their
19 candidates of choice, and that's district 10. And
20 three minority majority Hispanic districts in South
21 Florida, and an opportunity district in central
22 Florida that has become a majority minority Hispanic
23 district, and that is Congressional District nine.

24 So on this slide we have the statewide plan, but
25 we can go ahead and jump into the first region. So in

1 Plan 8002, in the Panhandle, districts one and two
2 split Walton County, the county boundary primarily
3 follows State Highway 83 North from the state line and
4 US Highway 331 between DeFuniak Springs and the Gulf
5 of Mexico.

6 It departs from these roads to keep DeFuniak
7 Springs whole in District two and uses part of the
8 boundary of the city of Freeport to keep the city
9 whole in district one. You want to go on to the next
10 one, or?

11 SEN. BRADLEY: Members I'll -- I'll look to you
12 to jump in if there's a question that arises.

13 MR. FERRIN: The next region to look at is the,
14 uh, North -- North of Central Florida, Northeast
15 Florida.

16 Here the shapes of District two, three, and four,
17 a result of the configuration of District five and of
18 comparatively low population growth rates in the
19 region. District five is an effective minority
20 district protected under Tier-One of Article three,
21 section 20 of the Florida Constitution from
22 diminishment.

23 While the BVAP decreases slightly from the
24 benchmark, a functional analysis confirms that the
25 district does not deny our bridge the opportunity for

1 African Americans to participate in the political
2 process and does not diminish their ability to elect
3 candidates of their choice.

4 In Leon County, the boundary of District two and
5 five primarily follows capital circle, US Highway 27,
6 which is Appalachian Parkway, North Monroe Street,
7 Meridian Road, Bannerman Road, Bradfordville Road, and
8 Centerville Road and State Road 59. In Columbia
9 County, the boundary of districts two and five
10 primarily follows interstates 10 and 75, US Highway 90
11 and State Road 10A and State Road 100.

12 SEN. BEAN: Madam Chair. Matt, just to interrupt
13 real quick, and -- and Jay and it -- it may be just --
14 uh, may just be me. Is there any, uh, reason why the
15 coast is shaded, uh, on the maps there? Is that
16 anything or am I just seeing it or is that -- uh, what
17 is that, why is it shaded differently from other parts
18 of, uh, the map?

19 SEN. BRADLEY: You're speaking of district two?

20 SEN. BEAN: District two -- well, district two,
21 but it also runs into district one and the other
22 materials. I -- there may be no reason, maybe it's
23 aesthetics, maybe just look good, but there's a
24 definite twist in the color and I just wondered if is
25 it anything?

1 MR. FERRIN: Thank you Madam Chair. That -- that
2 is the -- the water layer and -- and so in -- in
3 reviewing these, uh, putting these slides together, we
4 flipped on some of the, uh, relevant layers that would
5 show like rivers, lakes, things like that.

6 The -- the roads you see in the slide are -- are
7 major roadways. We didn't turn on city boundaries and
8 labels because that got a little too -- too busy.

9 And so it's kind of just the base map and then
10 the shading of the district color over that. Um, we
11 can look at maybe trying to do that a little bit
12 differently, but --

13 SEN. BEAN: Well, I'm okay. I just wanted to
14 understand.

15 MR. FERRIN: Okay. Got it.

16 SEN. BRADLEY: Very good. Anything else? All
17 right. Please continue.

18 MR. FERRIN: All right. Thank you Madam Chair. So
19 in -- in, uh, Duval County, the boundary between
20 districts four and five follows us Highway 17,
21 interstate 295, Beach Boulevard, University Boulevard,
22 Roosevelt Boulevard, and the Ortega River.

23 To equalize the population under this plan,
24 district two extends into Alachua County, that allows
25 for districts three and 11 to be the only districts in

1 Marion County. In Alachua County, the boundary between
2 districts two and three follows major roadways that
3 include State Road 26, which is Newberry Road, State
4 Road 24, which is Archer Road, Interstate 75, and then
5 Williston Road.

6 While the city of Gainesville is split 99 percent
7 of the population of the city is in District three,
8 and that split was necessary to achieve the
9 equalization of the population down to plus or minus
10 one person.

11 In Marion County, the boundary of districts three
12 and 11 primarily follows state roads 235 and 240 and a
13 portion of Interstate 75. Where we needed to equalize
14 the population down to plus or minus one person, the
15 city of Ocala is split, although 99.4 percent of the
16 population of Ocala does fall within District three.

17 District six, which is kind of sort of leading
18 off the screen there consists of, uh, Southern St.
19 John's County, Flagler County, most of Volusia and the
20 Southern -- Northern portion of Lake.

21 The boundary between District four and six
22 utilizes State Road 16, 13 and Interstate 95. And
23 where the boundary does divide St. Augustine, it
24 follows a railroad keeping 82.9 percent of the
25 population of St. Augustine within District six.

1 The next region in 8002 is the -- what we call --
2 we call the I-4 region, and this includes the southern
3 portion of District six, district seven, district
4 eight, district nine, district 10, district 11,
5 district 12, district 13, district 14, district 15,
6 and then the additional district, district 28.

7 The Southern boundary of District Six Borders
8 District seven in Volusia, primarily follows West High
9 Banks Road, Doyle Road and Osteen Maytown Road.

10 Parts from these geographic boundaries --
11 geographic features when necessary to equalize
12 population in -- in and around the city of Deltona
13 DeBerry. In Lake County, the boundary primarily
14 follows County Road 44A and the [inaudible] Mount Dora
15 City Boundaries -- uses and Mount Dora City
16 Boundaries.

17 District seven consists of all seminal county and
18 parts of Volusian Orange. Its shape is affected by the
19 configurations of District nine and 10, which are
20 minority opportunity districts protected from
21 diminishment under Tier-One of Article three, section
22 20 of the Florida Constitution.

23 In Orange County, the boundary between districts
24 seven and 10 follows I-4, the Seaboard Coast, Railroad
25 and State Road 50, which is East Colonial Drive, State

1 Road 417 State Road 408, the East West Expressway
2 State Road 434, the Alafaya Trail, and the
3 Econlockhatchee River.

4 Departing from these geographic boundaries are
5 necessary to maintain the ability to elect in
6 neighboring Tier-One districts and to equalize
7 population. District eight contains all of Brevard
8 County in portions of Indian River and Orange County.

9 District nine is a Hispanic opportunity district
10 protected from diminishment under Tier-One. And due to
11 an increase in the Hispanic population of the area,
12 this district becomes majority minority.

13 A functional analysis confirms that the district
14 does not deny our bridge, the opportunity for
15 Hispanics to participate in the political process and
16 does not diminish their ability to elect candidates of
17 their choice.

18 District contains all of Osceola County and part
19 of Orange County. In Orange, the boundary falls is I-
20 4, Sand Lake Road, Conway Road, East Colonial Drive,
21 and the East West Expressway, along with the Alafaya
22 Trail and the Econlockhatchee River. Parts from these
23 boundaries when necessary to maintain the ability to
24 elect in it and -- and neighboring Tier-One protected
25 districts and to equalize population.

1 District 10 is wholly located within the
2 remainder of Orange County. It's an African American
3 opportunity district protected from diminishment under
4 Tier-One.

5 BVAP slightly increases from the benchmark, but a
6 functional analysis confirms that the district does
7 not deny our bridge the opportunity for African-
8 Americans to participate in the political process and
9 does not diminish their ability to elect candidates of
10 their choice.

11 District 11 contains all of Citrus County and
12 shares a boundary with District three and Marion, and
13 District 28 and Sumter, and also shares a boundary
14 with District 28 and six in Lake.

15 While Sumter County split the boundary follows
16 State Road 50 and 99.8 percent of the population of
17 Sumter County is within District 11. In Lake County,
18 the boundary primarily follows State Road 50, State
19 Road 33, and State Road 565B.

20 Parts where necessary to -- uh, parts from these
21 geographic features when necessary to equalize
22 population.

23 District 12 contains all of Fernando and -- and
24 Pasco counties in a small portion of Pinellas where it
25 shares a boundary with district 13 and that was

1 necessary to equalize population in the area.

2 District 13 is wholly contained within Pinellas
3 County. Boundary between District 13 and 14 in
4 Pinellas primarily follows US Highway 19, State Road
5 688, which is Ulmerton Road, State Road 686, which is
6 Roosevelt Boulevard and US Highway 92, which is Gandy.

7 District 14 contains the northeastern part of,
8 uh, Dallas and the Northwestern part of Hillsborough
9 County where it's adjacent to District 15. There the
10 boundary primarily follows Interstate 275, the CSX and
11 Amtrak Railroad and US Highway 441.

12 SEN. ROUSON: Madam Chair.

13 SEN. BRADLEY: Senator Rouson, you're recognized.

14 SEN. ROUSON: Thank you very much. Why was it
15 necessary to split the city of Gulfport in district
16 13?

17 MR. FERRIN: Madam chair.

18 SEN. BRADLEY: Recognized.

19 MR. FERRIN: Uh, Senator I -- Gulfport is in just
20 west of St. Pete at the -- the tip of the, um,
21 peninsula there -- that -- that is not -- not going to
22 be split in the Congressional plan.

23 SEN. ROUSON: Okay. I must have it confused with
24 the Senate plan.

25 MR. FERRIN: You may.

1 SEN. ROUSON: Um, follow up.

2 SEN. BRADLEY: You can go back and forth.

3 SEN. ROUSON: So in 14 you come down into
4 Pinellas County, picking up Lake Tarpon and Feather
5 Sound, which is near Clearwater area, uh, which is
6 further into Pinellas than 14 has traditionally been.
7 Why was that necessary?

8 MR. FERRIN: So Senator Rouson, the configuration
9 of district 14 and it's -- it's, uh, going into
10 Pinellas County is a -- a factor of the use of county
11 boundaries throughout the region. So by keeping
12 Hernando and Pasco a whole, that district falls about
13 12,000, 13,000 people short of being a full district.

14 So that has to get that additional population
15 from somewhere. District 13 starts in Southern
16 Pinellas and grows North.

17 But if -- if District 13 were to stop, uh,
18 somewhere in the Clearwater Feather Sound area,
19 district 14 -- some -- some district would have to
20 take that additional population all the way -- it's
21 between 12 and 13 all the way out to the Gulf of
22 Mexico.

23 Uh, and I think putting that in District 14 would
24 look a little odd. Um, if you were to try to grow, uh,
25 fill that extra population with District 12, uh,

1 that's coming down from the Northern Pinellas,
2 something would have to, uh, make up for that
3 additional 150,000, 160,000 people.

4 So somewhere District 12 would have to lose that
5 many -- uh, that much population. So District 14 would
6 potentially stop at the Hillsborough Pinellas line,
7 but go North into Pasco for -- to balance the
8 population between those three districts.

9 SEN. ROUSON: So -- I'm sorry, follow up.

10 MR. FERRIN: Mm-hmm.

11 SEN. BRADLEY: Follow up.

12 SEN. ROUSON: So either way, whether it goes
13 North or whether it goes South like you've drawn it --
14 it had to pick up additional population?

15 MR. FERRIN: That -- that's correct Senator, by
16 trying to draw 15 wholly within Hillsborough County
17 and keep that -- respect that county boundary, which
18 also enabled Polk to stay whole. That means that 14
19 has to -- to pick up that population from somewhere.

20 SEN. ROUSON: All right. What impact, if any, did
21 Tampa Bay that large body of water have on district
22 boundaries?

23 MR. FERRIN: So the boundary -- the Southern
24 boundary of District 14 is going to use Tampa Bay at
25 the end -- the tip of the -- the peninsula there in

1 Tampa as a boundary. Otherwise, we -- we -- we do have
2 to assign all geography in the state.

3 We can't leave stuff unassigned even if it's
4 water. And so using that simply as a southern
5 boundary, it just worked out that way that -- that the
6 bay is contained there within District 14, old Tampa
7 Bay is.

8 SEN. ROUSON: All right. May I?

9 SEN. BRADLEY: Please continue.

10 SEN. ROUSON: And -- and just a general question
11 for the listening public, what is the difference
12 between a minority opportunity as opposed to a
13 minority seat? I think you said that districts five,
14 20 and 24 are minority seats, but districts nine and
15 10 are minority opportunity seats.

16 MR. FERRIN: So Senator Rouson, we, uh, generally
17 categorize, uh, those as -- you have several
18 categories, one of which is minority majority, and
19 that's where majority of the district's voting age
20 population, uh, is minority.

21 And so if the VAP is over 50, in that
22 circumstance, it's the majority more -- minority
23 district. We have effective minority districts in
24 which the VAP may fall below majority status, but the
25 -- the minority voting age population, the minority

1 voters still, uh, control the primary within either
2 the Republican or democratic primaries.

3 And so by turning -- measuring the turnout there,
4 so if the, uh, black turnout in the Democratic
5 primaries over 50 percent, we can conclude that that's
6 probably an effective minority district if it does in
7 fact perform for Democrats in the general.

8 And so that's the effective minority district.
9 The opportunity is where the primary control is not
10 conclusive, where the minority voters that are turning
11 out in the primaries do not exceed -- do not make up a
12 majority, and therefore may still depend on, uh,
13 either crossover, uh, votes from, from white voters or
14 coalescing with other minority groups to nominate and
15 then elect their candidate of choice.

16 SEN. ROUSON: Thank you.

17 SEN. BRADLEY: Any additional questions? All
18 right. Keep moving forward.

19 MR. FERRIN: Thank you Madam Chair. I think we
20 left off on district 15, which is wholly contained
21 with -- in Northeastern Hillsborough County. It does
22 share the boundary with District 14 to the West and
23 District 16 to the South.

24 The boundary between districts 15 and 16
25 primarily follows the CSX and Amtrak Railroad, US

1 Highway 301 and State Road 674. District 28, uh, does
2 contain all of Polk County and the Southern parts of
3 Sumter and Lake Counties where it shares a boundary
4 with District 11.

5 This slide depicts the southern half of the
6 state, District 16 contains the remaining portion of
7 Southern Hillsborough County, all of Manatee County
8 and part of Sarasota County in Sarasota, where the
9 district shares a boundary with District 17, a
10 boundary primarily follows I75 and the boundary of the
11 city of Northport to keep Northport holy within
12 District 17.

13 To equalize the population, the boundary follows
14 local road -- roadways in and around the city of
15 Venice. District 17 contains all of Charlotte, DeSoto,
16 Hardee, Highlands, Glades, and Okeechobee Counties. It
17 also contains a portion of Sarasota not in District 16
18 and a part of Lee County.

19 And Lee County, the boundary primarily follows
20 the Tamiami Trail, Seaboard Coast, Line Railroad, I75
21 and State Road 82. District 18 over on the East coast
22 contains all of St. Lucie, Martin County and parts of
23 Indian River and Palm Beach counties.

24 In Indian River County, the district shares a
25 boundary with District eight to the north and the

1 boundary primary followers State Road 60 and other
2 local roads to equalize population. In Palm Beach
3 County, the district shares of boundary with District
4 20, which is a minority -- majority district protected
5 from diminishment under Tier-One.

6 Moving further South, District 19 contains parts
7 of Lee and Collier Counties. In Lee County, the
8 district shares of boundary with District 17 and in
9 Collier County the shape of the district is a result
10 of the configuration of District 25, which is a
11 Hispanic majority minority district protected from
12 diminishment under Tier-One.

13 Boundary between District 19 and 25 primarily
14 follows I75 and US Highway 41, which is the Tamiami
15 Trail, and departs from these geographic features when
16 necessary to equalize population. District 20 is a
17 majority minority -- excuse me, minority majority
18 district protected from diminishment under Tier-One.

19 The functional analysis confirms that the
20 district does not deny our bridge the opportunity for
21 African Americans to participate in the political
22 process, and it does not diminish their ability to
23 elect candidates of their choice.

24 District 20 contains parts of Palm Beach and
25 Broward County in Palm Beach. The district shares a

1 boundary with District 18 to the North, Districts 21
2 and 22 to the South and East.

3 The boundary primarily follows State Road 710,
4 which is the B-Line Highway, Seminole Pratt and
5 Whitney Road, State Road 704, which is Okeechobee
6 Boulevard, Jog Road, the Florida Turnpike and State
7 Road 809, which is military trail.

8 Also uses portions of I -- I95, North Lake
9 Boulevard, US Highway One and the federal East Coast
10 Railroad, as well as, uh, US Highway 98 and State Road
11 80, which is Southern Boulevard. And then, uh, uses
12 the boundary of the Loxahatchee, now Wildlife --
13 National Wildlife Refuge in -- uh, there in Central
14 Palm Beach County.

15 In Broward County, the boundary primarily follows
16 the Sawgrass Expressway, the Pompano Canal, State Road
17 814, which is Atlantic Boulevard, the Florida
18 Turnpike, the Seaboard Coast Railroad, State Road 811,
19 which is Dixie Highway, the Florida East Coast
20 Railroad, interstate 95, and the city boundary of
21 Wilton Manors and as well as Interstate 75.

22 The boundary of District 20 does depart from
23 these features when necessary to equalize population
24 and to maintain the ability to elect in this Tier-One
25 protected district. The shapes of districts 21 and 22

1 are a result of the configuration of District 20,
2 which is, as we just discussed, the minority majority
3 district. In this plan, the districts are configured
4 vertically.

5 This configuration allows District 22 to utilize
6 political and geographic boundaries at a high rate,
7 which is only 9 percent non-political or geo.

8 And although District 21 scores relatively low on
9 -- on the boundary usage, it's largely due to the fact
10 that -- that National Wildlife Refuge doesn't actually
11 count as a geographic boundary under our definitions.

12 And while the Reock scores for the districts are
13 -- are relatively low, the Convex Hull scores are
14 reasonably high given the district's proximity, two
15 and interaction with the Tier-One Protected District
16 20.

17 District 21 and 22 contain parts of Palm Beach
18 and Broward Counties. District 21 shares a boundary
19 with District 20 to the North, West and south. And in
20 Palm Beach County, the Eastern boundary of District 21
21 is shared with District 22.

22 There primarily follows State Road 809, which is
23 military trail, the Florida Turnpike and part of the
24 county line. District 23 is wholly contained within
25 Broward County where it shares boundaries with

1 districts 20, 22 and 24. Boundary primarily follows
2 I75 and the Western boundary of the cities of Sunrise,
3 Westin, Southwest ranches, Pembroke Pines, and
4 Miramar.

5 In Sunrise and Plantation, boundary departs from
6 geographic features when necessary to maintain the
7 ability to act and the neighboring Tier-One protected
8 district and to equalize the population.

9 Where the district shares a boundary with
10 District 22, boundary primarily follows I95, 595 --
11 excuse me, Interstate 9 -- 595, US Highway one and the
12 40 East Coast Railroad. Where District 23 shares a
13 boundary with District 24, which is an effective
14 minority district protected from diminishment under
15 Tier-One.

16 The boundary primarily follows State Road 824,
17 which is Pembroke Road. District 24, as I just
18 mentioned, is an effective African American minority
19 district protected from diminishment under Tier-One.

20 When compared to the benchmark, District 24 has a
21 very similar black voting age population and the
22 functional analysis confirms that the district does
23 not deny or bridge the opportunity for African
24 Americans to participate in the political process and
25 does not diminish their ability to elect candidates of

1 their choice.

2 District 24 contains a small part of Broward and
3 parts of Miami-Dade County. In Broward County, the
4 boundary primarily follows State Road 824, which is
5 Pembroke Road. And then Miami-Dade County boundary
6 primarily follows State Road 817, which is Northwest
7 27th Avenue I95 -- excuse me, Interstate 195 and
8 Interstate 395 in the MacArthur Causeway.

9 Boundary does depart from these geographic
10 features when necessary to equalize population and to
11 maintain the ability to elect in this district as well
12 as in the two neighboring Hispanic majority minority
13 districts.

14 And all of the districts remaining in Miami-Dade
15 County are in fact Hispanic majority minority
16 districts that are protected from diminishment under
17 Tier-One. The functional analysis of each of these
18 does confirm that they do not deny or bridge the
19 opportunity for Hispanics to participate in the
20 political protest besides political process and do not
21 diminish their ability to elect candidates of their
22 choice.

23 District 25 contains all of Henry County in parts
24 of Collier and Miami-Dade counties. In Collier County,
25 the district shares a boundary with District 19.

1 In Miami-Dade County, the district shares
2 boundaries with District 24 and District 26 and 27.
3 District 25 shares a boundary with District 26, the
4 boundary primarily follows US Highway 41, which is the
5 Tamiami Trail and State Road 836, which is the Dolphin
6 Expressway.

7 Where District 25 shares a boundary with District
8 27, primarily follows the Dolphin Expressway and the
9 Tamiami Canal, C4 Canal. Boundary departs from these
10 geographic features when necessary to equalize
11 population and to maintain the ability to elect in
12 this and enabling Tier-One districts.

13 SEN. BRADLEY: I believe we have a question if we
14 could. Hold right there. Uh, Senator Stewart you're
15 recognized.

16 SEN. STEWART: Yeah. It's, um, primarily on the
17 25 and I don't know if 20 -- could you tell me where
18 the Everglades is located on this map?

19 MR. FERRIN: Uh, Senator Stewart, it's going to
20 be kind of in the middle. It's -

21 SEN. STEWART: [Cross talk].

22 MR. FERRIN: -- uh, so -- so the -- I would say
23 that the Everglades, depending on some -- your
24 definition of them is going to start South of Lake
25 Okeechobee and fall all the way through the peninsula

1 down to, uh, the tip of -- of Monroe County, which you
2 can't actually see here.

3 But by and large the Everglades is going to be --
4 so you see where the map says Miami Dade on the
5 screen, can you read that perhaps.

6 To the -- to the west of that, that's all
7 Everglades. And then I would say generally North --
8 uh, South of the -- uh, that's I75, which is the
9 middle red line that crosses there -- that crosses
10 from Collier to Broward.

11 That's kind of the heart of it right there. So
12 everything is South and then as you get up further
13 North into Hendry and Southwestern Palm Beach, that's
14 -- that's where the Everglades, you start to kind of
15 end. And -- and that's where some of the farming
16 communities in the state, uh, sort of begin.

17 SEN. STEWART: So primarily the bulk of it is in
18 25? No? Yes?

19 MR. FERRIN: I -- I -- I would suggest that the
20 districts 20, 25 and 26 are going to have a lot of
21 Everglades in them.

22 SEN. BRADLEY: Anything further? Any additional
23 questions? All right.

24 MR. FERRIN: And we just left off on District 25,
25 I believe. So District 26, uh, does contain all of

1 Monroe County and part of Miami-Dade, Miami-Dade. The
2 boundary follows the Tamiami Trail and the boundaries
3 of the city of Sweetwater and the Florida Turnpike.
4 Parts from these geographic features when necessary to
5 equalize population.

6 And District 27 finally is contained wholly
7 within Miami-Dade County. They're -- the boundary
8 primarily follows the Florida Turnpike, the Dolphin
9 Expressway, Interstate 395, and the MacArthur
10 Causeway. Departs from these geographic boundaries,
11 uh, when necessary to equalize population and maintain
12 the ability to elect in this in neighboring Tier-One
13 protective districts.

14 SEN. BRADLEY: All right. Well, thank you for
15 that. That was a, um, comprehensive overview of MAP
16 8002. Um, and as discussed earlier, 8004, 8006 and
17 8008, uh, share a lot of similarities, but they differ
18 in particular respect.

19 So as we go forward, we will focus on those
20 distinctions, uh, and not step through, uh, the
21 entirety of what, uh, Mr. Ferrin just -- just
22 described for us. So are there any questions? Yes,
23 Senator Harrell.

24 SEN. HERRELL: Thank you. One, two question. When
25 we have the, uh, North-south districts of 21 and 22,

1 can you tell me, uh, approximately how many cities are
2 split? Because I know you have, in that area in
3 particular, everything is just about incorporated. So
4 how many cities are split in 21 and 22?

5 MR. FERRIN: So, Senator Harrell, um, on the
6 census and boundary statistics page about the -- not
7 the 12th column or so over, you have the counts of
8 cities that are -

9 SEN. BRADLEY: I think you could hold that. Is
10 everybody -- um, does everybody have that page? That -
11 - uh, it's page -- it's the second page of 8002 of the
12 statistics for that so we can follow along. I'm sorry.
13 Go ahead.

14 MR. FERRIN: Sorry. Yep. So -- so that column
15 displays the number of cities that are kept whole
16 within the district, and then parts, parts is going to
17 be a little bit more of an aggregate count.

18 So if District 21 contained -- uh, contains seven
19 parts of cities, that doesn't necessarily mean that
20 seven cities are -- are -- are split. It -- it means
21 that it has unique combinations of district and city.
22 There are seven of those. So you can look at that and
23 say, well, district 21 keeps four cities whole and
24 District 22 has 19 wholly within it.

25 SEN. HERRELL: Mm-hmm. Follow up. So when you say

1 this -- there are seven, uh, parts -

2 MR. FERRIN: Mm-hmm.

3 SEN. HERRELL: -- and then 14 parts. If they're
4 19 kept whole and 14 have parts. Are those 14 specific
5 sections, or are those 14 cities?

6 MR. FERRIN: It's going to be specific sections
7 of those cities. So -- so if you look - look into the
8 next page, perhaps we can look down the list and see
9 that as you move down, Coconut Creek is -- is split
10 between districts 20 and 21.

11 SEN. HERRELL: Mm-hmm.

12 MR. FERRIN: So there's -

13 SEN. HERRELL: Is overlap.

14 MR. FERRIN: -- that part of a city. So that
15 seven -- that -- that row that says Coconut Creek 21 -
16 - district 21, that counts as part of a city that's in
17 District 21. And that's -- but that's split between
18 districts 20 and 21.

19 And so if you're asking just between 20 and 22,
20 we would run down this list and see that, uh, Delray
21 Beach is split between districts 21 and 22. Although
22 we have zero population from Delray Beach and District
23 21, it's all in district 22.

24 There's just a geographic split where Delray
25 Beach may have annexed something on the far side of

1 the road that -- that we chose to stick on the road.

2 SEN. HERRELL: Okay. Thank you.

3 SEN. BRADLEY: Anything additional? All right.

4 Yes, Senator Rouson.

5 SEN. ROUSON: Thank you. Uh, speaking of cities
6 being split, does this map also split the city of
7 Tampa?

8 MR. FERRIN: Senator Rouson, I believe the city
9 of Tampa is -- ends up getting split in all plans
10 between districts 14 and 15.

11 And that's -- the city of Tampa does extend from
12 the -- I believe it extends all the way from the Polk
13 -- uh, or excuse me, the Pasco, uh, Hillsborough
14 County line all the way down to Tampa Bay.

15 And so it's a very large, kind of sprawling city,
16 and it is split in -- it's going to be split in -- in
17 -- in all the plans that we're looking at today.

18 SEN. ROUSON: And the -- the reason for that, the
19 -- the Tier-Two standard that would apply.

20 MR. FERRIN: Uh, the reason for that would be
21 that the population in the area kind of compels that,
22 uh, combined with the geographic features and the use
23 of county boundaries, keeping the city of Tampa whole
24 would -- would likely result in some, um, less
25 visually appealing to say the least, uh, districts

1 around it.

2 SEN. BRADLEY: All right.

3 MR. FERRIN: So if we're ready to move to plan
4 8004.

5 SEN. BRADLEY: All right.

6 MR. FERRIN: So in the same manner pursuant to
7 the directives that were given to staff, we drew this
8 plan to be consistent with the plain language of the
9 Florida Constitution with federal law and with
10 existing ju -- judicial precedent.

11 It also balances the co-equal criteria outlined
12 in Tier-Two standards of Article three, section 20,
13 except where doing so conflicts with the Tier-One
14 standards. The functional analysis of each of the
15 minority districts in the plan does confirm that it
16 does not diminish the ability for racial and language
17 minorities to elect candidates of their choice.

18 And when we were drawing these districts, we did
19 so, uh, to be visually compact and to use county
20 boundaries where it was feasible to do so.

21 When a county was split static geographic
22 features such as major roads, railroads, and water
23 bodies were used in a manner that sought to keep the
24 city is whole where feasible.

25 In cases where a city was split, static

1 geographic features were used where none were
2 available, or in cases where it was possible to
3 illustrate the tradeoff between using political or
4 geographic features, a municipal boundary may have
5 been used. This plan has, again, an overall deviation
6 of one, average compactness scores of 0.80 for Convex
7 Hull 0.42 for Polsby-Popper, 0.45 for Reock.

8 The average use of nonpolitical or geographic
9 boundaries matches that of the predecessor, which was
10 11 percent, and means that 89 percent of the -- the
11 district boundaries fall on features identified by the
12 US census bureau geographic layers as city boundaries,
13 county boundaries interstates, US highways, state
14 roads, contiguous water bodies larger than 10 acres or
15 railroads.

16 This plan keeps 47 counties whole, keeps six
17 districts wholly within a county, 352 cities with all
18 of their boundaries contained within a single district
19 and 362 with all of their population contained within
20 a single district.

21 Like the benchmark plan, this plan has three
22 effective minority districts for African Americans.
23 That's, again, five, 20 and 24.

24 One district that provides African Americans with
25 the opportunity to elect their candidate of choice in

1 District ten, three minority majority Hispanic
2 districts in South Florida and the Opportunity
3 District in central Florida, that has become a, uh,
4 majority minority Hispanic district. In the Panhandle,
5 Walton County is against split by districts one and
6 two.

7 However, the boundary between the two districts
8 more strictly adheres to the static geographic
9 features that are State Highway 83 North, and US
10 Highway 331 South. Departure from these features is
11 minimal and is required to equalize population.

12 The tradeoff between this configuration and the
13 one in Plan 8002 is that this splits the cities of
14 DeFuniak springs in Freeport, but better adheres to
15 the political and geographic boundaries.

16 In the North Florida region of Plan 8004,
17 Districts four, five, and six are the same as in the
18 previous plan. District two and three are configured
19 to keep a lateral county whole by having district two
20 get its additional population from Marion County,
21 which is also split by districts three and 11.

22 This configuration demonstrates the way keeping a
23 county whole can result in a split in another county.
24 And in this particular circumstance, consolidating the
25 splits in Marion County also results in a more

1 visually in mathematically compact District three.

2 And this configuration boundary between districts
3 two and three in Marion County primarily follows US
4 Highway 27 and State Road 200. The boundary between
5 districts three and 11 is similar to the boundaries in
6 8002, but in this plan, the City of Ocala is actually
7 kept whole.

8 This plan is similar to Plan 8002, and that the
9 district configurations in the I-4 corridor are the
10 same, and it's similar to 8002 in that the district
11 configurations in South Florida are the same, except
12 the district's 21 and 22 have a horizontal
13 configuration rather than vertical.

14 It's a little easier to see in this slide, but
15 the horizontal configuration of these two districts
16 allows district 21 to be kept wholly within Palm Beach
17 County. The visual compactness in some of the
18 mathematical compactness scores are improved.

19 And on the whole, the scores for the use of
20 political and geographic boundaries improve --
21 improves slightly and generally becomes more balanced
22 between these two districts.

23 In Palm Beach County, the boundary between
24 District 21 and 22 now follows State Road 808, which
25 is Glades Road, the 40 East Code -- East Coast

1 Railroad, and US Highway One and State Road 800. That
2 would be the changes in 8004.

3 SEN. BRADLEY: Members, any question on the
4 changes just described in MAP 8004? Anybody need to
5 take a second to digest, uh, some of the explanation?
6 Everybody?

7 SEN. HERRELL: Follow up on -

8 SEN. BRADLEY: Yes. Senator Harrell.

9 SEN. HERRELL: Follow up on my question on the
10 cities that are split in those two districts. Uh, when
11 you're going now, uh, you know, more horizontal as
12 opposed to vertical, uh, we're -- what is the split on
13 the cities?

14 And I noticed before West Palm Beach was split
15 into three sections, whereas what -- you know, how is
16 West Palm split now?

17 MR. FERRIN: So Senator Harrell in -- in district
18 -- in plan 8004, district 21 keeps 15 cities whole and
19 has nine parts. District 22 has eight whole and has 10
20 parts.

21 SEN. HERRELL: Okay. [That's just one. ?]

22 MR. FERRIN: A -- a lot of those are probably
23 going to be split between district 20 and either 21 or
24 22.

25 SEN. BRADLEY: And I -- if -- if I could jump, I

1 have a question, um, with regard to the number of
2 cities split as we're focusing on the -- just sort of
3 the overall, uh, statistics of MAP 8004, you have 352
4 cities that are wholly within one district, 362 with
5 all the population in one district.

6 So there's 10 -- 10 cities that were split, but
7 as a -- the result of the split did not put population
8 in two different districts. So -- so there's 60 cities
9 split, but really only 50 of them, uh, resulted in
10 population of a -- of an individual city being divided
11 between two districts. Is that correct?

12 MR. FERRIN: That's correct. Madame Chair. And --
13 and that's something that as we were drawing maps, we
14 were kind of looking at where in particular a city may
15 have annexed a parcel that's sometimes on the other
16 side of an interstate or, uh, you know, another major
17 geographic feature. What's the more prudent approach?

18 Is it to follow the -- the municipal boundary
19 there just for the sake of keeping the geographic
20 boundaries of the city within a district?

21 Or does it make more sense to stay on the, uh,
22 easily ascertainable and commonly understood boundary
23 that would be the interstate or other major roadway or
24 other geographic feature, be it a railroad or -- or
25 other, uh, uh, qualifying feature under the Supreme

1 Court's definition.

2 And so we've tried to, uh, take that approach.

3 You know, as with any of these kind of projects, the
4 more you look at it, the more you notice things. And
5 so there may be some areas where we can go back
6 through and kind of review and make sure we were doing
7 all that consistently.

8 But in general, that was, the thought process was
9 don't necessarily follow a municipal boundary that's
10 likely and possibly may have already changed since
11 these were locked in place in, uh, January 1st, 2020.

12 Um, because as we've learned since 2016, we --
13 we've seen a number of -- of city splits added to the
14 benchmark plan that -- you know, without even moving
15 the district lines.

16 SEN. BRADLEY: Right. Thank you. So -- so a city
17 split doesn't necessarily mean that the population was
18 split? Just something to keep in mind as we -- as we
19 look at a city split, to -- to refer to, uh, the --
20 the data that follows the map to look and see what the
21 result of that split was.

22 And you'll see in certain circumstances where,
23 uh, the total population zeros out, and that would be
24 one of the examples that you just described. Any
25 additional questions? Senator Rouson? You're good.

1 All right. Is everybody ready to move forward to
2 Map 8006? And hold on. Everybody found their maps and
3 their spot? All right.

4 MR. FERRIN: Thank you, Madam Chair. So
5 consistent with the directions that were given to
6 staff, we drew this plan to be consistent with the
7 plain language of the Florida Constitution, Federal
8 law and existing judicial precedent balances the co-
9 equal criteria outlined in the Tier-Two standards of
10 Article three, section 20 in the Florida Constitution,
11 except we're doing so conflicts with the Tier-One
12 standards.

13 Functional analysis of the minority districts in
14 the plan confirm that it does not diminish the ability
15 for racial language minorities to elect candidates of
16 their choice. When drawing visually compact districts,
17 county boundaries were used where it was feasible to
18 do so.

19 When a county was split, static geographic
20 features such as major roads, railroads, and water
21 bodies were used in a manner that sought to keep
22 cities whole where feasible. In cases where a city was
23 split, static geographic features were used.

24 Where none were available, or in cases where it
25 was possible to illustrate the tradeoff between using

1 political or geographic features, a municipal boundary
2 may have been used. Plan 8006 has an overall deviation
3 of one person, average compactness scores of 0.80
4 Convex Hull, 0.42 Polsby-Popper and 0.45 Reock.

5 The average use of non-political or geographic
6 boundaries in this plan is 10 percent, and that means
7 that 90 percent of the district boundaries fall on
8 features identified by the US census bureau's
9 geographic layers is either city boundaries, county
10 boundaries, interstates, US highways or state roads.

11 And also includes contiguous water bodies larger
12 than 10 acres in railroads. This plan has 46 whole
13 counties, six districts wholly located -- wholly
14 contained within a county, 350 cities with all their
15 boundaries contained in a single district and 360
16 cities with all their population contained in a single
17 district.

18 Like the benchmark plan, this plan also has three
19 effective minority districts for African Americans,
20 Congressional District five, Congressional District 20
21 and Congressional District 24.

22 Here's one district that provides African
23 Americans with the opportunity to elect a candidate of
24 choice, and that's District 10, three minority
25 majority Hispanic districts in South Florida, and an

1 opportunity district in central Florida that has
2 become a majority minority Hispanic district in
3 Congressional District nine.

4 8006 is similar to Plan 8002, and that the
5 districts in the Panhandle are the same. It's similar
6 to Plan 8002 again, and then all of the districts in
7 North Florida are the same. And so this one has the,
8 uh, Alachua and Marion split -- displayed there. In
9 this plan, we have different, uh, configuration in the
10 Orlando area.

11 This configuration slightly reduces the black
12 voting age population and Hispanic voting age
13 population in districts 10 and nine respectively. It
14 also increases some of the city splits in the area,
15 but it does in -- increase overall compactness in
16 political and geographic boundary usage between
17 District seven, nine, and 10.

18 The functional analysis was conducted to confirm
19 that both of the Tier-One protected districts in this
20 region are not diminished, and the Hispanic and
21 African American populations retain their opportunity
22 to elect the candidates of their choice.

23 In Orange County, district seven s boundary
24 primarily follows I-4, US Highway 17, State Road 50,
25 State Road 408, and State Road 552. District Nine

1 remains a Hispanic opportunity district protected from
2 diminishment under Tier-One, and is as in the previous
3 version, becomes a majority minority District.

4 Functional analysis confirms that Hispanics have
5 the ability to participate in the political process,
6 and that the district does not diminish their ability
7 to elect candidates of their choice. In Orange County
8 District nine's boundary follows portions of
9 Interstate four, State Road 528, and State Road 15.

10 District 10 is also wholly contained within the
11 remainder of Orange County. It's the African American
12 Opportunity District, it's protected from diminishment
13 under Tier-One.

14 The BVAP increases slightly from the benchmark,
15 and the functional analysis confirms that the district
16 does not deny or bridge the opportunity for American -
17 - African Americans to participate in the political
18 process, and it does not diminish their ability to
19 elect candidates of their choice.

20 In South Florida, uh, Plan 8006 is very similar
21 to -- to 8004, and that the -- the South Florida
22 region is the same with the, uh, horizontal
23 configuration there at District 21 and 22.

24 SEN. BRADLEY: Alright. Members, are there any
25 questions on 8006? The changes made in 8,006? No. All

1 right. Continue along with -

2 MR. FERRIN: Thank you, Madam Chair. Uh, plan
3 8008 was also drawn pursuant to the directives given
4 to staff. It was consistent with the plain language of
5 the Florida Constitution. Federal law and existing
6 judicial precedent balances the co-equal criteria
7 outlined in Tier-Two standards of Article three,
8 section 20, except for doing so, conflicts with Tier-
9 One standards.

10 Functional analysis of the minority district in
11 this plan confirms that they do not diminish the
12 ability for racial and language minority districts to
13 elect the candidates of their choice. When drawing
14 visually compact districts, we used -- again, used
15 county boundaries where it was feasible to do so.

16 And when the county was split, static geographic
17 features such as major roads, railroads, and water
18 bodies were used in a manner that sought to keep city
19 is whole. In cases where a city was split, the static
20 geographic features were used where none were
21 available.

22 In cases where it was possible to illustrate the
23 tradeoff between using a political or geographic
24 features, municipal boundary may have been used.

25 This plan, again, has a deviation of one average

1 compactness scores of 0.80 Convex Hull, 0.42 Polsby-
2 Popper and 0.44 Reock.

3 The average use of non-political or geographic
4 boundaries is 10 percent, and that means that 90
5 percent of the district boundaries fall on features
6 identified by the US Census bureau's geographic layers
7 as city boundaries, county boundaries interstates, US
8 highways or state roads. Also includes contiguous
9 water bodies larger than 10 acres and railroads.

10 This plan has 47 whole counties, five districts
11 wholly contained within a county, 351 cities with all
12 of their boundaries contained within a single district
13 and 362 cities within all of their population
14 contained within a single district.

15 Like the Benchmark Plan, this plan has three
16 effective minority districts for African Americans.
17 One district that provide -- provides African
18 Americans with the opportunity to elect candidates of
19 their choice.

20 Three minority majority Hispanic districts in
21 South Florida, and an opportunity district in central
22 Florida that has become a majority minority District.
23 Plan. 8008 is similar to Plan 8004, and that the
24 Panhandle region is the same. This is the one that --
25 that splits the cities of DeFuniak Springs and

1 Freeport.

2 It's similar to 8004 in the North Central region
3 of the state. So this is the one where the split is
4 moved to Marion County from Alachua. It's similar to
5 Plan 8006 in the I-4 and Orlando regions.

6 And it's similar to Plan 8002 in South Florida.
7 And that the -- uh, that region is the same with the,
8 uh, vertically oriented districts 21 and 22. And Madam
9 Chair, those would be the maps.

10 SEN. BRADLEY: Very good. Very good. Thank you
11 for that. Um, excellent, uh, description of where we
12 are with those maps. Senator Stewart, did -- did you
13 have a question?

14 SEN. STEWART: No, no. I have a - - -

15 SEN. BRADLEY: Yeah. Discussion?

16 SEN. STEWART: Well, I -- it's just a comment.

17 SEN. BRADLEY: Okay.

18 SEN. STEWART: I just _ I just wanted to say, um,
19 I just think you've done a terrific job in, um,
20 compiling four different opportunities for review. Um,
21 it's been out in the public for seven or eight days
22 now. I have heard, uh, no, um, negative feedback on
23 any of these, uh, to date.

24 Uh, we may hear some as, uh, more people have an
25 opportunity to look at it, because today was real

1 important for you to, uh, identify the changes and the
2 differences between the maps.

3 And I think the public that are listening will
4 now have a better chance of, uh, making such comments.
5 But I think, uh, at least from where I stand right
6 now, uh, it -- it's really a good, um, plan on almost
7 all of them.

8 I'm sure there's these little differences, but we
9 could come up with, uh, the best one to move forward
10 just based on what you've done here, which is a great
11 job.

12 And I know that we'll be listening to some of the
13 public's comment on it, and I'm anxious to hear maybe
14 what they might have to say, but I'm very happy with
15 the product.

16 SEN. BRADLEY: Thank you, Senator Stewart. And
17 Senator Harrell.

18 SEN. HERRELL: Thank you very much Madam Chair.
19 And I would like to thank you and our staff,
20 especially for the wonderful, outstanding job they
21 have ha- -- they have done here. And I very much look
22 forward to hearing what -- uh, what our constituents
23 have to say about this. I hope that they will take the
24 time to look at them in detail, and especially in my
25 area in the Treasure Coast, in Palm Beach County, I'm

1 very much looking forward to their input.

2 And in fact, I am going to hold a public hearing,
3 uh, or a -- a Zoom hearing for my constituents in that
4 area to really present, to look in detail at this and
5 give everyone the opportunity who would like to
6 participate in that Zoom meeting following the -- the
7 exact instructions.

8 And thank you for the form and the instruct exact
9 instructions as to what they have to say when they --
10 they appear so we know who they're representing. And,
11 uh, really look before we make final decisions on
12 which of these maps or tweaks to these maps, because
13 we may have new ideas coming out of our constituents
14 to hear what they have to say.

15 So I would encourage other members to do likewise
16 so that we have that transparency with our
17 constituents, and they have the opportunity to express
18 to us individually as well as through the wonderful
19 opportunity they have online to do so, to really
20 become participants in this very important process.

21 And I thank you -- I thank you so much, Madam
22 Chair and our staff for this amazing job they have
23 done.

24 SEN. BRADLEY: Thank you. Chair Harrell -- uh, I
25 mean, thank you, uh, Senator Harrell.

1 And, uh, it can't be said enough the job that the
2 staff has done, um, after getting guidance from the
3 full committee, uh, they -- they went and they
4 prepared these maps in consultation with only counsel,
5 um, followed by our guidance and our constitutional
6 and federal standards.

7 And I think these maps are impressive, but again,
8 um, to -- to reiterate, these are the beginning. This
9 is an iterative process, we are going to move through,
10 we're going to continue to make adjustments. We're
11 going to continue to make them better. We're going to
12 continue to get public input.

13 Um, so with that, let's, um, turn to our public
14 comment. We have with us today, Cecile Scoon with the
15 League of Women Voters of Florida. Welcome. Thank you
16 for being here, and you're recognized.

17 MS. SCOON: Good afternoon. I want to say first,
18 um, like, my name is Cecile Scoon. I'm the president
19 of League of Women Voters of Florida. And I want to
20 say, um, thank you for getting the maps out early.

21 Um, that was an unexpected benefit that we
22 appreciate. Um, some of the things that I feel like we
23 are still needing is more of the data analysis on the
24 precinct level so that we can look at all the minority
25 access, uh, districts and the majority minority

1 districts.

2 Another concern that we have is, um, I think it
3 was stated several times, and I've looked over some of
4 the, um, committee hearing tapes just to make sure,
5 um, that the functional analysis was essentially done
6 only on the benchmark in the past districts, which I
7 think is a good start.

8 But given the flow of population throughout the
9 state and the bulging that we know has occurred in
10 different places on the state, we can just look and
11 see.

12 Um, limiting the functional analysis only to the
13 benchmarks does not take into account the change in
14 the population, because of course, the benchmark -- I
15 mean, the functional analysis is to protect Tier-One,
16 which are mandatory.

17 So when you go in with the process of initially
18 focusing on Tier-Two, you know, let's make sure what
19 we'd like to get.

20 And you go -- you went in focusing on Tier-Two,
21 you're almost obligated to make every district to do a
22 functional analysis on the things that are mandatory
23 because you went in on the things that we would like
24 to have; population, close, compactness, uh, follow
25 geography, follow jurisdiction, and that makes sense.

1 But to really be logical, because there's flow
2 with the population, you really need to do the
3 functional analysis on all of the districts because
4 you are going in on the Tier-Two, which are lower.

5 So if that makes sense, again, but to -- to
6 comply with the -- with our fair district, uh,
7 constitution requires you to know there has been no
8 diminishment of the voting rights of racial minorities
9 or language minorities.

10 You're almost obligated to do a functional
11 analysis on all of the districts because you went in
12 on the level two, that was your starting point, your
13 goal.

14 So you have to test the level two against the
15 mandatory, which of course, our fair district's mirror
16 the Voting Rights Act. So if you -- if you follow
17 pretty much our Tier-One we're -- it has a close
18 correlation with the Voting Rights Act.

19 So I would ask you to do that functional analysis
20 on all of the districts because of the flow and the
21 change. In other words, if you're looking only at the
22 benchmarks, the benchmarks were created with census
23 data from 2010.

24 So if you're looking only to do your functional
25 analysis on information that was based in 2010, well,

1 we know there's been a big change in 10 years, and so
2 you're going to miss, so I would ask you that you
3 consider that.

4 And we would also like to get the precinct level
5 data so that we can test ourselves what's going on --
6 on the precinct level. And I believe that's the
7 information that was contained in the FSU, uh, report
8 that was done for the Senate and the representatives.

9 And I thank you very much for this opportunity.

10 SEN. BRADLEY: Great. Thank you. Thank you for
11 being here. Next is -- Yes.

12 SEN. ROUSON: We are in, uh, public comments, but
13 I think Ms. Scoon raises a point, and I'd like to know
14 if staff could address that.

15 SEN. BRADLEY: Which -- which portion of the
16 comment, uh, are you looking for clarification.

17 SEN. ROUSON: About personal analysis being done
18 on all of the district as opposed to -

19 SEN. BRADLEY: Okay, ho -- hold on. Uh, let me --
20 we'll -

21 MR. FERRIN: Senator Rouson, um, in -- in drawing
22 the minority districts in the plans, it -- it's not a
23 question of just drawing them where they used to be.

24 So we look at the -- the population growth across
25 the state, and we look at the areas, we can view those

1 areas based on the density of minority populations and
2 review those to determine where we ought to be looking
3 at drawing either minority opportunity, minority --
4 uh, effective minority districts or majority minority
5 districts based on the density of the population and
6 the geography.

7 So I'm -- I'm not real sure that running a
8 functional analysis on the whole plan is required to
9 do that. We'll have to think about that and maybe talk
10 about it a little bit, but I -- I don't necessarily
11 know that the population growth across the state
12 compels us to do that.

13 SEN. STEWART: Uh, and -- and I'd like to know,
14 are we allowed to go to precinct level? Is that
15 allowed?

16 MR. FERRIN: Uh, Senator Stewart, the precinct
17 level data is not -- um, once we -- the precinct level
18 data is affiliated with the census blocks.

19 So once the elections data is in the census block
20 form, there's no real purpose to go back to the
21 precinct level that I'm aware of. We're drawing on
22 census blocks, not precincts.

23 SEN. STEWART: So is it legal or not legal to
24 look at the precincts?

25 MR. FERRIN: I'm not sure the legality of whether

1 or not it's -- it's to look at the precincts. It's,
2 we're -- we're constructing districts.

3 So we've got the census block geography, census
4 geography that we use to build districts. The precinct
5 level information is correlated directly to -- to --
6 to elections. And so we're not using precincts to
7 build our data -- our -- our maps.

8 SEN. BRADLEY: Uh, you good?

9 SEN. STEWART: I _ I guess. I _ I have it again
10 later.

11 SEN. BRADLEY: Okay. All right. Next up is
12 Nicholas Warren.

13 MR. WARREN: Thank you, Senator Bradley. Good
14 afternoon, senators. I _ um, I want to echo the
15 comments that have already been made, uh, and applaud
16 Dr. Ferrin for his work. I think the maps speak for
17 themselves, um, that they were drawn in compliance
18 with the constitutional criteria.

19 Um, I do, um, have a few comments. First of all,
20 I want to mention just because, um, it's something I
21 know, uh, the conversation about splitting cities, but
22 a portion of that city not having any population in
23 the district.

24 The Supreme Court actually commented on that in
25 its last, uh, redistricting decision in footnote 14,

1 uh, and said that you can ignore splits that don't
2 include any population. So it's already something you
3 all are doing, but it has the Supreme Court's stamp of
4 approval too.

5 Um, and I also wanted to mention that I've -- uh,
6 I've submitted, um, four Congressional Maps portions
7 of, uh, of maps that riff off of the drafts release
8 last week. Unfortunately, I don't think they've been
9 posted to the website yet, but hopefully will be soon.
10 Uh, and you can take a look at those.

11 They -- um, each kind of focus on a different
12 area and seek to, um, come into further compliance
13 with Tier-Two requirements. So principally, uh, for
14 example, the first -- uh, the first draft, I do have,
15 um, printouts, if you all are interested in looking.
16 I'm not going to, uh, force you to -- to rifle through
17 them now.

18 But, um, the first draft, uh, looks at
19 Congressional District two, which is what I live in,
20 um, from Tallahassee and seeks to kind of snap the
21 Eastern boundary -- boundary to county lines, um, and
22 keeps, thereby, keeps Alachua and Marion, uh, make
23 sure that city too doesn't have a portion of either of
24 those counties in -- in that draft.

25 It also results in a -- um, a more compact,

1 smooth line in St. John's County between four and six,
2 uh, which is a little bit irregular now. Um, and also
3 seeks to keep Sumter County whole, I know there's only
4 about 300 people that are in, uh, CD 28 in the drafts.

5 Um, but I think the -- the Sumter County
6 supervisor might appreciate not having to, uh, re-
7 precinct and deal with having, uh, uh, that few people
8 in -- in a different Congressional district, um, as
9 well as a few other changes that, uh, keep cities
10 together, uh, follows boundaries.

11 Um, that's the first draft. The second draft, and
12 I promise I'll be quick, um, starts with that, those
13 changes in North Central Florida and additionally
14 tries to keep Volusia County whole, um, and snap the
15 southern boundary of CD six to the St. Johns River and
16 Lake Monroe, which is not only a county boundary, but
17 also a major geographic feature, of course, uh, the
18 longest river in the state.

19 Um, and as a result, that pushes CD nine into
20 Polk County a little bit in the -- the area where the
21 - the county lines are just straight lines that
22 subdivide subdivisions and, uh, no one probably really
23 knows where the county line is.

24 Um, and that results in a - uh, and also an
25 improvement in compactness between the -- the CD 11

1 and 28 boundaries in Lake County.

2 Um, the third map focuses solely on CD 20 in Palm
3 Beach County, which, uh, of course, in -- in all the
4 drafts has this long appendage that runs down Boynton
5 beach, uh, splitting several cities, obviously that
6 was, uh, drawn to, uh, preserve Black ability to elect
7 in CD 20, which is, of course, a Tier-One requirement.

8 Um, I believe that, uh, a draft that I've drawn,
9 uh, um, accommodates both the Tier-One requirements
10 and, uh, eliminates that appendage, uh, which results
11 in maybe eight -- eight or nine different cities being
12 kept whole, um, and improves compactness in that
13 region.

14 Uh, and then finally, um, my last, uh,
15 submission, uh, takes a look at South Florida.
16 Actually, it's funny that Senator Stewart mentioned
17 that Everglades, um, because that's, uh -- no, no,
18 regardless of where it is, I think it's a pretty big
19 geographic boundary that also, uh, con -- kind of cons
20 -- coincides with county lines.

21 Um, and, uh, actually the -- the second judicial
22 circuit and the Senate in the 2015 remedial process
23 took the opportunity to eliminate a kind of cross
24 Peninsula district that crossed the Everglades, uh,
25 and the Senate drafts all maintain that line. So it's

1 a pretty significant boundary.

2 Um, and that last draft, uh, that last map that I
3 submitted, um, seeks to recognize that boundary and
4 proves compactness in the region, make CD 25 compact,
5 make CD 19 compact, where it has that tail going down
6 to Naples and Marco Island now.

7 Um, and -- uh, and yeah, those are -- those are
8 my submissions. Um, I -- I hope you can take a look at
9 them once they're posted to the -- uh, the site, and
10 I'd be happy to answer any questions, now are offline.

11 My -- um, my phone number is definitely in the --
12 the submission forms, also the detailed explanation of
13 all these changes and kind of a defense, uh, of them
14 are included in the submission form that I submitted
15 with each plan. So.

16 SEN. BRADLEY: Any questions? No? Thank you for
17 your engagement and, uh, we'll look at the maps. Thank
18 you.

19 MR. WARREN: Thank you.

20 SEN. BRADLEY: All right. Those are the only
21 appearance forms we have. Uh, any additional comments
22 from -- from senators before we -- before we adjourn?
23 Senator Rouson?

24 SEN. ROUSON: Yes, thank you. I just wanted to
25 join the bandwagon and thank staff for the work that

1 they've done, and also thank you, uh, for meeting with
2 my staff ahead of time with answers to questions that
3 we had. Thank you.

4 SEN. BRADLEY: Very good. Members, we have come
5 extraordinarily far in what has been an extremely
6 condensed amount of time. I believe we are on the
7 right track for success.

8 We have two weeks until our next meeting, and I
9 would propose that we have staff consider the feedback
10 and guidance we have given them here today and ask
11 them to consider it through the lens of the overall
12 directive, as well as all applicable federal and state
13 legal standards.

14 I would also propose that staff spend time
15 looking for improvements and consistency in the
16 application of the various trade-offs presented in the
17 maps. No other business before the committee.

18 Senator Harrell moves we adjourn. No objection?
19 We are adjourned.

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1 I, Chris Naaden, a transcriber, hereby declare
2 under penalty of perjury that to the best of my
3 ability the above 67 pages contain a full, true and
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5 received regarding the event listed on the caption on
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7 I further declare that I have no interest in the
8 event of the action.

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March 9, 2023

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Chris Naaden

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22 (Florida Senate Select Subcommittee on Congressional
23 Reapportionment, 11-16-21)

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EXHIBIT 3

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 Cord Byrd)
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TRANSCRIPTION OF AUDIO FILE
 11322 House Redistricting Committee
 The Florida Channel
 January 13, 2022

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

1 (Beginning of Video Recording.)

2 CHAIR LEEK: Members of the
3 Redistricting Committee will come to order.
4 D.J., please call the role.

5 MS. ELLERKAMP: Chair Leek?

6 CHAIR LEEK: Here.

7 MS. ELLERKAMP: Vice Chair Fein? Vice
8 Chair Fein?

9 MR. FEIN: (inaudible).

10 MS. ELLERKAMP: Ranking Member Geller?
11 Ranking Member Geller?

12 MS. ELLERKAMP: Representative Andrade?

13 MR. ANDRADE: Here.

14 MS. ELLERKAMP: Avila?

15 CHAIR LEEK: There's Ranking Member
16 Geller.

17 MS. ELLERKAMP: Avila? Bush? Bush?
18 Byrd?

19 MR. BYRD: Here.

20 MS. ELLERKAMP: Clemons?

21 MR. CLEMONS: Here.

22 MS. ELLERKAMP: Drake has been excused.
23 Driskell?

24 MS. DRISKELL: Here.

25 MS. ELLERKAMP: Goff-Marcil?

1 MS. GOFF-MARCIL: Here.

2 MS. ELLERKAMP: Grall?

3 MS. GRALL: Here.

4 MS. ELLERKAMP: Grant?

5 MR. GRANT: Here.

6 MS. ELLERKAMP: Jenne? Jenne?

7 Latvala?

8 MR. LATVALA: Here.

9 MS. ELLERKAMP: Mariano has been

10 excused. Omphroy? Omphroy? Payne?

11 MR. PAYNE: Here.

12 MS. ELLERKAMP: Robinson?

13 MR. ROBINSON: Here.

14 MS. ELLERKAMP: Rommel?

15 MR. GROMMEL: Here.

16 MS. ELLERKAMP: Sirois?

17 MR. SIROIS: Here.

18 MS. ELLERKAMP: Slosberg-King?

19 MS. SLOSBERG-KING: Here.

20 MS. ELLERKAMP: Thompson?

21 MR. THOMPSON: Here.

22 MS. ELLERKAMP: Cooke?

23 MS. COOKE: Here.

24 MS. ELLERKAMP: (Inaudible) is present,

25 Mr. Chair.

1 CHAIR LEEK: Thank you, D.J. Members,
2 a few reminders before we begin. Please
3 silence all electronic devices and if you
4 wish -- if anyone in the audience wishes to
5 make a public comment, please fill out a form
6 and turn it in to the Sergeant Staff. Also,
7 as a reminder for our Members and presenters,
8 please ensure that you turn your microphone on
9 when you are speaking and off when you are
10 finished.

11 Well, we're back. It's great to have
12 this committee back together again. Session's
13 kicked off and it's an exciting time for all
14 of us. I know we are now within our
15 Constitutional time frame for approving
16 district boundaries.

17 The last time our committee met was to
18 receive a legal presentation and prior to that
19 we learned about the map drawing application
20 and Constitutional standards. Since then, the
21 House debuted workshop maps.

22 I'm going to say again, workshop maps,
23 whose purpose is to illustrate the policy
24 decisions that may come before our committee
25 in the variety of ways district boundaries can

1 be constructed.

2 The subcommittee subsequently met to
3 dive in and workshop these map options, yet
4 our full redistricting committee has not had
5 the opportunity to also workshop these maps.
6 I feel it is a critical step for members of
7 our committee, as well as it helps educate the
8 members of the committee.

9 So what we have prepared for the
10 committee today is a presentations that will
11 walk us through each region of the
12 Congressional and State House workshop maps
13 with some education reminders added
14 throughout.

15 The goal is to ensure that all of the
16 concepts we discussed during our initial
17 couple of meetings are refreshed and everyone
18 understands more thoroughly the composition of
19 the current workshop products.

20 I truly believe that when we're done
21 today you will view the district boundaries of
22 these maps with a completely different level
23 of understanding and perspective. I do want
24 to point out to Members that these workshop
25 maps are most likely not the versions that

1 will come before this committee for
2 consideration and a vote.

3 Just like any other piece of
4 legislation, the subcommittees will deliberate
5 on maps that come before them and then vote to
6 send work products to the full redistricting
7 committee.

8 As we move through the presentation, we
9 will take questions at the end of the
10 Congressional portion and then following the
11 conclusion of the State House portion of the
12 presentation. I want to ensure that we have
13 enough time to get through both parts of the
14 presentation, Member questions, as well as
15 public comments. And with that, we will hear
16 from Staff Director, Leda Kelly, for today's
17 presentation. Leda?

18 MS. KELLY: Thank you, Chair. Morning,
19 Members. Great to be back with you. As the
20 Chair just mentioned, the first thing we are
21 going to do is view the Constitutional
22 standards which I'm sure you all are very
23 familiar with but just to make sure everyone's
24 on the same page.

25 We'll then segue into a portion where

1 we workshop the two Congressional map options.
2 Followed by the portion where we workshop the
3 two State House map options that are before
4 you. And once we conclude that and Member
5 questions, we'll segue into public input.

6 On the desk in front of you we did a
7 printout of the maps. These are the maps that
8 have been available since December but we
9 wanted to make sure you guys had a version
10 that was a little, perhaps easier to see, and
11 that you could either take notes on or just
12 reference right in front of you. So again,
13 that's the printout of the two Congressional
14 workshop options as well as the two State
15 House options.

16 So covering the first section, and I
17 won't belabor this, but just to make sure we
18 are all on the same page, Article 3 Section 16
19 of the Florida Constitution is the first
20 section that deals with redistricting.

21 It directs us to conduct, to approve
22 new district boundaries in the second regular
23 session following the redistrict -- the United
24 States Census, excuse me. Which is this
25 regular session that we entered into on

1 Tuesday. For the Senate maps, you're required
2 to have 30 and 40 Senatorial districts. In
3 the House you're required to have between 80
4 and 120 representative districts.

5 Districts shall be contiguous and
6 consecutively numbered and then there's
7 additional language in section 16 that
8 dictates the timeline for establishing new
9 districts following regular session.

10 Going into our next slide. This is a
11 graphic that I know you guys have seen several
12 times and it outlines the two tiers of
13 Constitutional standards that are contained
14 within sections 20 and 21 also within Article
15 3 of the Constitution.

16 I'll read through these real quick and
17 then we'll segue into the substantive part of
18 today's presentation. Tier 1 standards. The
19 first one states no apportionment, plan, or
20 individual district, shall be drawn with the
21 intent to favor or disfavor a political party
22 or an incumbent.

23 The second standard states, districts
24 shall not be drawn with the intent or result
25 of denying or abridging the equal opportunity

1 of racial or language minorities to
2 participate in the political process or to
3 diminish their ability to elect
4 representatives of their choice, excuse me.

5 The third one consists that, districts
6 shall consist of contiguous territory. Moving
7 into Tier 2, the first standard states,
8 districts shall be as nearly equal in
9 population as is practicable. Districts shall
10 be compact and finally, districts shall, where
11 feasible utilize existing political and
12 geographical boundaries.

13 Members, as a reminder, Tier 1
14 predominates over Tier 2 should there be a
15 conflict. However, whenever you are working
16 within the respective Tier, all the standards
17 are coequal.

18 With that, I'd like to segue into our
19 Congressional map workshops. The way we have
20 chosen to go through our presentation today,
21 just so you guys kind of know what to expect,
22 we've divvied it up by regions of the state
23 and we've actually been able to put workshop A
24 and workshop B next to each other when there
25 are differing options.

1 So you have a side by side comparison
2 and again, the maps in front of you if you'd
3 like to see the larger portion of that. I
4 will now turn it over to our Chief Map Drawer,
5 Jason Poreda, to take it away. Thank you.

6 MR. POREDA: Thank you, Leda. Okay.
7 So we'll begin with the Congressional map and
8 we're going to start in the panhandle and work
9 our way down to the South just to keep the
10 order of the districts together as we go
11 through the State and make it a little bit
12 more organized as we look at both options
13 throughout the State.

14 So first, Districts 1, 2, 3, and 4 in
15 the Congressional map are the same in both
16 options. But we'll talk briefly about the 4
17 districts here. District 1 and 2 come
18 together in Walton County due to equal
19 population purposes with the exact population
20 requirement that we have with Congressional
21 districts.

22 District 1 achieved that within
23 Walton County. Fortunately, we were able to
24 use mostly an entire state road except we
25 deviated around the cities using the municipal

1 lines of the City of Freeport and DeFuniak
2 Springs, to keep both of those cities whole in
3 their districts, respectively, and creating a
4 nice, straight line within Walton County.

5 The next district that I'm going to
6 talk mostly about, again they're all the same
7 in both options, this is Congressional
8 District 3. Congressional District 2 and 4's
9 shape is largely impacted by that particular
10 Congressional district. So Congressional
11 District 3 is protected by Tier 1 of our
12 Constitutional standards that Lita just
13 mentioned before.

14 In order to ensure the black
15 populations within the district have the
16 ability to elect a candidate of their choice,
17 a functional analysis was conducted by staff
18 to ensure this ability to elect candidates of
19 their choice was not diminished when compared
20 to the benchmark district in this area.

21 This process for the analysis was done
22 on a district by district basis where
23 necessary and in the same process that The
24 Florida Supreme Court used in its
25 apportionment rulings from the last cycle as

1 the appropriate type of analysis to determine
2 the voting strength of the minority
3 populations in a particular district and their
4 ability to elect candidates of their choice
5 within the district. Looking at the voting
6 strength in both general and primary
7 elections.

8 This was done using election results,
9 voter registration data, and voter turnout
10 data, for the five election cycles over the
11 last decade, which is ten elections in total;
12 five primary elections and five general
13 elections from 2012 to 2020.

14 All of this data that was used for this
15 analysis is available to everyone including
16 every member of the public within the Esri
17 redistricting application and was used only in
18 those districts where necessary and
19 appropriate.

20 Congressional District 2 is made up
21 almost entirely of whole counties throughout
22 the rest of the region and Congressional
23 District 3 and Congressional District 2, come
24 together in Leon County. Congressional
25 District 2 is actually able to achieve its

1 equal population standard within Leon County
2 where these two districts come together.

3 So that unlike the district,
4 Congressional District 2 that is currently in
5 the current map, it has to achieve equal
6 population in Marion County, splitting an
7 additional county, we were able to achieve
8 that within Leon County.

9 You can see Congressional District 3
10 goes from Duval County all the way over Leon
11 into Gadsden County, including all of Gadsden
12 County which is the only majority-minority
13 Black county in the State of Florida that is
14 maintained within that protected Congressional
15 district.

16 So Congressional District 2 is made up
17 almost entirely of whole counties except for
18 where it borders along with District 3 in Leon
19 County, Jefferson County, and Columbia County.
20 Congressional District 3 then travels into
21 Duval and takes a large portion of Duval
22 County.

23 Congressional District 4 contains all
24 of Nassau County, the remaining portion of
25 Duval County, and then it gets the remainder

1 of its population down in St. Johns County.
2 It achieves its equal population right around
3 the city of St. Augustine but we do keep the
4 city of St. Augustine whole within actually
5 the other Congressional District that we'll
6 talk about in a minute.

7 We could have taken Congressional
8 District 4 into Clay County, kind of wrapping
9 around District 3, but that would've created a
10 more visually uncompact shape so the decision
11 was to keep that district in St. Johns County,
12 similar to the current district.

13 So in the next slide we're going to
14 talk about Districts 5, 6, and 11. And this
15 is where you can start to see some of the
16 differences between the two Congressional
17 options that we have made available. Where
18 you can see just a slight difference of a
19 policy choice of whether or not to take
20 Congressional District 5 South or take
21 Congressional District 5 East to the coast
22 impacts the other two districts that you see
23 in this slide including further down -- as we
24 move further down the State.

25 So first, Congressional District 5 in

1 this iteration keeps five whole counties
2 together and then gets the remaining portion
3 of its population in Marion County keeping the
4 entire city of Ocala whole.

5 By doing this and not taking it east
6 and option A, Congressional District 6 then
7 takes the remaining portion of St. Johns
8 County, including all of the city of St.
9 Augustine, all of Flagler County, and then
10 gets the remaining portion of its population
11 in Volusia and Lake County.

12 Because we chose to go south with
13 Congressional District 5 we're keeping Alachua
14 County whole within Congressional District 5
15 and that opened up the eastern coastal
16 counties to be included in Congressional
17 District 6.

18 Congressional District 11 then includes
19 the remaining portion of Marion County, so
20 it's only split twice, all of Sumter County,
21 and then the remaining portion of Lake County,
22 and then into Citrus County to achieve equal
23 population. Volusia County -- 6 is in Volusia
24 County and then 11 over in Citrus County
25 achieves that.

1 In option B, the policy choice was made
2 instead of keeping Alachua County whole and
3 splitting Marion County, what if we flip that?
4 What if we tried to keep Marion County whole
5 and split Alachua County and took
6 Congressional District 5 instead of going
7 South, over to the East portion into the coast
8 to take that remaining portion of St. Johns
9 County and include it just to see what the
10 different policy choice would be and the
11 resulting change in all of the districts.

12 So District 5 splits Alachua County,
13 goes over to the east coast. Congressional
14 District 6 then, because it cannot start in
15 St. Johns County, starts all the way in
16 Volusia County and then actually goes down and
17 takes all of Seminole County because of the
18 different choice made with Congressional
19 District 5.

20 Congressional District 11 then gets the
21 remaining portion of its population in Volusia
22 County, the top portion of Lake County, and
23 then up into Alachua County, keeping Marion
24 County whole. So you can see just that simple
25 choice of keep this county whole or keep that

1 county whole or keep all of these counties
2 together and go East or go South, which are
3 just policy choices that the committee might
4 see.

5 So when you see districts on the map,
6 try to keep in mind the decisions that were
7 made with the districts are going to impact
8 not just that district but all of the
9 districts in the region, sometimes even
10 further along the map particularly in a
11 Congressional map because we have to achieve
12 that equal population standard.

13 So in the next slide here, you can
14 start to see that impact of the previous
15 decision, in Congressional District 5
16 continues to impact Congressional District 7
17 and 10. But I'm going to skip ahead, real
18 quick, to talk about Congressional District 8,
19 9, and 16.

20 You can see they are mostly the same in
21 both options where the counties of Polk,
22 Osceola, Brevard, and Indian River, are all
23 kept whole in their respective districts.
24 Congressional District 8 is all of Brevard and
25 Indian River County. It then goes up into

1 Volusia County to get the remaining portion of
2 its population which is about 2,800 people
3 including the entire City of Oak Hill using 95
4 and some other good boundaries to do so.

5 Congressional District 9 contains all
6 of Osceola County, which is just under 390,000
7 people and then gets the remaining portion of
8 its population, about half of the district,
9 from Orange County. Congressional District 9
10 also happens to be a majority-minority
11 district now.

12 It is not in the benchmark district but
13 keeping with this nice Tier 2 drawing, keeping
14 a county whole, then using a lot of major
15 roads in Orange County to achieve the rest of
16 its population, it just happens to be a
17 majority-minority district now with the growth
18 in Hispanic population in central Florida.

19 Now, going over to 16, Polk County this
20 decade was able to kept whole we then achieved
21 equal population in district 16 by going into
22 Hillsborough County following a state road to
23 keep a nice vertical district boundary there.

24 Now going back to Districts 7 and 10,
25 you can see the decision of what to do with

1 TD 5 and how Congressional District 6 either
2 took Seminole County or didn't take Seminole
3 County impacts the shapes of those two
4 districts.

5 In either case, Orange County is split
6 into three different districts, and in each
7 case there's a district wholly within Orange
8 County. In option A that is Congressional
9 District 10 and in option B it's Congressional
10 District 7.

11 These two districts, even though their
12 shapes may look a little different, they are
13 the most analogous to each other even though
14 they have different numbers. They actually
15 have a large portion of its -- their shared
16 population between the two options despite the
17 different shape.

18 The biggest difference, obviously, is
19 that Seminole County contains Congressional
20 District 7 in option A whereas because
21 Congressional District 6 has Seminole County
22 it has to stay entirely within Orange. So
23 that's just kind of a difference and again,
24 that started back with deciding what to do
25 with Congressional District 5 further up the

1 State.

2 So you can see here in option B,
3 Congressional District 10 takes the remaining
4 portion of Orange County and then goes east to
5 take some portion of Lake County, all of
6 Sumter County, and then also part of Citrus
7 County to fill out the remaining population of
8 its district.

9 In either case though, Orange County,
10 like I said, is split three times. One whole
11 district within the county, about 380,000
12 people of Orange County is in Congressional
13 District 9 but divided a little bit
14 differently. And Congressional District 10 or
15 7, depending on what option you're in takes
16 the remaining portion of Orange County and
17 includes it as part of its district.

18 So now moving further West into the
19 Greater Tampa Bay area. You can see that in
20 both options the area that these four
21 districts takes up is exactly the same. You
22 can see Citrus County is split in the same way
23 in both options and then the districts down in
24 Pinellas and Hillsborough County and Pasco
25 County are split a little bit differently to

1 achieve different policy choices that we
2 wanted to demonstrate before the committees.

3 In either case, Hernando County is kept
4 whole within Congressional District 12 in
5 option B or Congressional District 15 in
6 option A. In Congressional -- in workshop
7 option A, Congressional District 13 crosses
8 the bay and goes into Hillsborough County,
9 actually all four of these districts contain a
10 piece of Hillsborough County and part of the
11 reason why we wanted to demonstrate this
12 option was a way to improve compactness
13 scores.

14 The compactness scores of Districts 12,
15 15, and 14, in option A are actually all
16 better than their counterparts in option B.
17 In option B that was a way of demonstrating
18 that you could keep a district entirely within
19 Pinellas County, and then also entirely within
20 Hillsborough County, and then attaching the
21 rest of the populations of those counties
22 north into Pasco County and beyond.

23 And that was a way of showing the
24 tradeoff of keeping districts wholly within
25 counties compared to going toward the

1 mathematical compactness scores. There is
2 some other advantages with these particular
3 districts that'll help educated some of those
4 policy choices in a more detailed manner
5 throughout here and I'm going to turn it back
6 over to Staff Director Leda Kelly to talk
7 about some of those -- some of those, more
8 differences.

9 MS. KELLY: Thank you, Jason. And
10 we're going to stay in this region but this is
11 one of the chances we want to take to
12 illustrate where you know, whenever we talk
13 about our Tier 2 requirements of using
14 political and geographical boundaries where
15 feasible, this is a good chance to illustrate
16 that.

17 So the section that I have up here on
18 the screen is a zoomed into option A. We're
19 kind of looking at the area where 12, 13, and
20 14, come together. And as Jason mentioned,
21 one of the abilities was in this iteration was
22 the ability to improve compactness scores.

23 We've also illustrated by the red
24 circles on the screen help to draw your
25 attention to the major roadways that we've

1 used in the area as well. You'll hear us talk
2 a lot about using whether its city boundaries,
3 or county boundaries, or perhaps roadways, as
4 mechanisms to create our boundary lines.

5 And this was a good example of very
6 common roadways in the area. The Courtney
7 Campbell Causeway, Dale Mabry, I4, not only
8 well known in the area, but they create these
9 very nice clean lines as well. Also staying
10 in this same area, I want to zoom in. Now
11 this is option B. and this is the kind of
12 where District 12 and District 13 come
13 together.

14 Now, if you're looking at the map
15 holistically, you may say, why is there a
16 little jut up there? Why is that kind of an
17 odd shape? Whenever you zoom in and look at
18 the actual boundary lines that have been
19 selected you see that it's the City of
20 Clearwater.

21 As I'm sure, Members, you're all very
22 familiar, a lot of municipal lines have very
23 unique geography, sometimes they're even
24 discontiguous from their selves. But as you
25 look at this example that's on the screen, the

1 aqua blue color is actually the City of
2 Clearwater and you can see we followed those
3 city boundaries between District 12 and 13 to
4 actually create what is our Congressional
5 District boundary.

6 So again, just trying to draw some
7 illustration to why things may look unique. I
8 encourage you to dig that next level to see
9 what those boundaries may be. And now I'll
10 turn it back over to the team. Thank you.

11 MALE VOICE: Okay. Moving into
12 southwest Florida, we'll start with District
13 17. We were able to take the remaining about
14 112,000 people in Hillsborough County and pair
15 that with Manatee County which is kept whole.

16 So we're still about 250,000 people
17 short which we're able to go down into
18 Sarasota County to form kind of a nice square-
19 ish looking district. That small indent and
20 the southern portion follows the Venice
21 Municipal lines so we're able to keep those
22 cities whole in their respected districts.

23 District 18 is a combination of seven
24 whole counties the remaining population from
25 Sarasota and goes into Lee County to achieve

1 its equal population. So we're able to keep
2 Highlands, Charlotte, Desoto, Hardee, Glades,
3 and Hendry Counties all whole within District
4 18 in both options.

5 And then District 19 is made up of that
6 remaining population of Lee County and drops
7 down in Collier County to achieve equal
8 population. Again, following major roadways
9 and trying to keep as many cities whole as
10 possible within the districts.

11 Moving over to the East coast. This
12 area is dictated mostly by CD 20, which is a
13 Tier 1 protected district, and we wanted to
14 illustrate that there are multiple ways to
15 draw Tier 1 compliant districts.

16 In option A, CD 20 after running a
17 functional analysis does ensure the minority
18 groups ability to elect a candidate of their
19 choice is able to be kept entirely within
20 Broward County.

21 It includes the City of Miramar and
22 some of the northern Broward cities in order
23 to protect those populations ability to elect
24 their vote. And it dictates kind of how the
25 other districts are shaped around it.

1 In option B, CD 20 is more similar to
2 how the current benchmark version looks
3 connecting the communities in northern Palm
4 Beach County with those in Broward County.

5 We were able to, in each option,
6 District 25 is kept wholly within Broward
7 County and District 22 is kept wholly within
8 Palm Beach County. So in both options there
9 are districts kept using wholly within each
10 county. District 21 includes all of St. Lucie
11 and Martin Counties and then takes -- or gains
12 its remaining population from Palm Beach
13 County in different orientations based on what
14 was done with CD 20. CD 23 in both options is
15 the only district that crosses that Broward
16 County, Palm Beach County line.

17 MS. KELLY: Members, I'd like to take a
18 minute to talk about compactness. I think
19 this is a really good example of the different
20 types of compactness scores that we have. And
21 the first one I want to remind and refresh
22 everyone about is actually what is referred to
23 as the eyeball test or visual compactness.

24 And so I'd like you to look at both CD
25 20s that are on the screen. As Kyle

1 described, the one in workshop A on the left
2 is contained wholly within Broward County.
3 The one on the right is contained between
4 Broward and Palm Beach County.

5 Whenever you look at this, everyone has
6 and it's a subjective test, but everyone kind
7 of has a reaction to what they feel is more
8 compact, more visually appealing passes the
9 quote, unquote, eyeball test. So I want you
10 to think to yourself which one you personally
11 think is more compact.

12 And I want you to keep that in the back
13 of your mind and we'll come back to that here
14 in a second because the next thing I'd like to
15 talk through is the actual types of
16 mathematical compactness scores we have and
17 how some of these have to be used in
18 combination with one another.

19 Compactness scores, kind of as Jason
20 alluded to in some of our previous districts,
21 are not an end all, be all. They do need to
22 be used in context of not only what you're
23 drawing, but the surrounding region as well.
24 And there's no one compactness score that is
25 superior to other compactness scores including

1 the eyeball test.

2 So Members, this slide was added after
3 the meeting packet was sent out. It will be
4 reflected in the action packet but I wanted to
5 be able to include it so you guys had a very
6 quick and easy point of reference. The three
7 compactness scores, and I won't spend a long
8 time going over them, but they do measure
9 different functionality of a district, if you
10 will. The first one is the Reock score.

11 This one is commonly used and it
12 establishes, what is the smallest circle you
13 can put around a district? And it's a ratio
14 between that size of the district and the size
15 of that circle. This is very commonly used
16 within the redistricting industry.

17 The second one on the screen is the
18 Convex Hull score. And sometimes you'll hear
19 people refer to this as the rubber band test
20 because as opposed to being a circle, it's a
21 what's the smallest polygon that you can fit
22 around a district?

23 So as you can see the black lines
24 encompassing the red district on the screen
25 may look like a rubber band. The third test

1 that's up there is the Polsby-Popper score.
2 And that's a ratio of the circumference of the
3 circle to the perimeter of the district.

4 All of these tests are measured on a
5 scale of 0 to 1 and the closer to 1 you are,
6 the more mathematically compact your district
7 is. Now, this slide I'd like to illustrate
8 how sometimes mathematical compactness and
9 going back to what you guys, you know, thought
10 as far as the eyeball test aren't always in
11 harmony with one another and that's okay.
12 They're not intended to be.

13 You can see here option A which
14 coincides with our workshop A. And option B,
15 you can see the Reock scores, Convex Hull, and
16 Polsby-Popper, for them don't necessarily line
17 up between the two districts. However,
18 whenever you look at this, option B has two
19 out of the three that outperform option A.

20 Now, with that being said, option B is
21 the option if you'll remember back to when I
22 had you guys do kind of your own mental check
23 in, that's the option that spans between Palm
24 Beach and Broward County, which I would
25 venture to say, just looking at it, face

1 value, most people would say, I didn't believe
2 that that would be more mathematically compact
3 then the other option.

4 Again, there's not one right answer,
5 there's not one wrong answer, and both types
6 of compactness methodologies have to be used,
7 you know, in tandem with one another but this
8 is just a very good and clear visual example
9 to demonstrate that so we wanted to take time
10 to do so. I will now turn it back over to
11 Kyle. Thank you.

12 MALE VOICE: All right. Moving into
13 Miami Dade County. We'll start with District
14 24. That's another protected Black district
15 and is being created in both options to ensure
16 the minority population has the ability to
17 elect a candidate of their choice.

18 The main differences between the two
19 options in 24, which is pretty small on the
20 screen, but at the northern part of where the
21 district crosses into Broward and kind of
22 where it borders District 20 to the North.

23 Those are the kind of major
24 differences, most notable differences in the
25 two options. And again, that's just based on

1 how it interacts with the population up
2 against CD 20.

3 CD 27 in both options is the district
4 we were able to contain wholly within Miami
5 Dade County. 26 and 28 both use the remaining
6 populations of Miami Dade County and pair 28
7 with Monroe County and 26 with Collier County.

8 And all three districts, 26, 27, and
9 28, are all protected majority, minority,
10 Hispanic districts. And with Staff performing
11 functional analysis they all protect the
12 minorities abilities to elect a candidate of
13 their choice.

14 MS. KELLY: These next two slides are
15 just pieces of geography that I'd like to
16 point out that are obviously very unique to
17 Florida but we do still have to incorporate
18 them whenever we're going through the
19 redistricting process.

20 So as I am sure everyone is aware, the
21 Everglades spans a large portion of the
22 southern part of our State. Within this, as
23 you can see on the screen, this is an image of
24 south Florida. The red numbers, if you can
25 see that, if not it's in your packet, are the

1 amount of people that live within those
2 respective Census Blocks.

3 And you can see there's zeros within a
4 lot of those blocks and in some minute
5 populations, 15, 29 people, there's a sole
6 person in one of these blocks. Even though
7 that is a largely unpopulated area, there are
8 Census Blocks there and we do have to account
9 for that whenever we are redistricting.

10 So if I flip back to the previous
11 slide, you could see District 28 spans a large
12 portion of South Florida. A lot of that may
13 be unpopulated Census Blocks, however, we are
14 legally required to allocate every single
15 Census Block, all 390,000 of them to a
16 district during the course of our
17 redistricting process.

18 My other piece of, I call this my fun
19 fact for Florida. There's 6 states in the
20 country that have discontinuous territory that
21 is legally allowed to be incorporated with a
22 district and for us that is the Dry Tortugas
23 National Park down off of Key West.

24 And so again, normally all of our
25 districts have to be contiguous, which we've

1 covered several times, but this is a very
2 unique piece of Florida geography that we have
3 to account for and we do so accordingly. And
4 with that, Mr. Chair, that concludes our
5 Congressional presentation.

6 CHAIR LEEK: Thank you, Members. We'll
7 open it up to questions from Members. Ranking
8 Member Geller?

9 MR. GELLER: Thank you, (inaudible)
10 Chair and Happy New Year to you and everyone.
11 I understand that these maps are just workshop
12 maps, they're not formal maps. Who actually,
13 physically, prepared these workshop maps?

14 CHAIR LEEK: I believe your question
15 is, who actually ran the mouse and the
16 software?

17 MR. GELLER: Yeah.

18 CHAIR LEEK: Okay.

19 MR. GELLER: I mean, as we've heard,
20 there were some choices that had to be made at
21 certain points which is unavoidable. So I
22 want to know who was doing the choosing.

23 CHAIR LEEK: Yeah. I think it's a
24 collective effort of Staff.

25 MR. GELLER: Well, then I'm asking who

1 specifically?

2 CHAIR LEEK: Well, looking at the
3 titles I would go to Chief Map Drawer and then
4 I would also add Kyle and Leda into that. Our
5 Staff, the three here doing the presentation.

6 MR. GELLER: The three that are doing
7 the presentation are the people who did the
8 drawing?

9 CHAIR LEEK: That's correct.

10 MR. GELLER: Thank you.

11 CHAIR LEEK: Representative Driskell,
12 you're recognized?

13 MS. DRISKELL: Thank you, Mr. Chair and
14 good morning. I had a question going back to
15 it was page 16 in my packet, but now that we
16 added that additional slide it may be page 17?
17 But where we were talking about Districts 24,
18 26, 27, and 28.

19 And just for example, we were talking
20 about District 24 and it was referenced that
21 this is a Black district that no matter
22 whether you look at workshop A or B maps, you
23 can still elect candidates of their choice? I
24 was curious about that.

25 And could you talk about, I guess I had

1 two questions. The first is, what was the
2 approach in drawing this as a Black seat? Was
3 it that you looked at the Black voting age
4 population? Just what was taken into account
5 in drawing this particular seat?

6 CHAIR LEEK: Thank you. Ms. Kelly,
7 you're recognized?

8 MS. KELLY: Thank you, Chair. And
9 thank you, Representative. So with this
10 district and with the other district as well
11 it's not just one necessary step. There is
12 several steps that go into it. The first and
13 we've, you know, mentioned this before, is
14 just looking at the general population and any
15 shifts or changes that may have occurred from
16 last decade and what's reflected in the
17 benchmark map to this decade and what you know
18 we are charged to do with especially in the
19 Congressional map, that plus or minus one
20 equalizing population.

21 From there, we looked at the benchmark
22 map to understand, you know, whether that was
23 a performing district and, as I believe it was
24 Jason outlined earlier, this Florida Supreme
25 Court last decade was able to outline some of

1 the methodology and what factors go into that.

2 So I know you mentioned for this
3 district, would be specific to Black voting
4 age population, but we also looked at
5 registered voter, voter turnout, and then
6 election results. And this decade we were
7 very thankful our data set on that front was
8 very expansive compared to what was last
9 decade and so we have election cycles going
10 from 2012 to 2020 and that includes primary
11 and general elections.

12 So you get data points like the ability
13 to control a primary, you know, the Black
14 Democrats ability to control a primary or, you
15 know, respective with Hispanic districts as
16 well. You also get all of our state wide
17 elections in which most cycles I believe had
18 14 elections so we have a very expansive data
19 set that we're able to use in conjunction with
20 how The Supreme Court outlined that during
21 last decade. I hope that answers your
22 question. Thank you.

23 CHAIR LEEK: Yeah, Representative
24 Driskell, that was an excellent question. I
25 also think that was an excellent answer so

1 thank you guys, both. That's what we're doing
2 here today, right?

3 So we have put workshop maps in front
4 of you that take different approaches that are
5 both legally compliant, but one focuses more
6 on compactness, one focuses just roughly more
7 on political and geographical distinctions.
8 But that question that you asked I thought was
9 very, very, good and helpful. Representative
10 Driskell?

11 MS. DRISKELL: Thank you, Mr. Chair.
12 And thank you for that explanation. As we
13 move forward as a Committee, would it be
14 possible as we look at the maps to also get
15 that data about the minority voting age
16 population when we're looking at Hispanic maps
17 and looking at -- I mean Hispanic districts
18 and Black districts?

19 CHAIR LEEK: I think it's already
20 available, the answer is yes.

21 MS. DRISKELL: Thank you, Mr. Chair.
22 One more question?

23 CHAIR LEEK: Representative Driskell?

24 MS. DRISKELL: Yes. One of the things
25 that I don't think we've talked about much is

1 language minorities but I know that that can
2 be a particular criteria to consider
3 especially down in south Florida where we have
4 so much diversity. Could you share with the
5 committee whether language minorities have
6 been taken into account and if so, how?

7 CHAIR LEEK: Thank you. Ms. Kelly?

8 MS. KELLY: Uh-hum. Thank you, Mr.
9 Chair. Yes, ma'am, thank you, Representative
10 Driskell for that question. So for language
11 minorities I assume you're asking about the
12 Haitian population, I know that's come up in a
13 couple of our committees.

14 MS. DRISKELL: Yes.

15 MS. KELLY: Yeah, perfect, thank you.
16 So whenever we receive the information from
17 the Census Bureau, and thank you for this
18 question because this is a piece of
19 information I feel like Members may not just
20 be aware of.

21 Whenever we receive our data set from
22 the Census Bureau it comes in specific
23 categories. Now, this past cycle the Census
24 Bureau allowed for the first time the ability
25 to fill in what your racial affiliation may be

1 and so a lot of people opted to fill in
2 Haitian, if they felt like that, they self-
3 identified as Haitian. However, whenever the
4 population data comes to us the Census Bureau
5 does not give us that delineated breakdown of
6 what those additional responses may be.

7 We receive it at a categorical level
8 of, you know, single race White, Black, Asian
9 American, other and I'm drawing a blank on the
10 last one but there's a fifth category as well.
11 So whenever we look at our population as far
12 as how the data is given to us, the Census
13 Bureau doesn't actually provide that level of
14 information broken down by the Census Block
15 which is what we're required to draw on.

16 Now, there's been some questions about
17 the ACS data so I'd like to talk about that
18 for a second. The American Community Survey is
19 an additional data set that the Census Bureau
20 provides. It's an official Census Bureau
21 product.

22 However, it's not done on a one for one
23 basis like the Census count is. The American
24 Community Survey is a true survey, it's an
25 estimation of the population and they have a

1 one year running survey and a five year
2 running survey. Within that though, they
3 don't sample every single individual household
4 like the Census.

5 They'll send a certain amount of Census
6 surveys -- excuse me surveys, from the Census
7 Bureau to households within an area. Whenever
8 they receive that data back they then run
9 their algorithms and extrapolate what may be
10 in that region.

11 However, for the purposes of
12 redistricting we need to know the individual
13 person down to the Census Block level. So
14 that presents somewhat of a challenge for us.

15 What we've encouraged Members who have
16 come to us or have raised these questions is
17 we obviously want to ensure we're protecting
18 all the appropriate communities that we're
19 required to protect and if you have feedback
20 from, whether it's our workshop maps or
21 anything in that region that you'd like to
22 share, we highly encourage you to come to
23 Staff because we all want to make sure we're
24 taking that into account. Thank you.

25 CHAIR LEEK: And I think it's worth

1 noting here also again, that you know we are
2 legally required to use the Census data as
3 given to us. Representative Driskell, for a
4 follow up?

5 MS. DRISKELL: Thank you, Mr. Chair.
6 Which I'm wondering if that puts us in a bind
7 because it's my understanding of the
8 Constitutional factors that we have to
9 consider language minorities. So is it that
10 the Census does not give a set data at all?

11 Is it that they don't include that
12 information in the initial data set and we
13 have to drill down deeper? I mean, what do we
14 need to do to get that data to make sure that
15 we are Constitutionally compliant when it
16 comes to language minorities?

17 CHAIR LEEK: Yeah, and that's, I mean
18 that's a great question. You know, I will say
19 the fact that we have you know, coequal
20 factors and different tiers, necessarily
21 creates tension, but still legally compliant,
22 and beyond that I'll defer to Ms. Kelly.

23 MS. KELLY: Absolutely. And so to your
24 initial question about how is it presented?
25 The Census Bureau doesn't provide that as part

1 of the PL 94171 data set that we receive and
2 are legally required to use for redistricting.

3 It's not like, you know, we didn't just
4 drop a tab and use that data set, it's
5 actually not included at all. One thing I
6 will say though, is whenever you think about
7 how, you know, communities and populations
8 respond to the Census data or even self-
9 identify within the elections world as well,
10 their voter registration, things of that
11 nature, they you know I would assume most of
12 the Haitian community would self-identify as
13 black which is a racial population we
14 obviously work to ensure is protected within
15 that.

16 So we are inherently working to protect
17 that community even though we don't have any
18 concrete data that speaks specifically to the
19 Haitian population.

20 CHAIR LEEK: Okay. One more follow up?

21 MS. DRISKELL: Okay.

22 CHAIR LEEK: All right. Representative
23 Driskell?

24 MS. DRISKELL: Thank you. It's kind of
25 more of a comment but I don't know if we are

1 going to have comments or should I wait, Mr.
2 Chair, or?

3 CHAIR LEEK: Go ahead.

4 MS. DRISKELL: Okay. And the comment
5 is just, and thank you for that because we
6 absolutely should be doing what we can to
7 protect the Black districts.

8 It's just that I think within language
9 minorities, you know, the Black populations
10 not a monolith and it's the Haitian community,
11 I'm not a part of it but I would imagine it
12 has maybe some specific, you know, issues that
13 are specific to them and so then it sounds
14 like, Mr. Chair, going back to I think a
15 comment that you made two questions ago, that
16 perhaps it's that we need to hear some
17 community feedback about those maps and hear
18 from the community that may be the language
19 minority about what, you know, what they think
20 of the maps, et cetera, and if they feel
21 protected or not.

22 CHAIR LEEK: Yeah. Thank you and I'll
23 reiterate, you know, something I've said many,
24 many, times before. First of all, we have,
25 right? So we have heard some of the

1 representatives but if you represent those
2 communities or you have an interest in those
3 communities, please reach out to the
4 constituents in those communities, bring back
5 their input and we are happy to take it.

6 And let me -- this is probably a good
7 time for me to also say, you know, thank you
8 to those Members who have sought out Staff,
9 sought out me, sought out the Vice Chair, you
10 know, sought out the subcommittee Chairs, to
11 give input. We appreciate that.

12 And the goal for the entire thing is to
13 be able to ask questions like Representative
14 Driskell is asking right now because that
15 means that you have a level of understanding
16 that is going to be necessary for each of us
17 to make the decisions on the maps as we move
18 forward so thank you. Let me make sure
19 there's not somebody else, Representative
20 Geller? Right? Ranking Member Geller?

21 MR. GELLER: And thank you, Mr. Chair.
22 And I want to follow up on a couple of those
23 very excellent questions that Rep. Driskell
24 asked. First, returning to language
25 minorities and I guess, I don't know if I

1 should direct this, Mr. Chair, to you or to
2 the Staff Director --

3 CHAIR LEEK: We will figure it out.

4 MR. GELLER: -- you'll make the call.
5 But if I'm following this correctly which is
6 always, you know, questionable, frankly, I see
7 that there are three Black districts that are
8 being protected. One is from Leon to Duval,
9 one is in the Orlando area, and one is in Dade
10 County. And then there is one additional one,
11 a fourth one, that's the one we looked at with
12 very different iterations for number 20, is
13 that accurate so far?

14 CHAIR LEEK: Ms. Kelly?

15 MS. KELLY: (inaudible).

16 CHAIR LEEK: Yup. I'm having a little
17 trouble understanding you. (inaudible).

18 MR. GELLER: Oh. Let me try and talk
19 close, more closely into the mic.

20 CHAIR LEEK: But I think, I think you
21 said there are four --

22 MR. GELLER: I think it's four total, I
23 counted three and then adding in the one --

24 CHAIR LEEK: Protected district?

25 MR. GELLER: -- that has different

1 configurations. One from Leon to Duval, one
2 in Orlando, one in Miami, and then there's
3 that one 20 that we looked at with two very
4 different iterations. Is that correct for
5 Black districts?

6 CHAIR LEEK: I think that the question
7 is are there four protected districts?

8 MR. GELLER: Those four.

9 MS. KELLY: Let me clarify just to make
10 sure. The Black protected districts, 3, 20,
11 which was the south Florida one with different
12 iterations, and 24.

13 MR. GELLER: There is not one in the
14 Orlando area? Did I misunderstand that?

15 MS. KELLY: Correct.

16 MR. GELLER: Okay. So with that said,
17 and if this was said, I didn't hear it and
18 there was a brief reference. Which if any are
19 either protected or expected Spanish language
20 districts?

21 CHAIR LEEK: We're trying to do -- the
22 reason there's you know, some hesitation here
23 is we're trying to take the question that you
24 have and overlay the law on it to make sure
25 that we're talking about the same things, but

1 Ms. Kelly, if you can answer that?

2 MS. KELLY: Yes, I will try. Thank
3 you, Chair. Representative, so with regards
4 to the Black districts, which one are
5 protected Spanish language?

6 MR. GELLER: Not with regard to the
7 Black district, overall --

8 MS. KELLY: Okay.

9 MR. GELLER: -- which, if any, of these
10 districts are, in terms of language affinity,
11 language community, which are either protected
12 or expected Hispanic districts where Spanish
13 speaking citizens can be sure that they're
14 able to have representatives of their choice?

15 CHAIR LEEK: I'm not sure what the
16 expected part means but we can certainly
17 answer the protected part.

18 MS. KELLY: And so --

19 MR. GELLER: Predicted, perhaps?

20 MS. KELLY: -- switching gears to our
21 protected Hispanic districts, I feel like is
22 what you are asking about. So whenever you're
23 looking at the map there 25, 26, and 27, in
24 south Florida are protected Hispanic
25 districts.

1 We also talked about Congressional
2 District 9, which is not a protected district,
3 it's not quite performing but it is a
4 majority-minority district with the natural
5 population that we all know has influx there
6 over the decade.

7 MR. GELLER: So 9 is viewed as a
8 Hispanic district?

9 CHAIR LEEK: Ms. Kelly, you're
10 recognized.

11 MS. KELLY: I'm so sorry,
12 Representative, could you repeat that
13 question?

14 MR. GELLER: Mr. Chair?

15 CHAIR LEEK: You're recognized.

16 MR. GELLER: The proposed Congressional
17 District 9 is viewed as -- let me let you
18 define how it's viewed in terms of the
19 Hispanic language. I don't want to use the
20 wrong words. I'll let you choose the words
21 that define what 9 is in terms of Spanish
22 language community.

23 CHAIR LEEK: Ms. Kelly?

24 MS. KELLY: It is a majority-minority
25 district which means that over 50 percent of

1 its population is self identifies as Hispanic.

2 MR. GELLER: Follow up, Mr. Chair.

3 CHAIR LEEK: You're recognized.

4 MR. GELLER: And then is there a Black
5 district that meets that same standard in the
6 Orlando area? It's not language based but
7 it's community and affinity based and minority
8 choice of representation.

9 CHAIR LEEK: Ms. Kelly?

10 MS. KELLY: Thank you, Mr. Chair. Not
11 over 50 percent in the Orlando area, no, sir.

12 MR. GELLER: Final, I think follow up,
13 Mr. Chair, if I may? And then moving the
14 south Florida again, let me ask. I heard the
15 very thoughtful exchange between you and Rep.
16 Driskell, but let me just say for the record
17 that there are numerous Haitian Americans
18 either in my own district or immediately
19 contiguous to my district in Northeast Dade
20 and Southeast Broward.

21 I would -- it would be difficult for me
22 to recount for the record, the number of them
23 that I've heard from expressing great concern
24 about whether or not their particular language
25 group, Haitian Creole, is going to have

1 attention paid to it or the district drawn
2 that will be sensitive to electing Haitian
3 Creole speakers.

4 So having heard what you said, I'm not
5 asking for repetition but I would like a
6 little more explication that I can go back and
7 tell the many, many, Haitian Creole speakers
8 who have contacted me about this?

9 CHAIR LEEK: Okay. I think there was a
10 question at the end there. And I think that
11 question repeated the question that
12 Representative Driskell asked and the
13 explanation was given. We'll give you that
14 explanation again but --

15 MR. GELLER: I'm hoping --

16 CHAIR LEEK: -- we've got a whole other
17 set of maps to get through so before we start
18 repeating answers, if you don't mind, we'll
19 get to other questions?

20 MR. GELLER: Chair, let me just be
21 clear. As I said, I heard that answer. I was
22 hoping for a little more -- I don't want us to
23 waste time, just repeating.

24 CHAIR LEEK: Okay. Well --

25 MR. GELLER: Hoping for a little more

1 info.

2 CHAIR LEEK: -- if you don't mind
3 getting with Ms. Kelly --

4 MR. GELLER: Whatever she -- okay.

5 CHAIR LEEK: -- you can do that because
6 I think the explanation that she gave was
7 actually very thorough and I'm not sure there
8 is more to provide but maybe there is a
9 different way to frame it so that it -- listen
10 guys, the stuff we are doing here is very,
11 very, technical and very, very, legal and it
12 requires a degree of precision that doesn't
13 necessarily make it easy to communicate. And
14 so we're trying but it -- there might be a
15 better way to do that if you don't mind
16 getting with Ms. Kelly, I'd appreciate it.

17 MR. GELLER: Thank you, Chair.
18 Representative Onfroy, you're recognized.

19 MS. OMPHROY: Thank you so very much,
20 Chair. I appreciate it. I appreciate this
21 presentation. I thought it was extremely
22 thorough. I actually identify with the
23 demographics that is being spoken about
24 currently.

25 I am of Caribbean American; I represent

1 the largest Caribbean American population in
2 the State of Florida. My grandmother is
3 Haitian and Portuguese so I identify with the
4 Haitian population because I am such. And I
5 can tell you that I have one question.

6 So I know that on the Census report, my
7 Aunt, when she was a member of this Florida
8 House, worked on Census and lobbied for the
9 designation of the different Caribbean
10 American ethnic groups within the State of
11 Florida.

12 So we know that we were able to self-
13 identify. And I just want to clarify, did
14 they tell you the self-identified people in
15 that population group or did they just keep
16 that as, you know, additional fodder. And
17 then I would ask, Chair, if I could have a
18 follow up after the question is answered?

19 CHAIR LEEK: Thank you, Representative
20 Omphroy. Just to be clear the information
21 that we have comes from the Federal Government
22 not the State Government.

23 MS. OMPHROY: No, I meant the Federal
24 Government, because they asked us in the
25 Census to identify. I was asked to identify

1 what I was. If I could say that I was
2 Jamaican, I could say that I was Haitian, I
3 could say that I was from Barbados, I could
4 say that I was from, you know, it was allowed
5 this year.

6 It was something that was fought for
7 within my community that I represent majority
8 of. And so I'm wondering, did they not
9 transfer that information or was that
10 information they gathered and then didn't do
11 anything with as far as transferring it down
12 to the State?

13 CHAIR LEEK: Thank you. And I'm going
14 to defer to Ms. Kelly here in a second. But I
15 think this may also help you, Representative
16 Geller. I think we're talking about the
17 difference between the survey versus the
18 Census level data.

19 MS. KELLY: Thank you, Mr. Chair. And
20 thank you, Representative. So the boxes that
21 you were able to fill you, handwrite in your
22 self-identification on the Census Bureau, it
23 was still sent back with your Census form
24 whether you filled it out, handwritten or if
25 you did it online this decade, which first

1 time ever they allowed that.

2 There is many other things that the
3 Census Bureau uses that information for so as
4 far as redistricting goes that information was
5 not delineated and sent to us. However,
6 there's a whole world of demographers and
7 statisticians that use that information in
8 completely separate and different ways where
9 it may be showing up.

10 I can't speak to that; I'm not well
11 versed in those data sets. But as far as
12 redistricting that detailed, next level
13 detailed information is not part of our PL
14 data set.

15 CHAIR LEEK: And Representative
16 Driskell, I see the look on your face. So let
17 me see if I can explain this. That
18 information while collected is not collected
19 in the same detail as the information that is
20 necessary and legally required for us to use
21 in redistricting.

22 So while that survey was given to you,
23 you know, some people responded, some people
24 did not. It is not the same detailed
25 information that we are required to use for

1 redistricting. Is that fair?

2 MS. OMPHROY: I had one more follow up,
3 sorry.

4 CHAIR LEEK: Representative Omphroy?

5 MS. OMPHROY: Thank you so very much,
6 Chair. So in our mapping out of things,
7 culturally, you know, I'm just going to say in
8 Broward County 40 percent of the Black
9 population identifies as being Caribbean
10 American with the largest group being the
11 Jamaican population at 13.7 percent, if I'm
12 not mistaken. And the Haitian population at
13 13.1 percent, right?

14 I happen to be grateful to be part of
15 both of those populations. So did we have to
16 take into account cultural groups in regards
17 to the Census because Caribbean American
18 population is looked at as a cultural group
19 and so I just want to put that out there also.
20 Thank you.

21 CHAIR LEEK: Thank you. Let me try to
22 answer that if I can. So the question was is
23 any -- does any State have to take that into
24 account and The Supreme Court has told us no.
25 You have to follow Tier 1 and Tier 2 that

1 communities of interest it's not one of the
2 criteria within it.

3 Now that information is available to us
4 through, you know, whatever means it is and it
5 doesn't mean that we can't take it into
6 account, but it cannot supplant any of the
7 legal requirements that we must take into
8 account. Just a second. (inaudible). I want
9 to check and make sure that the stuff I'm
10 saying is right. So was I right?

11 MS. KELLY: Yes.

12 CHAIR LEEK: Thank you. Representative
13 Driskell, you're recognized.

14 MS. DRISKELL: Thank you, Mr. Chair.
15 And I think you may have just answered the
16 question that formulated in my mind based on
17 the exchange we just had with you and Rep.
18 Omphroy which is, so it sounds like that
19 information is available to us, we are not
20 required to use it but we could make a policy
21 decision as a legislative body to use it?

22 CHAIR LEEK: Yeah, kind of. Remember
23 because the survey information is not as
24 precise as is necessary for the required legal
25 data that we have to use, right?

1 But it is a community of interest that
2 is not really measured in any other way other
3 than a survey and I'll turn it over to Ms.
4 Kelly at that point. That's -- she says I'm
5 right. I always like it when that happens.

6 MS. DRISKELL: Thank you. That was
7 helpful.

8 CHAIR LEEK: Ranking Member Geller,
9 you're recognized.

10 MR. GELLER: And thank you, Mr. Chair.
11 Also, a quick follow up on that as well. As I
12 understand it we've used the term protected
13 districts and that's why I was curious about,
14 you know, what we're doing in terms of Spanish
15 language and if there is any effort made to
16 identify and provide that for the language
17 group of Haitian Creole.

18 In view of what we were just hearing, I
19 think and again, please I know much less about
20 this than our Staff Director certainly, and
21 maybe you as well, Mr. Chair, but I understand
22 that what we are protecting is based on what
23 exists going into this process that we cannot
24 have retrogression from.

25 We have to at least maintain, I think

1 is called benchmark, and I just like to know
2 how we decided and what criteria were applied
3 for what is a benchmark district that has to
4 be protected, particularly in terms of the two
5 that we talked about in the Orlando area,
6 Black district but maybe not a benchmark
7 district, a Hispanic district with maybe more
8 ability to elect but maybe not a benchmark
9 district.

10 How did we decide what had to be
11 protected as opposed to what was just there
12 and could be affected?

13 CHAIR LEEK: Okay so this gets into the
14 weeds of what is a protected district and
15 you've heard terms like majority, minority,
16 you know, performing district, coalition
17 districts, there are a whole host of districts
18 that may fall into that protected district
19 category.

20 For the specifics of what, and I think
21 Ms. Kelly answered this before, but there is
22 no one piece of data that makes it protected.
23 But for the specifics of those districts that
24 you referenced, I think I'm going to have to
25 defer to Ms. Kelly.

1 MR. GELLER: Benchmark.

2 CHAIR LEEK: Benchmark is another legal
3 term but we'll let Ms. Kelly explain it.

4 MS. KELLY: Thank you, Mr. Chair. And
5 thank you, Representative, that's actually the
6 first thing I wanted to clarify. The
7 benchmark is related to the current, you can
8 think of it as the current map, right? The
9 current map and you can view the current map
10 with the data from last decade and you can
11 view the current map with the data from this
12 decade.

13 And so whenever we go in and analyze,
14 you know, what is happening in that area and
15 that district, and this goes back to the
16 question I heard from Rep. Driskell so I won't
17 repeat, just for the sake of time.

18 But you're able to look at that area
19 with the voting age population, your
20 registered voters, voter turnout, as well as
21 the election results. And all of those data
22 points together help to identify whether or
23 not it would be performing and therefore, as
24 you said related to Tier 1, would be required
25 for protection moving forward from the

1 benchmark map.

2 MALE VOICE: Thank you.

3 CHAIR LEEK: Members, we're going to
4 move on here and I'm just going to start by
5 saying, you know, for those of you who had to
6 suffer through these types of conversations
7 and discussions in law school, I'm sorry
8 you're having to do it again. For those of
9 you who did not have to suffer this in law
10 school, I'm doubly sorry. So let's move into
11 the next presentation, please. Ms. Kelly,
12 you're recognized.

13 MS. KELLY: Thank you, Mr. Chair. And
14 I'm going to turn it over to the team.

15 MR. POREDA: Thank you. Okay. So we
16 are going to move into our two options for the
17 State House map. And we will again, start in
18 the panhandle and work our way down into the
19 Monroe County area, kind of weaving throughout
20 the State so we can hit every region.

21 So here you see the majority of the
22 panhandle with District 1 through 9 in the
23 current map, or I'm sorry, 1 through 9 in the
24 two options that we have before you. Their
25 orientations are all very similar.

1 Districts 5 and 6 are actually the same
2 in both. Both whole county combinations.
3 District 6 is actually Bay County in and of
4 itself. District 5 is made up of five other
5 entirely whole counties and nothing else.

6 We're able to do some of these things
7 because in the State House map, unlike the
8 Congressional map, we have a little bit more
9 flexibility with population deviation offer
10 ideal so because of that we're able to keep
11 some counties whole and not include any other
12 piece of a county or city in order to make up
13 what is the entirety of a district.

14 We also have the ability to combine
15 certain counties together and put a certain
16 number of districts within them to help us
17 maintain the county boundaries. One example
18 of that is District 1 through 4, where you see
19 that three county combination of Escambia,
20 Santa Rosa, and Okaloosa, can fit four House
21 districts within the allowed population
22 deviation.

23 And within Districts 1 through 4 you
24 can see that Districts 3 and 4 are very
25 similar, but Districts 1 and 2 just show some

1 difference in what we in both options keeping
2 the city of Pensacola whole but different
3 options for orienting those two districts in
4 that region and the policy choice of either
5 doing a Pensacola very tightly compact
6 district which would then make District 1 have
7 to wrap around it and go into Santa Rosa
8 County or to kind of split the difference and
9 include Pensacola with a district that crosses
10 over to Santa Rosa County.

11 That's just a simple Tier 2 policy
12 choice that we wanted to demonstrate in this.
13 Another example of that is District 7, 8, and
14 9. So District 8 is one of our protected
15 Black districts. It's a majority-minority
16 Black district that we performed a functional
17 analysis to ensure the ability to elect for
18 the minority community in that region.

19 That is the District that exists in the
20 benchmark and that we recreated here. Unlike
21 the previous decade where after creating that
22 district and protecting that minority
23 community there was enough population leftover
24 in Leon County to fit a district entirely
25 within Leon.

1 Unfortunately with population shifts
2 over the decade and because district
3 populations have increased from an ideal
4 population of about 156,000 to now about
5 180,000 there is not enough population left in
6 Leon County to satisfy the entirety that would
7 be enough of a House district.

8 So Leon County will have to be
9 connected to other neighboring counties in
10 some way, shape, or form. We've presented two
11 different options for how that policy choice
12 could be made. Where in option A most of
13 Tallahassee and south Leon County is connected
14 to the counties to the West and then the
15 northern portion of Leon County is connected
16 to Jefferson County and the other counties to
17 the East.

18 In option B most of Leon County is
19 connected with Jefferson and Madison and then
20 the remaining counties are all connected
21 together with a small portion of Leon County.
22 Those are just two different options presented
23 with this new mathematical challenge that we
24 have with Leon County in this particular area.

25 MS. KELLY: And Jason, I'll step in

1 real quick. Members, this is another example
2 that I'd like to show for keeping cities
3 whole. So before I switch to the next slide,
4 District 4, which is the yellow district, you
5 can see on the East and West it follows county
6 lines very clean as well as on the south and
7 then on the northern portion it follows
8 portions of I 10 but there's this little bump
9 up. And you may ask why is there a little
10 bump up.

11 Well, whenever you zoom in and actually
12 look at what city geography is there
13 incorporated city, this is the city boundaries
14 of Crestview. And so as you can see instead
15 of continuing along I 10 which would split the
16 City of Crestview south of the interstate and
17 north of the interstate, that little bump up
18 is created to respect those city boundaries
19 and to allow that city to be kept whole within
20 District 4. So again, just another quick
21 example of why a district may look the way it
22 does.

23 MR. POREDA: Thank you, Leda. And now
24 continuing further east, we'll go with
25 District 10 through 18, which is the greater

1 Jacksonville area. And you can see here in
2 our option A and option B we presented two
3 different ways of looking at the Duval and
4 Nassau County area.

5 And then also District 10 and 11 show
6 how keeping a district wholly within Clay
7 County is still possible but connecting it to
8 the other neighboring counties you can do so
9 in a different way. Both Tier 2 compliant,
10 it's just a matter of a policy choice of
11 whether or not we split the county vertically
12 or horizontally.

13 This could be an opportunity to look at
14 compactness scores and figure out which
15 orientation is best or there could be another
16 orientation that maybe not as extreme as
17 totally horizontal or totally vertical, but
18 this is a way of presenting to the committee
19 different policy choices that could be used,
20 still keeping the same county combination
21 together and keeping a district wholly within
22 Clay but splitting up the county in a slightly
23 different way.

24 In Nassau Duval going back to that, you
25 can see this is an example of how we can keep

1 Nassau County whole but we can connect it to
2 the east side of Duval County, keeping five
3 other districts wholly within Duval County or
4 going to the other way and taking Nassau
5 County into Duval County on the West side and
6 keeping the five districts wholly within Duval
7 County pushed over more towards the East side.

8 Another thing I want to point out here
9 is that Districts 13 and 14 are both Tier 1
10 protected districts within Duval County of the
11 Black population there. We ran functional
12 analysis on both of these districts to ensure
13 the minority communities' ability to elect
14 candidates of their choice in both
15 districts -- oh, sorry.

16 District 18 is solely within St. Johns
17 County and this is just a different way of
18 showing how we can use good boundaries, one
19 uses a river, one uses a road, and then both
20 options keep the City of St. Augustine whole
21 but in what will be the remaining portion of
22 Duval -- or St. Johns County not in House
23 District 18.

24 MS. KELLY: (inaudible).

25 MR. POREDA: Yeah. So now we move into

1 the area just south of that area I was just
2 discussing. District 18 is kind of used as a
3 bridge here so we'll continue talking about
4 St. Johns in that area and then move east to
5 kind of talk about how some of those decisions
6 will impact the rest of this region.

7 So as I mentioned before District 18 is
8 the northern portion of St. Johns County then
9 you can see below that in option A and option
10 B Districts 18, 19, and 20, look very similar
11 but there are some subtle differences between
12 the two.

13 In both of our options we kept Flagler
14 County whole and then connected it to a
15 portion of that St. Johns area and all of the
16 City of St. Augustine. Both options look very
17 similar but they do follow different boundary
18 lines to go north to kind of present different
19 options to the committee.

20 One follows a railways, one follows a
21 highway. But they both keep the city whole.
22 We did explore some options trying to keep St.
23 Johns County just in two different districts
24 but to do that that would force us to split
25 either Flagler County or Putnam County or in

1 some cases, both.

2 It would also negatively impact the
3 compactness of a lot of the districts to the
4 South. So we decided to present some subtle
5 differences between Districts 19 and 20 in
6 these options even though they look somewhat
7 similar.

8 District 20 contains all of Putnam
9 County in both options. A little bit of that
10 western portion of St. Johns County that's not
11 in District 18 or 19, and then continues into
12 Marion County in a similar but slightly
13 different way.

14 I'll point out District 21, the green
15 district there in the middle, that is another
16 Tier 1 protected Black performing district
17 that have performed a functional analysis on
18 and in both options even though they look
19 different we've ensured the minority
20 communities ability to elect candidates of
21 their choice. They are in that district.

22 We are actually able in both options to
23 just split Alachua County into two different
24 districts in this case, 21 and 22. One of the
25 differences between these two options and how

1 we build that minority protected district is
2 how much population is in that district that's
3 in Alachua County.

4 In option A it has a little less or --
5 I'm sorry, District 21 has a little bit more
6 of Alachua County which enables District 22 to
7 have all of Levy and all of Gilchrist County
8 and then get the remaining portion of its
9 population needed to get close to the
10 population deviation just within Alachua.

11 In option B because District 22 has
12 more of Alachua County, District 21 has a
13 little less, its only able to include all of
14 Gilchrist County. The tradeoffs here are
15 obviously District 21 in option B is a little
16 bit more visually compact, it's more
17 mathematically compact as well.

18 But the tradeoff is that in option B,
19 Levy County has to get split a little bit by
20 Congressional District 24. District 24 is
21 also not wholly within Marion County like it
22 is in option A.

23 And also, Lake County, as you go
24 further down to District 25 and 26, in option
25 A are both wholly within Lake County whereas

1 in option B only District 25 is wholly within
2 Lake County.

3 Another difference between the two
4 options is that in option A there are five
5 districts in Marion County and in option B
6 there are only four even though there is no
7 district wholly within the county.

8 So these are different Tier 2 tradeoffs
9 after drawing the Tier 1 protected district in
10 between that you can make that'll affect how
11 an entire region can come together.

12 I'll talk a little bit now about going
13 south into Sumter, Pasco, and Hernando County.
14 Those three counties kept together is
15 approximately the right population for five
16 House districts. So we've split up -- we've
17 kept three districts wholly in Pasco, one
18 wholly in Hernando, and then added the rest to
19 keep Sumter whole in both options that are the
20 same in both options.

21 Moving a little bit back to the East,
22 kind of working underneath the District 18,
23 19, and 20 area that I discussed earlier is in
24 Volusia County. And you can see that because
25 we keep Flagler County whole and Putnam County

1 whole, we do some different stuff with Marion
2 in the two different options but as we get
3 into Volusia County the districts look similar
4 but there are some subtle differences with how
5 the boundaries come together.

6 But because we keep Flagler County
7 whole the District 28 is going to be very
8 similar in both options with some subtle
9 differences and following different municipal
10 lines but the overall shape of the district is
11 more or less the same or very similar to each
12 other.

13 A lot of these municipal lines in
14 western Volusia County out toward Deltona and
15 Deland, we keep as many of those cities whole
16 as possible and actually in option A we keep
17 all of those cities whole either in District
18 27 or 29. District 29 does split one of the
19 cities over there in the west but in either
20 case because of the overlapping municipal
21 lines on the east coast, we do have to split,
22 I believe, Port Orange in both options.

23 But we keep as many cities in Volusia
24 County whole. Another portion of Volusia
25 County is attached to the District 27 which is

1 either just in Lake in option B or Lake and
2 Marion in option A and then the remaining
3 portion of Volusia County would be connected
4 down to the space coast which I'll turn over
5 to Kyle to talk about.

6 MR. KYLE: Oh. (inaudible).

7 MR. POREDA: Oh, I'm sorry, yeah, we're
8 something else.

9 MS. KELLY: I have one thing. Before I
10 switch to the next slide I'd like to draw
11 everyone's attention to District 23 which is
12 composed in part of Citrus County. And you
13 can see on the western coast there's a little
14 portion of it that kind of hangs out into the
15 Gulf and you may be wondering what that is.

16 So earlier we talked about the
17 Everglades and the Census Blocks that comprise
18 over the Everglades. The Census Bureau also
19 identifies water blocks for us as well and so
20 while there may not be no population on this,
21 we do also still have to assign these water
22 blocks to the respective districts that we're
23 creating which is what may create some of that
24 unique geography like what you're seeing in
25 the Citrus County area.

1 On the West coast of Florida these
2 water blocks go out 9 miles and then on the
3 East coast they go out 3 miles offshore. So
4 again, just draw your attention to that.
5 Thank you. (inaudible) Kyle.

6 MALE VOICE: Okay, moving over onto the
7 east coast. We'll start with District 30
8 which takes the remaining portion of southern
9 Volusia and combines it with the northern
10 portion of Brevard County.

11 It does split, as Jason said, Port
12 Orange, this has a piece of Port Orange in the
13 northern part. It also splits Titusville in
14 Brevard County. The next three districts are
15 similar with varying boundary lines, Districts
16 31, 32, and 33.

17 And some of those choices are whether
18 or not you follow a primary roadway, a
19 riverway, or use municipal lines. But they
20 all form rather compact, stacked, districts in
21 all three are kept wholly within Brevard
22 County leaving the remaining population of
23 Brevard County to be paired with Indian River
24 County which is able to be kept whole in
25 District 34 and that kind of makes up our

1 space coast.

2 Moving into the Orange, Osceola, and
3 Seminole areas. We'll start with Districts 40
4 and 41. Both are protected Tier 1 Black
5 districts. HD 40 is a majority-minority
6 protected Black district. Both are the same
7 in both options in our functional analysis
8 ensures that the minority populations within
9 both districts are protected their ability to
10 elect a candidate of their choice.

11 Districts 46 and 43 are majority-
12 minority Hispanic districts that one is kept
13 entirely within Orange County and 46 entirely
14 within Osceola County. Our functional
15 analysis ensures that minority communities'
16 ability to elect a candidate of their choice
17 is not diminished.

18 They're an additional -- because of the
19 Hispanic growth along this I4 corridor, we've
20 made some very Tier 2 compliant compact
21 districts, both District 47 and 44 following
22 those major roadways using municipal lines of
23 St. Cloud in District 47 and Bell Isle in
24 District 44.

25 We made some very compact districts

1 that are also majority-minority Hispanic
2 districts. 35 -- District 35 takes the
3 remaining portion of Osceola County and
4 combines it with the western population of
5 Orange County.

6 Most of the other districts in Orange
7 County are all similar because they're shaped
8 by the minority districts that are protected
9 by Tier 1. The main difference is in the
10 Seminole County area are Districts 38 and 37,
11 in option A 38 falls some of the Winter
12 Springs boundary lines which creates a split
13 in some additional cities.

14 And when we use major roadways we're
15 able to keep some of those cities whole versus
16 splitting them in option B. So it's kind of
17 some Tier 2 tradeoffs, whether or not you use
18 municipal lines to keep the cities whole or
19 follow some good clean boundary lines along
20 the primary roads which results in splitting
21 some of these cities. So those are some of
22 those options in this central Florida region.

23 Moving into Pole County we have two
24 very different configurations. Starting in
25 option A the boundaries are a little ore

1 jagged in all of them, however, we are able to
2 keep all municipalities whole within each
3 district in Pole County.

4 So for example, District 51 in workshop
5 A keeps all of Lakeland whole within it.
6 District 48 keeps the cities of Davenport and
7 Haines City whole within it likewise in 50
8 Auburndale is kept whole and 49 we have Lake
9 Wales and some of the southern Polk cities all
10 kept whole within that.

11 Now in option B we chose to use more
12 primary roadways, I believe we used the CSX
13 railway to divide 50 and 49. But these are
14 all other Tier 2 coequal boundaries to use
15 that results in a more visually compact
16 districts however, we split more cities
17 following these roadways.

18 MS. KELLY: And just to extrapolate
19 more on what Kyle was just saying. The option
20 that -- the slide that I've clicked over to is
21 option A. So on the right -- I'm sorry, on
22 the left you can see the original image we
23 were just looking at and on the right the
24 yellow illuminated areas are those
25 incorporated municipalities throughout Polk

1 County. And as you can see if you really
2 squint all of the city boundaries are
3 maintained when creating those individual
4 districts.

5 Similarly, moving onto, this was option
6 B that was presented on this screen, just
7 highlighting how by perhaps doing a more
8 visually compact formulation of Polk County
9 following major railways, roadways, like Kyle
10 mentioned, we do end up splitting many more
11 cities.

12 This is the compactness results for
13 Polk County as well. And again, you know the
14 option A on the right we'd work to keep cities
15 and option B on the left was using more
16 railways and roadways, and you can see those
17 additional coequal Tier 2 tradeoffs.

18 Option B has better mathematical
19 compactness as well but by choosing
20 mathematical compactness you'd also be
21 choosing to split more cities. So again,
22 they're not always mutually exclusive and
23 there are tradeoffs you have to make within
24 especially Tier 2.

25 MR. KYLE: Moving into the West coast.

1 We have Pinellas, Hillsborough, and Manatee.
2 And this three county combination we were able
3 to figure out we could fit sixteen districts
4 wholly within these three counties. Starting
5 out with Districts 62 and 63, both of these
6 are protected Tier 1 performing Black
7 districts.

8 A functional analysis ensures that the
9 minority candidates in each district can elect
10 the candidate of their choice. District 62 is
11 the only district that crosses the Pinellas
12 and Hillsborough County line. So we were able
13 to five additional districts wholly within
14 Pinellas.

15 In workshop A the Pinellas districts we
16 chose to stick more towards the roadway
17 boundaries and the clean lines that create
18 some smaller compact shaped districts and then
19 in workshop B we chose the option of keeping
20 more cities whole, being able to keep
21 Clearwater wholly within a district, Safety
22 Harbor wholly within a district, Pinellas Park
23 and Seminole in some different districts as
24 well.

25 Into Hillsborough some of the similar

1 decision points were made and illustrated here
2 between 67 and 68. They in both iterations
3 follow primary roadways but one orientation we
4 have Plant City that is split in option A
5 whereas Plant City is kept whole in option B.

6 Another difference between the two is
7 the interaction with Manatee County. In
8 option A we have two districts that cross that
9 Manatee Hillsborough line in 70 and 69.
10 Whereas in option B we have only one district
11 that crosses that line and we're able to fit
12 both 71 and 72 both wholly within Manatee
13 County.

14 Moving a little further south we'll
15 start with Sarasota County. We have two
16 different orientations. One is more
17 horizontal and then another is with two
18 districts more vertical. Both are able to
19 keep the City of Sarasota whole but the
20 compactness is affected in these two
21 orientations using I believe that's I-75 to
22 divide the two in the more vertical nature.

23 So those are kind of some of those
24 policy decisions. However, using 75 in option
25 B splits the City of Venice. Moving into

1 District 76. We have part of Charlotte
2 County, part of Lee County, and all of Desoto
3 County. And that kind of makes a nice square
4 district.

5 We have some differences down in Lee
6 County around the Cape Coral District 79 in
7 Fort Myers and how those cities can be kept
8 whole but in kind of different orientations
9 based on how District 77 is shaped around that
10 area.

11 Districts 82 and 81 in -- down in
12 Collier and 82 includes parts of Hendry,
13 there's a different boundary line there one is
14 Alligator Alley which divides it more in a
15 horizontal nature in workshop B. Workshop A
16 follows 75 south and then kind of keeps that
17 more of a coastal district.

18 Those kind of illustrate some decisions
19 that affect the compactness score of both
20 districts and how they're interacted together.
21 And then District 83 is a four county
22 combination of just whole counties that makes
23 a district in the central part of the state.

24 MS. KELLY: And as we segue over to the
25 east coast of Florida, I want to take a second

1 to talk about Lake Okeechobee because I know
2 Members may have questions about how that is
3 divided and can be attributed to the
4 surrounding districts whatever those may look
5 like.

6 So within Lake Okeechobee the Census
7 Bureau has divided it into five regions. So
8 whenever we go to assign our neighboring
9 districts and create those neighboring
10 districts, those districts will reach out
11 their respective point within Lake Okeechobee.
12 So again, negatively impacts our compactness
13 score just a little bit with that point being
14 created. However, we obviously have to
15 account for those blocks that are included
16 throughout Lake Okeechobee.

17 MR. POREDA: Thank you. And now
18 we'll move back over to the East coast of
19 Florida starting with St. Lucie in Martin
20 County with District 84, 85, and 86. You can
21 see actually the City of Port St. Lucie is one
22 of the cities that's actually too big for a
23 House district so these are two different
24 options for keeping a district wholly within
25 St. Lucie County and then how we bridge that

1 get the remaining population that we need for
2 the other districts into Martin County.

3 District 85 in both options is
4 primarily within the City of Port St. Lucie
5 but in one option in option A 85 is the
6 district that crosses that county line whereas
7 in option B it's 84 that kind of goes around
8 the other side of it and wraps down into
9 Martin.

10 The majority of the rest of Martin
11 County is in District 86 but in order for
12 population purposes, in order to get within
13 the appropriate deviation that we need for
14 House districts a little bit of that district
15 has to go down into Palm Beach County to get
16 the remaining portion of its population.

17 You can see that the remaining
18 districts are all entirely within Palm Beach
19 County. In fact, these three counties
20 together, the outside county line of all these
21 county combinations are kept together. So we
22 actually don't even cross the Palm Beach
23 Broward County Line similar to how the current
24 map does. We are able to duplicate that
25 concept here with all of these districts.

1 So looking at Palm Beach County a
2 little bit closer you can see that a lot of
3 the districts' orientations are actually
4 governed a lot by how District 88 is drawn in
5 kind of the North/Northeast side of Palm Beach
6 County.

7 Now, District 88 is a majority-minority
8 protected Tier 1 Black district that we have
9 there in that area of the county. In option B
10 the district follows a more similar
11 orientation to the current benchmark district.

12 In option A we were able to take that
13 district and not have the extension that does
14 so far South breaking a lot of city lines as
15 we go South. As a result, Districts 93, 89,
16 92, 90, and 91, further South of that are able
17 to keep all the cities in Palm Beach County
18 from District 88 down to the Broward County
19 line whole in their respective districts and
20 we are also able to create slightly more
21 compact shapes because we don't have District
22 88 kind of extending further south creating a
23 long district along the coast like in District
24 90.

25 But these are two different options,

1 both District 88 we performed functional
2 analysis to ensure the minority groups ability
3 to elect a candidate of their choice in both
4 options. So this is a way of presenting two
5 different versions of a Tier 1 protected
6 district and how that may impact all of the
7 other districts around it within Palm Beach
8 County. But both valid choices.

9 So moving into Broward County, you can
10 see two slightly different orientations trying
11 to give the committee two different options
12 for how we're orienting these districts. I'll
13 first draw your attention to Districts 97, 98,
14 and 99. Those are three Black performing
15 protected districts. They're in north Broward
16 County.

17 District 97 and 99 are majority-
18 minority Black. All three of these districts
19 had a functional analysis performed on them to
20 ensure the minority groups ability to elect
21 candidates of their choice. Similar to the
22 benchmark districts that exist there in that
23 region.

24 And South Broward, Districts 104 and
25 105 are similarly protected Black districts.

1 These two districts are in Broward and cross
2 the Miami Dade County line. These are the
3 only two districts that cross the Broward and
4 Miami Dade County line. We performed a
5 functional analysis on both Districts 104 and
6 105 to ensure the minority groups ability to
7 elect candidates of their choice in each
8 district. Which is all similar to the
9 benchmark districts that are in this region.

10 Districts 95, 96, and 103, are kind of
11 the western side of Broward. I'll draw your
12 attention specifically to 96 and 103. A lot
13 of those more or less populated blocks in the
14 Florida Everglades that Lita talked about
15 earlier. We have to account for them all and
16 there is different ways of doing that. And
17 here we showed you two different ways where
18 you could include all of those types of blocks
19 in one district or you can break them up into
20 two different districts creating more longer,
21 rectangular districts.

22 But either option is the same otherwise
23 those districts are the same and all of those
24 extra blocks were added have no population in
25 them so it is truly just a choice perhaps a

1 good opportunity to look at compactness scores
2 and pick which option is better or whatever is
3 visually better. But that is a policy choice
4 that the committee can make.

5 MS. KELLY: So sticking to the Broward
6 County area, I know we mentioned this several
7 times, but south Florida especially gives us a
8 really good way to illustrate how some of our
9 municipal lines not only sometimes have very
10 unique geography but also sometimes interlock
11 with one another.

12 So it also is a factor whenever we talk
13 about keeping cities whole or keeping counties
14 whole and how we can look at that. So this is
15 the Broward County area, this is Davie, Cooper
16 City, Pembroke Pines, and Southwest Ranches,
17 and each city has a different color that's
18 been used to illustrate their city boundaries.

19 And you can see, you know, with Davie
20 and Southwest Ranches, there's a section of
21 the blue municipal lines that drop in between
22 two discontinuous pieces of the red boundary
23 lines.

24 There's an area between the red and the
25 green that is unincorporated all together and

1 so that is not a formal city line and so we
2 use this just to illustrate Florida's, you
3 know, 412 incorporated municipalities all have
4 very unique lines. And we'll work to preserve
5 them when possible but this is just a good
6 illustration of how that may not always be
7 possible given their actual make up.

8 This next slide is also just a I'll
9 call this a fun Florida fact as well. There
10 is actually four cities in the State of
11 Florida that cross county lines. And so
12 whenever, you know, if it comes to pass where
13 this is a decision of keeping a city whole
14 versus keeping a county whole, these would be
15 four unique situations where those may not be
16 able to be done in tandem. So we have
17 Longboat Key, Marineland, Flagler Beach, and
18 Fanning Springs.

19 MR. POREDA: Thanks, Leda. And now we
20 will move down into Dade County. So as I said
21 before, Districts 104 and 105 cross the Miami
22 Dade County line, Miami Dade Broward County
23 line. Those are the only two districts that
24 do that.

25 Here you can see the remaining

1 districts other than District 120 which we'll
2 get to at the end, all of the remaining
3 districts are entirely within Miami Dade
4 County. I'll start with Districts 107, 108,
5 and 112, here in our options. Those are all
6 Tier 1 protected Black districts that are
7 performing.

8 Districts 107 and 108 are majority-
9 minority Black districts. And all three of
10 those districts had functional analysis
11 performed on them to ensure those minority
12 groups in all three of those districts have
13 the ability to elect candidates of their
14 choice.

15 Districts 107, 108, and 112, are all
16 entirely within Miami Dade. They also follow
17 a lot municipal lines in that area for example
18 the western boundary of 108 and 112 in this
19 iteration is actually the Hialeah city lines.
20 We don't cross the Hialeah city line there.

21 In this area of the State, there's a
22 lot of very vertical roadway -- major
23 roadways. But also a lot of city lines that
24 are right up against each other. So even
25 opportunities where we might not be able to

1 keep a city whole because it either has too
2 much population or because of where its
3 geographically located compared to other
4 districts, we do try to use those municipal
5 lines where we can to ensure that perhaps the
6 city is split fewer times than it would be
7 otherwise and because those municipal lines
8 are more well recognized than some of the
9 other possible boundary lines in the area.

10 We also, in Miami Dade County, use in
11 addition to a lot of the major roadways that
12 people are familiar with, those municipal
13 lines, there is also a great deal of canals
14 and manmade waterways in Miami Dade County
15 that are like you can see in different
16 communities throughout our State but there is
17 a lot of them here in Miami Dade County.

18 So where possible we try to use some of
19 those more recognizable ones to try to divide
20 the districts. District 106 on the west coast
21 after you get past 107, 108, and 112, that is
22 a district along the coast that contains, I
23 believe, seven entire whole cities there in
24 the beach communities including the bottom you
25 see a little bump on the bottom of 106 that's

1 actually the City of Miami Beach.

2 So we're using a lot of the municipal
3 lines to create the district lines there in
4 District 106. The next group of districts
5 which include 109, 110, 111, 113, 114, 115,
6 116, and 119, are all protected Tier 1
7 majority-minority Hispanic districts that in
8 each one of them have had functional analysis
9 performed on them to ensure that the minority
10 groups ability to elect a candidate of their
11 choice is maintained as is in the benchmark.

12 So all of those districts fall into
13 that category. District 117 is actually a
14 performing Black district where the functional
15 analysis was performed to ensure the minority
16 communities ability to elect a candidate of
17 their choice and you can see here there is two
18 different versions of that.

19 One in option A looks a little bit more
20 similar to the current benchmark district and
21 the little hook on the bottom of that district
22 is actually the entirety of Florida City that
23 we use the municipal lines of that city and
24 include it within the district.

25 District 117 in option B is a it does

1 not go into either Homestead or Florida City
2 and is a slightly more visually compact
3 looking district that is just a slightly
4 different orientation just to show the
5 committee that there is different options and
6 the ability to do that.

7 You can actually see the Homestead
8 municipal lines actually in the aqua district,
9 which I'll get to later that's District 120,
10 by not splitting the City of Homestead with
11 District 117 we were able to keep that
12 district -- that city whole within the aqua
13 district down below.

14 You can see District 119 is a lot
15 bigger in option B then it is in option A.
16 That's another example of trying to use those
17 less populated or unpopulated blocks in
18 western Dade County as a way of showing how
19 you can change compactness scores in a
20 district simply by which district you include
21 a lot of those non populated blocks in.

22 And the next slide is District 120
23 which you can see our Dry Tortugas that we
24 have attached which is considered part of
25 Monroe County so in order to keep Monroe

1 County whole you have to include that with
2 whatever district includes all of Monroe
3 County and goes up into Miami Dade County.
4 And as I said in option B that actually has
5 all of the City of Florida City and Homestead
6 within it. And that is both options.
7 Chairman?

8 CHAIR LEEK: Thank you. We are going
9 to turn to Member questions now. I want to
10 thank those of you that are still awake in the
11 audience and those of you that are still awake
12 up here. Believe it or not, members, that is
13 the abbreviated version of the presentation
14 because these are workshop maps, so yeah we
15 couldn't do the whole version.

16 Because these are workshop maps we
17 tried to keep it high level. Stick to those
18 things within the law that were being
19 considered and provide you different options
20 of how things can be considered. So we have
21 done that with the State maps.

22 I'm going to remind everyone that while
23 you may have a question that's specific to a
24 district we are not going to consider your
25 incumbency or political make up of any

1 particular district. I don't care to know
2 where you live. I don't know where you live,
3 don't care to know where you live, so you
4 know, keep your comments within the law if you
5 would, please. And up first, Representative
6 Thompson?

7 MS. THOMPSON: Thank you, Mr. Chair. I
8 want to be sure that I understand the
9 percentage of minorities that must be present
10 in a district for it to be protected. I think
11 I heard 52, is that accurate?

12 CHAIR LEEK: Actually I think you're
13 mixing things within the law. So it's not the
14 percentage of minorities who live within a
15 district, it's whether the districts performs
16 and I'll turn it over to Ms. Kelly.

17 MS. KELLY: Thank you, Mr. Chair. And
18 thank you, Representative, that's actually a
19 very good question. Whenever we perform our
20 functional analysis and whenever we're
21 addressing the question that you've posed, it
22 is truly district by district.

23 Every district has different voting
24 patterns, voting strengths, and a different
25 amount of voting age population that reside

1 within that district. The Courts have
2 actually been very clear that there is no
3 bright line test for, you know, if you're over
4 50 percent you're in a performing district,
5 they actually have struck down maps that try
6 to apply those arbitrary thresholds. So
7 unfortunately it's not quite as cut and dry as
8 that, it is truly a district by district
9 analysis.

10 CHAIR LEEK: Representative Thompson,
11 you're recognized.

12 MS. THOMPSON: Thank you. This is a
13 follow up. What are the actual performances
14 in the districts that you have identified as
15 protected minority or Black districts?

16 CHAIR LEEK: Let me try to address it
17 up front here. These are workshop maps. So
18 the maps when you -- I think that's a great
19 question. But probably for a different day
20 when you actually get maps to vote on, right?
21 When you see the districts that are going to
22 come before you to vote on. With that said,
23 Ms. Kelly, you want to chime in there?

24 MS. KELLY: Thank you, Mr. Chair.
25 Representative, do you mind asking your

1 question again, I don't quite understand what
2 you're asking?

3 MS. THOMPSON: What I'm a -- thank you
4 very much. What I'm concerned about is if a
5 district can perform as a minority district
6 and therefore is protected, if the actual
7 percentages are above whatever that
8 performance threshold is and you can shift
9 some of those individuals into a different
10 district you would have more minority
11 districts. So that's my question.

12 CHAIR LEEK: Yeah, let me take a stab
13 at that because I think the premise is not
14 quite on par with what we are talking about.
15 The number of citizens within a district who
16 are minority does not determine whether it's a
17 performing.

18 You can have a district that is not a
19 majority-minority that performs and could be
20 protected. So we're kind of, we're kind of
21 mixing apple and oranges there a little bit.
22 Does that help? No, I can see that it
23 doesn't. I'm trying though. I don't think we
24 can answer your question as it's posed is kind
25 of my point.

1 MS. THOMPSON: All right. Thank you.

2 CHAIR LEEK: Ranking Member Geller?

3 It's good. All right. Let me, Representative
4 Skidmore is a guest with us today. You know,
5 per our rules, we are going to allow Members
6 to ask for the committee to ask questions
7 first. If there are no Members with questions
8 then Representative Skidmore, I'll recognize
9 you. Any Members with questions? I'm seeing
10 none. Representative Skidmore?

11 MS. SKIDMORE: Thank you, Mr. Chair.

12 It's actually more of a technical question.

13 Could you remind us what the ideal population
14 is for each House district and what the
15 highest and lowest deviation you were able to
16 create in either workshop A or workshop B?

17 CHAIR LEEK: I think its roughly
18 179,000 in each district and the law precedent
19 would say you could go plus or minus 10
20 percent in Florida we typically --

21 MS. KELLY: Plus or minus 5.

22 CHAIR LEEK: -- plus or minus 5 percent
23 in the State of Florida, we have historically
24 stayed under that. Any other questions?
25 Representative Goff-Marcil?

1 MS. GOFF-MARCIL: Thank you, Mr. Chair.
2 I think I understood what you were saying
3 before about --

4 CHAIR LEEK: You're the only one.

5 MS. GOFF-MARCIL: -- performing
6 (inaudible) -- performing as opposed to the
7 actual people that are in the district. But
8 could you help me understand what you mean
9 when you say majority-minority but then you
10 also say protected Black, protected Hispanic
11 and then you say minority-majority, you kind
12 of interchange with those, can you just --

13 CHAIR LEEK: I am going to kick this
14 one to our legal experts over here but it
15 roughly the difference is, you know, one of
16 residency versus how the district performs
17 voting. But, Ms. Kelly?

18 MS. KELLY: Perfect. Thank you, Mr.
19 Chair. And thank you, Representative.
20 Majority-minority just signifies that it's
21 over 50 percent. That's all.

22 CHAIR LEEK: You're recognized.

23 MS. GOFF-MARCIL: So when you're using
24 those terms it can be a protected majority-
25 minority or it could be majority-minority but

1 not protected? Okay. Thank you.

2 MS. KELLY: Yes.

3 CHAIR LEEK: Yeah. Yeah. That's
4 right. Majority-minority is not the
5 determining factor of whether it's protected,
6 it's performance. Any other questions?
7 Representative, what do I call you,
8 Representative Slossberg still?

9 MS. SLOSSBERG-KING: Slossberg-King.

10 CHAIR LEEK: Okay. Got you.

11 MS. SLOSSBERG-KING: How many --

12 CHAIR LEEK: Congratulations.

13 MS. SLOSSBERG-KING: -- how many
14 protected districts do we have in the State
15 under these maps?

16 CHAIR LEEK: The benchmark districts,
17 you mean the ones that were protected last
18 time, because we don't have maps yet, so?

19 MS. SLOSSBERG-KING: Or under these
20 workshopped proposals?

21 CHAIR LEEK: Ms. Kelly?

22 MS. KELLY: Thank you, Mr. Chair. And
23 I'm embarrassed to say I actually don't know
24 that number off the top of my head. May I
25 follow up with you afterwards? And thank you

1 so much.

2 CHAIR LEEK: Representative Driskell?

3 MS. DRISKELL: Thank you, Mr. Chair.

4 Can I get that information as well? Thank
5 you.

6 CHAIR LEEK: You may. Ranking Member
7 Geller?

8 MR. GELLER: (inaudible).

9 CHAIR LEEK: Oh. Sorry. Wants the
10 same information.

11 MR. GELLER: But thank you.

12 CHAIR LEEK: You're welcome.

13 Representative Omphroy, you're recognized?

14 Same here. All right. Just hand out that

15 information. Anybody else? Any Members have

16 questions before we move into public comment?

17 Thank you. Thank you, Members for those

18 questions.

19 Now we'll hear from the public. I'd

20 remind you to keep your comments on topic and

21 to the extent your comments align with our

22 Constitutional standards would be beneficial

23 as the maps we must ultimately vote on have to

24 be in alignment with the standards.

25 As always, please address your

1 questions through the Chair. We have one
2 member comment today. Ms. Cecille Scoon?
3 League of Women Voters. Ms. Scoon, you are
4 recognized.

5 MS. SCOON: Thank you. Good afternoon.

6 My name is Cecille Scoon, I'm President
7 of the League of Women Voters in Florida and I
8 have taking notes and very much appreciate
9 Staff's explanations and that have helped me
10 to understand what's going on every time a
11 little bit more, so it's been -- and the
12 questions back and forth.

13 I do have some concerns and
14 observations and that is it's my understanding
15 that our Tier 1 requirements in our fair
16 districts and the Voting Rights Act, which
17 Tier 1 basically picks up the Voting Rights
18 Act standards, there's two ways that you look
19 at minorities. And one is non-diminishment or
20 non-retrogression, which I think your Staff
21 has spoken to extensively and when I've heard
22 them talk about functional analysis, it's with
23 that first part of Tier 1 and the Voting Right
24 Act.

25 What's missing is the responsibility

1 and obligation to maximize the opportunities
2 for language minorities and racial minorities
3 to have the opportunity to select a
4 representative of their choosing.

5 And in order to do that, you need to do
6 the functional analysis not only on the
7 benchmark districts which have been determined
8 by litigation in 2015, which you guys are
9 doing with regards to non-retrogression. You
10 also need to look around the State at all the
11 different places of population change and
12 things that we know because we got a new
13 Congress and Congressional seats. So we know
14 there's been movement. We know there's been
15 change.

16 And because you're only using the
17 functional analysis data and research for the
18 non-retrogression and you're not looking for
19 opportunities where there could be more
20 opportunities for racial and language
21 minorities, you're not meeting the standards
22 of fair districts or the Voting Rights Act.
23 You're only doing one half of it.

24 And I think many of the questions that
25 the Representatives have raised are getting at

1 that issue. That, how do people make sure
2 that these opportunities are maximized which
3 is required by our Constitution and by the
4 Voting Rights Act? So I would ask your Staff
5 to -- ask you all to ask your Staff, I know
6 that's how it works, to do that additional
7 analysis using data that they're able to use.

8 I heard, I think it was correctly
9 stated that this committee and the legislators
10 must use the Census data, you know, that's
11 required. But as I also heard, there are
12 times when additional data is used and it was
13 stated, you know, the voting patterns, and
14 history of different areas, to make sure that
15 adding into the functional analysis so there
16 are opportunities for you to use varied data
17 to add in.

18 There would be opportunities for you to
19 look at the information however it was gleaned
20 through the survey for Haitians or any other
21 group. There are other tools that could be
22 used to make sure that the other half of Tier
23 1 and the other half of the Voting Rights Act,
24 which requires maximization of these
25 opportunities are done properly.

1 And because every single time and I was
2 taking notes, every single time a comment
3 about functional analysis and data usage was
4 used it was used only with regards to non-
5 retrogression, which is the first step.

6 But then there's the other step of
7 maximizing opportunities and it was never
8 mentioned. It's clear that that has not been
9 done. So we would ask you to ask your Staff
10 to go through the maps with that eye and use
11 the -- follow the full guidelines of the law,
12 State and Federal. Thank you.

13 CHAIR LEEK: Thank you very much for
14 your comments. And Members, that concludes
15 our meeting for today. I appreciate it. I
16 know that we have gotten into some very
17 technical things. I can tell you that the
18 questions have gotten better and evolved over
19 time and you can tell that now we're starting
20 to get the material, we understand what are
21 those things are that we have to consider.
22 And with that, Representative Rommel moves
23 that adjourn. Thank you very much.

24 (End of Video Recording.)

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CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings, and that the transcript is a true record, to the best of my ability.

DATED this 15th day of March, 2023.



WENDY SAWYER, CDLT

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EXHIBIT 4



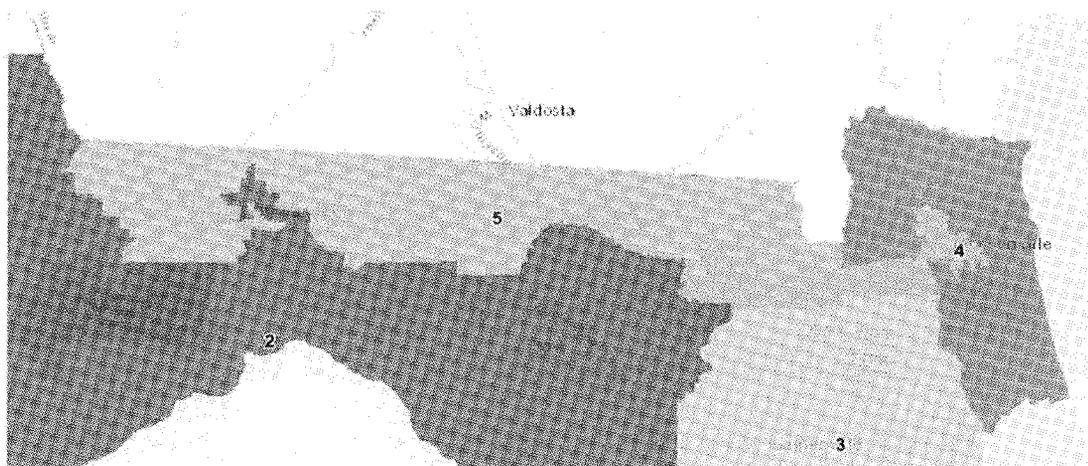
RON DESANTIS
GOVERNOR

February 1, 2022

Honorable Charles T. Canady
Chief Justice of the Florida Supreme Court
Florida Supreme Court, 500 S. Duval St.
Tallahassee, Florida 32399

Mr. Chief Justice and Justices of the Florida Supreme Court:

In the coming weeks, the Florida Legislature must present to me a bill that redraws Florida's congressional districts consistent with the most recent decennial census, *see* 2 U.S.C. §§ 2a–2c, and the one-person, one-vote requirement of the U.S. Constitution, *see Kirkpatrick v. Preisler*, 394 U.S. 526, 530–31 (1969). All maps that have been published by the Legislature and are currently under consideration retain, for the most part, the current Congressional District 5. The district stretches over 200 miles from East to West across eight counties without conforming to usual political or geographic boundaries, solely to connect a minority population center in Jacksonville with a separate and distinct minority population center in Leon and Gadsden Counties so that, together, these minority populations may elect a candidate of their choice. It is a narrow district that compresses to only three miles wide, North to South, when traversing a string of the northernmost precincts in Leon County so the district can connect with the minority population in western Leon County without including the non-minority population in eastern Leon County. Similarly, in Duval County, the district narrows to about a mile and a half in width. As of the 2020 Census, two counties, Duval to the East and Leon to the West, alone contribute 82.77% of the district's population. These counties are in two completely different regions of the State.



See FLSCOR, *Florida Congressional Districts 1982-2022*, ArcGIS Online, <https://www.arcgis.com/home/item.html?id=db44457f19684fd99b19ce64f96ae787> (click "View") (last visited Feb. 1, 2022).

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 717-9249

I seek this Court's opinion on whether Article III, Section 20(a) of the Florida Constitution requires the retention of a district in northern Florida that connects the minority population in Jacksonville with distant and distinct minority populations (either in Leon and Gadsden Counties or outside of Orlando) to ensure sufficient voting strength, even if not a majority, to elect a candidate of their choice.

This Court's constitutional power to render an advisory opinion is quite broad. Upon my request, this Court may opine as to "the interpretation of *any* portion of [the] constitution upon *any* question affecting the governor's executive powers and duties." Art. IV, § 1(c), Fla. Const. (emphasis added). The Florida Constitution provides that "[t]he supreme executive power shall be vested in a governor." Art. IV, § 1(a), Fla. Const. That executive power includes the "[e]xecutive approval and veto" power over bills the Florida Legislature presents to me, Art. III, § 8, Fla. Const.; the duty to "take care that the laws be faithfully executed," Art. IV, § 1(a), Fla. Const.; and the power of "direct supervision" over the "administration" of the Department of State, Art. IV, § 6, Fla. Const.; *see also* § 20.02(3), Fla. Stat. (providing that "[t]he administration of any executive branch department . . . placed under the direct supervision of an officer . . . appointed by and serving at the pleasure of the Governor shall remain at all times under the constitutional executive authority of the Governor"); § 20.10, Fla. Stat. (creating the Department of State, which is headed by the Secretary of State, who is appointed by and serves at the pleasure of the Governor).

Once presented with a congressional redistricting bill, I must decide whether to approve or veto it, and even if I take no action and the law goes into effect, I must nevertheless take care that the Constitution and laws of the State of Florida are faithfully executed. The Secretary of State, whom I direct and oversee, is the chief election officer of the State, § 97.012, Fla. Stat., and is responsible for, among many things, "[o]btain[ing] and maintain[ing] uniformity in the interpretation and implementation of the election laws," *id.* § 97.012(1), and certifying "the names of all duly qualified candidates for nomination or election who have qualified with the Department of State," § 99.061(6), Fla. Stat. The Department of State will also be responsible for defending any legal challenges to the new congressional redistricting map. In deciding whether to exercise my veto power once the Legislature's congressional redistricting bill is presented to me, and how best to faithfully implement the law if enacted, I now seek your "opinion . . . as to the interpretation of [a] portion of [the] constitution" that applies to the congressional redistricting process. Art. IV, § 1(c), Fla. Const. Such an opinion is both necessary and appropriate in this instance.

First, the once-in-a-decade congressional redistricting process is a unique circumstance: it is required by the U.S. Constitution, and it must be completed before upcoming congressional elections. With the qualifying period for election to the U.S. House of Representatives quickly approaching, the voters and candidates have a pressing need for certainty regarding the meaning of the State's non-diminishment standard. *See* § 99.061(9), Fla. Stat.; <https://dos.myflorida.com/elections/candidates-committees/qualifying/>. In contrast, most legislation is neither constitutionally mandated nor of the sort where prolonged uncertainty regarding the meaning of such text may adversely affect the State's elections. *See League of Women Voters of Fla. v.*

Detzner, 172 So. 3d 363, 372 (Fla. 2015) (“*Apportionment VI*”) (“We emphasize the time-sensitive nature of these proceedings, with candidate qualifying for the 2016 congressional elections now less than a year away . . .”). I make my request in the spirit of seeking as much guidance as possible from you consistent with “[t]his Court[’s] . . . obligation to provide certainty to candidates and voters regarding the legality of the state’s congressional districts.” *League of Women Voters of Fla. v. Detzner*, 179 So. 3d 258, 262 (Fla. 2015) (“*Apportionment VIII*”) (citation and internal quotation marks omitted).

Second, I am aware that on one occasion well over a century ago, the members of this Court declined to opine on a constitutional question in aid of my predecessor’s exercise of the veto power. See *In re Exec. Comm’n*, 6 So. 925 (Fla. 1887). Notwithstanding that the Florida Constitution assigns to the Executive the power to approve or veto legislation, see Art. III, § 8, Fla. Const., this Court concluded that “any act which is an essential prerequisite” to the enactment of a law “is legislative” and is performed by the Executive “as a part of the lawmaking power.” *In re Exec. Comm’n*, 6 So. at 925. This reasoning, which you are not bound to follow, see *In re Advisory Opinion of Governor Civil Rights*, 306 So. 2d 520, 523 (Fla. 1975), conflicts with the separation of powers enshrined in Article II, Section 3 of the Florida Constitution, and I respectfully request that you give the 1887 response no weight.

In particular, the Florida Constitution vests the State’s legislative power in the Florida Legislature. See Art. III, § 1, Fla. Const. It follows, therefore, that the Governor’s exercise of what the Constitution characterizes as the power of “[e]xecutive approval and veto,” Art. III, § 8, Fla. Const., is not a legislative power. Rather, the veto power is an executive check on the legislative power; “[e]ach branch of the government necessarily at times, either by express provision of the Constitution or in the orderly administration of the state’s affairs, comes in contact with one or the other branch, but such contact in no wise merges the functions of one into that of the other.” *Amos v. Gunn*, 94 So. 615, 627–28 (Fla. 1922) (Ellis, J., on pet. for reh’g). This Court’s more recent opinions thus acknowledge that the exercise of the veto is an executive power.¹

¹ See, e.g., *Chiles v. Child. A, B, C, D, E, & F*, 589 So. 2d 260, 264 (Fla. 1991) (“Article III, section 8 sets forth the procedure for the executive power to approve or veto legislation of both nonappropriations and appropriations bills.”); *Brown v. Firestone*, 382 So. 2d 654, 672 (Fla. 1980) (“We hold further that the vetoes identified herein as 2, 4, 5 and 6 are valid as being within the purview of the executive power granted by article III, section 8(a)[.]”); *Owens v. State*, 316 So. 2d 537, 538 n.4 (Fla. 1975) (“Although article IV of the constitution deals with the executive branch, the placement of a legislative power in one subsection of that article does not render the delegated power nugatory. The placement is functional, as with executive powers conferred in the judicial article (art. V, [§] 11) and in the legislative article (art. III, [§] 8).”); *In re Advisory Opinion to the Governor*, 239 So. 2d 1, 9 (Fla. 1970) (“The Legislature may not validly so draft a general appropriations bill as to unduly and unreasonably preclude the exercise of the executive power to ‘veto any specific appropriation in a general appropriation bill.’” (quoting Art. III, § 8(a), Fla. Const.)); see also *Green v. Rawls*, 122 So. 2d 10, 13 (Fla. 1960) (“[U]nder our tripartite division of the powers of government, and the checks and balances designed to be accomplished thereby, the chief executive must have the power and the opportunity to veto

Third, the question affecting my executive powers and duties concerns Article III, Section 20(a) of the Florida Constitution, which provides that:

No apportionment plan or individual district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and 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*; and districts shall consist of contiguous territory.

Art. III, § 20(a), Fla. Const. (emphasis added). I limit my request to the phrase “diminish their ability to elect representatives of their choice”—the State’s non-diminishment standard. Except where it may be necessary to inform your interpretation of the Florida Constitution, I do not ask for your opinion on any issues of federal law. *Cf. In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597, 620-21 (Fla. 2012) (“*Apportionment I*”) (recognizing that the non-diminishment standard borrows from § 5 of the Voting Rights Act but “nonetheless recogniz[ing] our independent constitutional obligation to interpret our own state constitutional provisions”).

Specifically, I ask whether the Florida Constitution’s non-diminishment standard mandates a sprawling congressional district in northern Florida that stretches hundreds of miles from East to West solely to connect black voters in Jacksonville with black voters in Gadsden and Leon Counties (with few in between) so that they may elect candidates of their choice, even without a majority. This Court has previously suggested that the answer is “yes.” *Apportionment VIII*, 179 So. 3d at 271 (“Although District 5 was required to be drawn from East to West, no specific configuration was mandated in *Apportionment VII*,” and this Court did not “specify a certain Black Voting Age Population (BVAP) or black share of registered Democrats as a ‘floor’ below which the ability of black voters to elect a candidate of choice was certain to be diminished.”).

In 2015, this Court rejected a North-South configuration of the district that ran from Jacksonville to Orlando. The Court held that the North-South version had been unconstitutionally tainted by partisan and other improper influences and that such a configuration was not “necessary to avoid diminishing the ability of black voters to elect a candidate of their choice.” *Apportionment VII*, 172 So. 3d at 403. Consequently, the Court adopted the East-West configuration that exists today. *Id.* at 405–06. In so doing, this Court acknowledged that this configuration was not a “model of compactness,” *id.* at 406 (internal quotation marks omitted), but nevertheless concluded that it was “visually less ‘unusual’ and ‘bizarre’ than the meandering North-South version,” *id.*, and that it would not “diminish the ability of black voters to elect a candidate of their choice,” *id.* at 405. This Court indicated that the non-compact shape of the East-West district was nevertheless necessary because of “geography” and “other constitutional

legislative action, subject to the power of the legislature to override the executive veto by the vote of a specified number of the legislature.”).

requirements such as ensuring that the apportionment plan does not deny the equal opportunity of racial or language minorities to participate in the political process or diminish their ability to elect representatives of their choice.” *Id.* at 406 (citation omitted).

This Court’s prior guidance, however, pre-dates relevant decisions from the U.S. Supreme Court. In 2017, the U.S. Supreme Court made clear that where “racial considerations predominate[] over others, the design of the district must withstand strict scrutiny.” *Cooper v. Harris*, 137 S. Ct. 1455, 1464 (2017). To satisfy this test, and thus pass muster under the Fourteenth Amendment to the U.S. Constitution, a state must “prove that its race-based sorting of voters serves a ‘compelling interest’ and is ‘narrowly tailored’ to that end.” *Id.* (citations omitted). While the U.S. Supreme Court “has long assumed that one compelling interest is complying with operative provisions of the Voting Rights Act,” a state must show “that it had ‘a strong basis in evidence’” to conclude that the Act required race-based sorting of voters. *Id.* (citation omitted). In *Cooper*, North Carolina did not meet its burden when arguing that compliance with § 2 of the Voting Rights Act served as a compelling reason. *Id.* at 1469–72. Specifically, North Carolina could not satisfy § 2’s threshold conditions: (1) that the “minority group” was “sufficiently large and geographically compact to constitute a majority” in a reasonably compact legislative district, (2) that the minority group was “politically cohesive,” and (3) that the district’s majority group voted “sufficiently as a bloc” to “defeat the minority’s preferred candidate.” *Id.* at 1470 (quoting *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986)).

If this Court advises that the non-diminishment standard does not specifically require that an East-West district be drawn to connect minority voters in Jacksonville with minority voters in Leon and Gadsden Counties, I nevertheless request guidance on what the non-diminishment standard does require. Specifically, I ask whether the Florida Constitution’s non-diminishment standard requires that congressional districts be drawn to connect minority populations from distant and distinct geographic areas if doing so would provide the assembled minority group sufficient voting strength (although not a majority of the proposed district) to elect a candidate of its choice. Or, conversely, does the non-diminishment standard merely require that a minority population in a reasonably cohesive geographic area, where the population is not a majority but is nevertheless large enough to elect candidates of its choice, continue to be able to elect such candidates?

Relatedly, to make sense of the non-diminishment standard, I ask for clarification from this Court on what constitutes a proper benchmark for determining whether a minority group’s ability to elect a candidate of its choice has been diminished. This Court has said that the “existing plan of a covered jurisdiction serves as the ‘benchmark’ against which the ‘effect’ of voting changes is measured.”” *Apportionment I*, 83 So. 3d at 624 (citation omitted). But is that so even if the district in the existing plan was designed solely to cobble together enough minority voters from distant and distinct geographic areas to elect candidates of their choice despite not constituting a majority? Or must the benchmark be confined to the minority population in a reasonably cohesive geographic area?

Florida’s non-diminishment standard—like the Voting Rights Act’s non-diminishment standard—is a potent, race-based solution to a race-based problem. I ask for your opinion to help me be sufficiently conscious of race to comply with the Florida Constitution’s anti-diminishment provision but avoid being so conscious of race that my actions could violate the U.S. and Florida Constitutions.

Because the U.S. Supreme Court’s decisions inform, but do not definitively resolve, issues of state law, I ask for you to exercise your “independent constitutional obligation” to interpret Florida law, *id.* at 621, and to guide me in exercising my executive powers as Governor. *See* Art. III, § 8, Fla. Const.; Art. IV, § 1(a), Fla. Const. I respectfully request your assistance as expeditiously as possible given that March 11, 2022, is the last day of the legislative session and candidates for the U.S. House of Representatives will need to qualify under a new map in June.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ron DeSantis', written in a cursive style.

Ron DeSantis
Governor of Florida

EXHIBIT 5

1 February 18, 2022

2 CHAIRMAN SIROIS: Good morning, Members.
3 The Congressional Redistricting Subcommittee will
4 come to order.

5 DJ, please call the roll.

6 THE SECRETARY: Chair Sirois?

7 CHAIRMAN SIROIS: Here.

8 THE SECRETARY: Vice-Chair Tuck?

9 VICE-CHAIR TUCK: Here.

10 THE SECRETARY: Ranking Member Skidmore?

11 Ranking Member Skidmore?

12 Representative Benjamin has been excused.
13 Brown?

14 REPRESENTATIVE BROWN: Here.

15 THE SECRETARY: Fabricio?

16 REPRESENTATIVE FABRICIO: Here.

17 THE SECRETARY: Fetterhoff?

18 REPRESENTATIVE FETTERHOFF: Here.

19 THE SECRETARY: Giallombardo?

20 REPRESENTATIVE GIALLOMBARDO: Here.

21 THE SECRETARY: Harding?

22 REPRESENTATIVE HARDING: Here.

23 THE SECRETARY: Hunschofky? Hunschofky?
24 Joseph?

25 REPRESENTATIVE JOSEPH: Here.

1 THE SECRETARY: Maggard?
2 REPRESENTATIVE MAGGARD: Here.
3 THE SECRETARY: Massullo has been excused.
4 McClure?
5 REPRESENTATIVE MCCLURE: Here.
6 THE SECRETARY: Morales?
7 REPRESENTATIVE MORALES: Present.
8 THE SECRETARY: Perez?
9 REPRESENTATIVE PEREZ: Here.
10 THE SECRETARY: Plakon?
11 REPRESENTATIVE PLAKON: Here.
12 THE SECRETARY: Silvers? Silvers? Toledo?
13 REPRESENTATIVE TOLEDO: Here.
14 THE SECRETARY: Trabulsy?
15 REPRESENTATIVE TRABULSY: Here.
16 THE SECRETARY: Williamson?
17 REPRESENTATIVE WILLIAMSON: Here.
18 THE SECRETARY: Ex-officio Clemons?
19 EX-OFFICIO CLEMENS: Here.
20 THE SECRETARY: Ex-officio Davis?
21 UNIDENTIFIED FEMALE: On the way.
22 THE SECRETARY: Members present, Mr. Chair.
23 CHAIRMAN SIROIS: Thank you, DJ.
24 Members, a few reminders before we begin.
25 Please silence all electronic devices, and if you're

1 here today to give public testimony, please take
2 time now to fill out a speaker appearance form, and
3 turn it into the sergeant staff. Also, Members, if
4 you wish to speak, please make sure that you turn
5 your microphone on.

6 On a personal note, I would ask the members
7 to bear with me. My voice has been faltering all
8 week, one of the occupational hazards of being a
9 legislator.

10 Representative Fetterhoff, I would like to
11 recognise you for an introduction.

12 REPRESENTATIVE FETTERHOFF: Thank you,
13 Chair. Good morning. I just wanted to introduce
14 our doctor of the today. Doctor Steven Golden has
15 travelled up from Charlotte County to visit with us
16 today, so if we have need of him today during
17 Committee, he is here to help. Thank you so much
18 for being here today, sir.

19 CHAIRMAN SIROIS: Thank you, Doctor. We're
20 glad to have you with us.

21 Thank you, Representative Fetterhoff.

22 Members, welcome back to our Congressional
23 Subcommittee. I'm glad to see all of us together
24 again. For those following along at home, a quick
25 recap of the last few weeks. After we began

1 session, the Governor requested an advisory opinion
2 from the Florida Supreme Court centered around
3 Congressional District 5 in North Florida. The
4 House paused the congressional redistricting process
5 once this request was issued. Throughout this
6 process we've stated that we will follow the law.
7 And we knew if the Florida Supreme Court issued new
8 guidance, we would have to take that into account.

9 Last week the Supreme Court issued their
10 ruling, that they would decline to issue an advisory
11 opinion. And with that notice being issued and no
12 additional guidance being provided, we have now
13 resumed our process. The pause in our process was
14 the right thing to do to ensure that we continue to
15 follow all appropriate guardrails. And again, I'm
16 glad to be back here with all of you today.

17 Today we will present and consider the PCB
18 for our state's proposed congressional districts. I
19 want to refocus this Committee on the task at hand.
20 There's been noise outside of our process dealing
21 with the congressional map. I would encourage all
22 members to put that noise aside. Those external
23 influences need to stay external, and our personal
24 preferences cannot override our constitutional
25 responsibility to follow the law.

1 This Committee has undertaken several
2 months of education in order to understand the
3 redistricting process and uphold the high bar that
4 was set for this chamber last decade. The Proposed
5 Committee Bill, CRS22-01, establishes congressional
6 districts that will be used in election cycles
7 beginning in 2022. This PCB has been drafted by
8 Committee staff with the advice of legal counsel
9 based on data from the 2020 census and to be in
10 alignment with the Florida constitution, state and
11 federal law, and court precedent. This map can also
12 be found on floridaredistricting.gov under the
13 planned name H000C8011.

14 You may have noticed the lengthy bill text
15 -- the bill text for the congressional map was not
16 included in the meeting materials for today's
17 meeting. The bill text reflects the technical
18 census block, block group, and tract numbers that
19 comprise each district. These are the exact same
20 districts that are depicted in the printed map
21 before you. However, to save all of our printers,
22 and 150 pages of paper, we have printed a copy of
23 the full bill text for the community's viewing, and
24 that can be found right here in front of DJ.

25 Now, it is my pleasure to hand the gavel

1 over to Vice-Chair Tuck.

2 VICE-CHAIR TUCK: Thank you, Mr. Chair.

3 Members, up for consideration today is PCB
4 CRS22-01, establishing the congressional districts
5 of the state. As a reminder we are holding
6 questions until the end of the PCB presentation to
7 ensure we have time to get through an explanation of
8 the entire state and no one region is rushed.

9 Chair Sirois, you're recognised to present
10 the PCB.

11 CHAIRMAN SIROIS: Thank you, Vice-Chair
12 Tuck.

13 The Florida Legislature is directed to
14 redistrict every ten years, following the decennial
15 census, to account for growing and shifting
16 population across Florida. A decade ago, the
17 Florida Houses process and methodology for drawing
18 maps was lauded by the Florida Supreme Court, and
19 I'd like to read a quote from the 2012 ruling.

20 "A review of the House plan, and the record
21 reveals that the House engage in a consistent and
22 reasoned approach, balancing the two tier standards
23 by endeavouring to make districts compact and as
24 nearly equal in population as possible in utilising
25 political and geographical boundaries where feasible

1 by endeavouring to keep counties and cities together
2 where possible. In addition, the House approached
3 the minority voting protection provisions by
4 properly undertaking a functional analysis of voting
5 strength in minority districts."

6 As I mentioned earlier, this Committee has
7 undertaken several months of education in order to
8 understand the redistricting process and uphold the
9 high bar that was set for this chamber last decade.
10 Last week we released Proposed Committee Bill CRS22-
11 01, which proposes congressional districts that will
12 be used in election cycles starting in 2022. As I
13 mentioned earlier this map, H000C8011, has been
14 drafted exclusively by Committee staff with the
15 advice of legal counsel based on data from the 2020
16 census, and to be in alignment with the Florida
17 constitution, state, and federal law, as well as
18 court president.

19 Members, I want to make sure that each of
20 you has a packet in front of you. This contains a
21 printout of the proposed map itself, the state-wide
22 snapshot of statistics, the functional analysis data
23 used for protected minority districts, a list of
24 county shares of population, a list of city splits,
25 and finally the boundary analysis report. These

1 items will be referenced throughout the presentation
2 today, so please feel free to refer to your packet
3 as needed. This packet is also available under our
4 Subcommittee's webpage on myfloridahouse.gov.

5 Now, let's dive in, Members. Excuse me.
6 Let's first take a look at the map as a whole. When
7 compared to the benchmark congressional map, the new
8 proposed Congressional Districts have several points
9 of improvement throughout our Tier 2 standards.

10 When looking at a state-wide average of
11 each district's compactness score, we have been able
12 to recreate compact districts similar to our
13 benchmark metrics, even after the addition of a new
14 congressional district. The proposed map state-wide
15 average compactness scores are a Reock score of
16 0.43, a Convex Hull score of 0.79, and a Polsby-
17 Popper score of 0.37. Where feasible, we also work
18 to improve visual compactness of districts, or the
19 eyeball test, such as being able to keep Polk County
20 wholly within a single congressional district.

21 When looking at the number of county
22 splits, we've kept similar to the benchmark map with
23 18 counties split last decade and only 20 counties
24 split this decade. The ideal population for this
25 decade's congressional districts after adding a

1 district to go from 27 districts to 28 is 769,211
2 people. The overall deviation range is the same as
3 it was last decade with 27 districts being the exact
4 ideal population and one district having a single
5 person less than the ideal population. We are also
6 proudly able to improve the number of city splits in
7 our proposed map. In the benchmark map, there were
8 39 cities split, and in the proposed new
9 configurations, we've been able to decrease that to
10 just 27 cities split.

11 This proposed congressional map also allows
12 a district to be placed wholly within each of
13 Florida's top five largest counties: Miami-Dade,
14 Broward, Palm Beach, Hillsborough, and Orange
15 respectively. The proposed congressional districts
16 are also drawn in compliance with Tier 1 of the
17 Florida constitution. The proposed map is inclusive
18 of three protected black districts and three
19 protected Hispanic districts. This is the same
20 number of protected districts as are found in the
21 benchmark map. In each district, the minority
22 group's voting age population are similar when
23 compared to the benchmark districts, with slight
24 increases or decreases as permitted by the Florida
25 Supreme Court president, which states, "slight

1 changes in a minority group's voting age population
2 are acceptable so long as a functional analysis is
3 conducted to ensure the voting strength of the
4 minority group in both general and primary elections
5 is at a comparable level that existed in the
6 benchmark district." These districts are also drawn
7 in a consistent manner with respect to Florida
8 Supreme Court president to maintain existing
9 majority-minority districts.

10 All six of these protected minority
11 districts have had an individual functional analysis
12 conducted on them to ensure the new district
13 figuration does not deny or abridge the equal
14 opportunity of racial or language minorities to
15 participate in the political process or to diminish
16 their ability to elect representatives of their
17 choice. And as we move throughout the map, I will
18 highlight these districts as well.

19 All of our districts consist of contiguous
20 territory. And as I'm sure you are aware, the
21 Committee has also implemented safe guards in order
22 to ensure that we do not draw districts with the
23 intent to favour or disfavour a political party or
24 in incumbent.

25 Members, as we move through the

1 presentation today, you will see an analysis tool
2 reference called boundary analysis. This is a
3 report that is available in our map drawing
4 application and helps to quantify the percentage of
5 Tier 2 compliant boundaries that are used for each
6 district. Similar to compactness scores, this tool
7 is to be viewed in context with other Tier 2 metrics
8 of districts and surrounding regions. There is no
9 golden threshold to which we look when evaluating
10 each district, but it serves as another way to
11 understand the compliance of what is in front of us.

12 Members, now that we've looked at the
13 state-wide overview, let's begin to review each
14 region of the state, starting with Congressional
15 Districts 1 through 4. Beginning in the panhandle,
16 Congressional District 1 has the entirety of
17 Escambia, Santa Rosa, and Oklaosa County. Walton
18 County is then split as Congressional District 1
19 achieves the equal population threshold here.

20 Again, Members, for congressional maps,
21 equal population for each district is plus or minus
22 one person. And for this purpose, the boundary
23 between District 1 and 2 primarily uses State Road
24 83 for the majority of its length, except where it
25 deviates to ensure that the municipalities of

1 Freeport and Defuniak Springs are kept whole, with
2 Freeport within Congressional District 1, and
3 Defuniak Springs Congressional District 2. The
4 shape of Congressional District 2 and 4 are largely
5 impacted by Congressional District 3 in this region,
6 so let's jump ahead to that district first.

7 Congressional District 3 has four whole
8 counties within it: Gadsden, Madison, Hamilton, and
9 Baker counties. It also contains parts of four
10 others in Leon, Duval, Jefferson, and Colombia
11 counties. It is also a performing black district
12 that was recreated similarly to the benchmark
13 district. As noted before, the functional analysis
14 on this district that was conducted by staff ensures
15 the minority group's ability to elect is not
16 diminished.

17 Segueing back to Congressional District 2,
18 this district is made up mostly of whole counties.
19 It contains 15 whole counties along with the
20 remaining portion of Walton County not contained
21 within Congressional District 1 and the parts of
22 Leon, Jefferson, and Colombia Counties that are not
23 in Congressional District 3. Its eastern boundary
24 is the county lines of Levy, Gilchrist, and Colombia
25 Counties. This district achieves equal population

1 in Leon County, which it shares with Congressional
2 District 3 rather than having to split an additional
3 county. Excuse me.

4 Congressional District 4 has all of Nassau
5 County, along with the remaining part of Duval
6 County that is not included in Congressional
7 District 3. This leaves the district approximately
8 213,000 people short of the population needed for a
9 congressional district. So the district must
10 continue south into St. Johns County for population
11 equality. In doing so, it is able to keep all of
12 St. Augustine within the district, and all other
13 municipalities in St. Johns County remain whole.
14 The district configuration is similar to the current
15 district, and conversely, if Congressional District
16 4 instead went into Clay County instead of St. Johns
17 County, it would have created an irregular shaped
18 district that wraps around Congressional District 3.
19 This would have created a much more visually non-
20 compact district shape.

21 Moving on to Congressional Districts 5
22 through 7. In this region we are able to keep seven
23 counties whole between three districts.
24 Congressional District 5 contains all of Union,
25 Bradford, Clay, Putnam, and Flagler counties, as

1 well as the remainder of St. Johns County that is
2 not a part of Congressional District 4, using major
3 roadways in the St. Augustine Municipal line as a
4 boundary line in St. Johns County. In order for
5 this district to have equal population, it splits
6 Alachua County along mostly State Roads 20 and 24
7 and also includes a small part of Volusia County.
8 Congressional District 6 keeps Marion County whole
9 and finds the remainder of its population from the
10 remaining population in Alachua County and includes
11 both flags of Lake and Volusia County.

12 Congressional District 7 includes all of
13 Seminole County and a large part of Volusia County.
14 Its boundary lines going through Volusia County
15 follow along State Roads 11, 40, I-95 and includes
16 an area through the Tomoka Wildlife Management Area,
17 which separates population centers of Volusia
18 County.

19 Congressional Districts 8 through 11 and
20 16. Congressional District 8 includes all of
21 Brevard and Indian River counties, which leaves the
22 district about 2,800 people short of the population
23 needed for a district. In order to achieve
24 population equality required for congressional
25 districts, the remaining population is added to

1 Congressional District 8 by going north in the
2 Volusia County along I-95 and then includes the
3 entire municipality of Oak Hill and its 1,986
4 people, keeping it whole.

5 Congressional District 9 contains the
6 entirety of Osceola County, which was the fastest
7 growing county in the state this past decade. The
8 district includes part of Orange County following I-
9 4 to go north, as well as using other primary
10 roadways such as Curried Ford Road, before using the
11 Econlockhatchee River, locally known as the Econ
12 River to go all the way to northern Orange County
13 boundary line. This compact Tier 2 compliant
14 district also happens to be a new majority-minority
15 Hispanic district reflective of the Hispanic growth
16 in this region.

17 Congressional District 10 is kept wholly
18 within Orange County, similar to the benchmark map
19 where a district is kept wholly within the county.
20 This district is able to keep the municipalities of
21 Edgewood, Eatonville, Maitland, and Winter Park
22 whole within the district and has similar
23 demographic characteristics to the benchmark
24 district wholly within Orange County.

25 Congressional District 11 adds the

1 remaining population in Orange County, which is
2 about 280,000 people and goes west to include the
3 majority of Lake County, all of Sumter County, and
4 part of Citrus County, where it achieves equal
5 population.

6 Congressional District 16 keeps Polk County
7 whole in this map. This is an improvement from the
8 benchmark map where Polk County was divided between
9 three districts. Population growth this decade made
10 this possible and is approximately 44,000 people shy
11 of the ideal population of a congressional district.
12 Pairing Polk County with a small part of eastern
13 Hillsborough achieves the necessary population
14 needed for the population of a congressional
15 district while creating a very compactly shaped
16 district.

17 Moving on to Congressional Districts 12
18 through 15. Now, looking at Congressional Districts
19 13 in the Tampa Bay area, which is kept wholly
20 within Pinellas County, its northern boundary
21 follows the municipal lines of the cities of
22 Dunnellon, Clearwater, and Safety Harbor to enable
23 every city within Pinellas County to remain whole.
24 Because Pinellas County has more people than it can
25 fit into a single congressional district, this

1 configuration of Congressional District 13 enables
2 connecting the remaining portions of the county over
3 land to another county rather than over water.

4 Congressional District 12 is the entirety
5 of Hernando County, the remainder of Citrus County,
6 part of Pasco County, which is divided primarily
7 along U.S Highway 41, State Road 54, and the
8 Suncoast parkway, as well as the portion of northern
9 Pinellas County not already included in
10 Congressional District 13.

11 Congressional District 14 is located wholly
12 within Hillsborough County. Its boundary follows
13 the primary roads of Hillsborough avenue, Bush
14 Boulevard, and I-4 for its northern border, State
15 and County Road 39 on the east side, and County Road
16 672, Palm Road and Big Bend road on the southern
17 side.

18 Finishing at the Tampa Bay area,
19 Congressional District 15 then connects the
20 remaining part of Pasco County with the appropriate
21 amount of population from Hillsborough County to
22 complete the district's population.

23 Moving on to Congressional District 17
24 through 19. Congressional district 17 is the last
25 of the four districts that have part of Hillsborough

1 County. This district actually has the exact amount
2 of people on Hillsborough County: 112,723 people.
3 So that exactly 12 districts make up all of the
4 remaining population in the counties to the south of
5 the Polk, Osceola, and Indian River County line.
6 This ensures that no other district has to cross
7 these county lines and keeps the counties to the
8 east whole. Congressional district 17 then
9 incorporates Manatee County and approximately
10 250,000 people in Sarasota County to complete its
11 population. Every city in Sarasota County is kept
12 whole with Congressional District 17 utilising the
13 Venice Municipal line for part of its southern
14 border.

15 The remaining part of Sarasota County,
16 along with seven entire counties, Hardee, Desoto,
17 Charlotte, Highlands, Okeechobee, Glades, and Hendry
18 counties make up the majority of Congressional
19 District 18. This leaves the district about 150,000
20 short of the ideal population, allowing it to cross
21 into Lee County to acquire this remaining
22 population, using primarily the Able Canal, the
23 Caloosahatchee river, and the Hancock Bridge
24 Parkway, Pine Island road and County Road 765 to do
25 so.

1 Congressional district 19 connects the rest
2 of Lee County with Collier County, using primarily
3 I-75, U.S. 41 and Collier Boulevard, except where
4 it achieves equal population. With the exception of
5 Cape Coral, all other municipalities are kept whole
6 in this region between these three districts.

7 Moving on to Congressional Districts 20
8 through 23, and 25. Congressional District 20 is a
9 performing majority-minority black district that was
10 recreated similarly to the benchmark district that
11 connects population in Palm Beach County to
12 population in Broward County. As noted before, the
13 functional analysis on this district conducted by
14 staff ensures the minority group's ability to elect
15 is not diminished. This decade we were able to
16 create this district in such a way that respects
17 more major roadways in the area, such as U.S. 441,
18 I-95, and the Florida Turnpike. And it keeps more
19 cities whole, keeping the cities of Lake Park,
20 Margate, Tamarac, and others wholly within it, which
21 were split a decade ago.

22 Congressional District 21 includes all of
23 St. Lucie and Martin counties and includes just over
24 280,000 people in Palm Beach County in order to
25 achieve equal population for this district. The

1 district boundary follows a railway in the northern
2 Palm Beach County to Okeechobee Boulevard where it
3 borders Congressional District 20 before going out
4 to the coast using Palm Beach inlet to complete its
5 southern border.

6 Congressional District 22 is kept wholly
7 within Palm Beach County. Its boundary extends
8 north to Palm Beach Inlet to meet Congressional
9 District 21 before heading west to include the
10 entire city of Wellington, creating the rounded
11 point on the western side of the districts. It then
12 uses the Loxahatchee National Wildlife Refuge to
13 continue south until it gets its population
14 necessary for a district without splitting other
15 cities in Palm Beach County. It uses Boca Raton and
16 Highland Beach City Municipal line for much of its
17 boundary in this area. This leaves approximately
18 200,000 people in south east Palm Beach County that
19 is then included in Congressional District 23. This
20 district then connects this population with Broward
21 County, utilising many municipal lines in this area
22 for the boundary line, keeping the cities of Coral
23 Springs, Coconut Creek, and many others whole within
24 Broward County. The district then travels down to
25 the Broward County line along the coast using

1 primarily Route 1 as its western border.

2 Congressional District 25 is kept wholly in
3 Broward County, giving Broward County a
4 congressional district wholly within the county for
5 the first time since the 1980 redistricting cycle.
6 The district utilises as many major roadways as
7 possible, such as I-75, the Sawgrass Expressway, the
8 Florida Turnpike, I-95, Davie Boulevard, Sunrise
9 Boulevard, among others. It also uses the municipal
10 lines of Weston, Southwest Ranches, Pembroke Pines,
11 Miramar to the west, and the Broward Miami-Dade
12 County line on the southern side of the district.

13 Moving on to Congressional Districts 24,
14 and then 26 through 28. Congressional District 24
15 is a performing black district. As noted earlier,
16 the functional analysis on this district conducted
17 by staff ensures the minority group's ability to
18 elect is not diminished. This is the only district
19 that crosses the Miami-Dade Broward County line,
20 which is an improvement over the benchmark map that
21 had two such districts. This district also includes
22 many whole cities within the Miami-Dade County,
23 including Aventura, North Miami, Biscayne Park,
24 Miami Shores, Opa-locka, and others, and uses as
25 many major recognizable roadways in the area as

1 possible, including I-195, 27th Avenue, 47th Avenue
2 and others.

3 We're almost there, Members.

4 Congressional districts 26, 27, and 28 are all
5 performing majority-minority Hispanic districts,
6 where the functional analysis on each district
7 individually was conducted by staff to ensure that
8 minority groups' ability to elect is not
9 diminished.

10 Congressional District 26, similar in
11 shape to the benchmark map, connects the part of
12 Collier County not included in Congressional
13 District 19, with population in Miami-Dade County,
14 using Collier, Broward, and Miami-Dade County
15 Lines, as well as I-75, US-41, the Tamiami Trail
16 and the Dolphin Expressway. It additionally
17 shares a boundary with Congressional District 24
18 line eastern side of the district. This district
19 includes the municipalities of Hialeah, Hialeah
20 Gardens, Medley, Doral, and Miami Lakes in their
21 entirety.

22 Congressional District 27 uses the
23 Dolphin Expressway and the Florida Turnpike for
24 the vast majority of its boundary lines on the
25 northern and western sides, while using the

1 Palmetto Bay Municipal boundaries along its
2 southern border, creating a very compact district
3 wholly within Miami-Dade County.

4 Congressional District 28 includes all of
5 Monroe County and then connects with the remaining
6 population in southern Miami-Dade County, using
7 US-41 and the Florida Turnpike as its primary
8 boundary lines in Miami-Dade County. The
9 municipalities of Color Bay, Florida City, and
10 Homestead are wholly within the district.

11 Madam Chair, that is the Proposed
12 Committee Bill.

13 VICE-CHAIR TUCK: Thank you, Mr. Chair.

14 Members, we are in debate and questions
15 on the PCB.

16 Representative Brown, you're recognized.

17 REPRESENTATIVE BROWN: Thank you, Madam
18 Chair.

19 I just have a few questions relating to
20 CD 10, and I want to sort of start with -- I know
21 it's in the meeting packet. I know we previously,
22 I believe, did not mention it, but we --

23 CHAIRMAN SIROIS: I'm sorry. Excuse me.
24 I'm having difficulty hearing if -- thank you very
25 much. If you won't mind starting and referencing.

1 I apologize, Madam Chair. I'll go
2 through you next time.

3 REPRESENTATIVE BROWN: Thank you,
4 Mr. Chair. So as I was mentioning, I have a few
5 questions about CD 10. And so at a starting
6 point, I know it's in the packet and I believe it
7 was mentioned or not mentioned earlier, but wanted
8 to just confirm. CD 10 here, we're saying with
9 this map, it's not a district we consider
10 protected from aggression under Tier 1. Is that
11 correct?

12 VICE-CHAIR TUCK: Chair Sirois?

13 CHAIRMAN SIROIS: Thank you, Madam Chair.
14 According to our analysis, Congressional
15 District 10 is not a black-performing district,
16 and that's according to our functional analysis.
17 I can tell you just kind of at a high-level review
18 of the Senate's proposal, they have a different
19 take on Congressional District 10. They have
20 identified it according to their analysis as a
21 protected district. So I expect, moving forward,
22 that is something that will be reconciled with the
23 Senate. But, again, according to our analysis,
24 that has not been recognized as a protected
25 district.

1 VICE-CHAIR TUCK: Representative Brown?

2 REPRESENTATIVE BROWN: Thank you, Madam
3 Chair.

4 Is there sort of an explanation as to why
5 with our maps, as you mentioned, with the Senate,
6 they saw it as their -- and it's on record that
7 they saw it as one that was protected. But is
8 there a reason why we didn't really come up with
9 that same sort of conclusion in our maps?

10 VICE-CHAIR TUCK: Ms. Kelly, you're
11 recognized.

12 MS. KELLY: Thank you, Madam Chair, and
13 thank you Representative for that question. So
14 again I can't speak to the Senate analysis and,
15 you know, they are running a parallel process to
16 us, so I don't want to speak on their behalf. But
17 as far as the Houses, whenever we run our
18 functional analysis, just to recap, you've
19 probably heard me say this before, but there's
20 four components that we look at.

21 So the first component that you start
22 with is your population data. So this is what's
23 provided by the Census Bureau and specifically,
24 your voting age population data. From there, we
25 continue on to analyze registered voters in the

1 respective region we're looking at. We
2 additionally look at voter turnout and the
3 statewide election results, and that's for
4 election cycles from 2012 through 2020, both
5 primary and general election cycles.

6 So when looking at Orange County
7 specifically -- and, Representative Brown, you
8 mentioned CD 10 -- in Orange County, over the
9 decade, the black population is essentially
10 stagnant. There's some slight variations, but
11 it's essentially stagnant, which is the first
12 point, again, going back to our population as our
13 starting analysis point. From there whenever you
14 start to look at registered voters, voter turnout,
15 you can see a consistent decrease over the decade,
16 about 10 percentage points between where it
17 started in the beginning of the decade to where it
18 is now, ultimately resulting in levels that we do
19 not believe that the black population would be
20 able to control their shares of the primary or the
21 general election, therefore not allowing them to
22 elect a candidate -- the ability to elect a
23 candidate of their choice.

24 I'd also like to put on record, you know,
25 going back through last decades of materials and

1 meetings, whenever this was recreated as part of
2 the remedial redistricting cycles, this district
3 wasn't created to be a black-performing district
4 either. It was a result of some other changes
5 that happen in the congressional map.

6 So that, Madam Chair, concludes my
7 explanation. Thank you.

8 VICE-CHAIR TUCK: Thank you, Ms. Kelly.
9 Representative Brown?

10 REPRESENTATIVE BROWN: Thank you, Madam
11 Chair.

12 So looking at the demographics of recent
13 Democratic primaries and benchmark CD 10, the
14 primary elect, they we're just plurality, and even
15 majority black. So when we look at, in 2020,
16 we've seen 43 percent; in 2018, it was 47 percent;
17 2016, 51 percent; 53 percent in '14. And, you
18 know, if we look even in 2012, 54 percent. So it
19 seems as though the benchmark in CD 10 is a
20 district where a cohesive black electorate has an
21 ability to nominate a candidate of their choice in
22 a primary and elect that candidate of choice as
23 well in the general election, since Democratic
24 candidates prevail in general.

25 In the general, is that wrong?

1 VICE-CHAIR TUCK: Ms. Kelly, you're
2 recognized.

3 MS. KELLY: Thank you, Madam Chair.

4 Thank you, Representative. So I guess my
5 first question is: can you re-reference which
6 exact data points that you're asking about? And
7 the reason why I ask that is there's no one data
8 point within a functional analysis that
9 necessarily dictates whether a candidate can
10 prevail in the primary or in the general. So
11 picking out and spot-checking specific data points
12 wouldn't be a holistic way to look at it. But for
13 clarity, would you mind re-referencing which
14 categorical points you were referencing in your
15 questions?

16 REPRESENTATIVE BROWN: The primary
17 electorate. So within the primary in 2020, it was
18 43 percent. In 2018, it was 47 percent. And so
19 we're speaking directly to the black electorate.

20 VICE-CHAIR TUCK: Ms. Kelly, you're
21 recognized.

22 MS. KELLY: Thank you.

23 Representative, can I respond now, or did
24 you have additional --

25 REPRESENTATIVE BROWN: No. No, no, no.

1 MS. KELLY: Okay. Just making sure. So
2 yes. As you go through those data points -- and,
3 again, I want to emphasize there's not one
4 specific column or data point that indicates
5 whether something is performing. But speaking
6 specifically to the ones that you mentioned in the
7 primary election, actually, what you described
8 demonstrated what I said previously is as we go
9 back throughout the decade, you know, in reverse
10 chronological order, we start the decade -- I
11 believe you mentioned it was at 43 percent. And
12 as we go back throughout the decade, it actually
13 increased, which, as I explained, shows that over
14 the decade, that specific data point has continued
15 to have a consistent decrease in the black share
16 of the primary. Whenever you look at the black
17 population's ability to elect a candidate of their
18 choice, specifically in the primary, you know, at
19 43 percent, there's still additional population
20 out there that wouldn't be able to necessarily get
21 them over, you know, that 50 percent marker that
22 would identify them as being able to elect a
23 candidate of their choice.

24 So I hope that provides some additional
25 context. Thank you.

1 REPRESENTATIVE BROWN: Thank you.

2 VICE-CHAIR TUCK: Representative Brown?

3 REPRESENTATIVE BROWN: Thank you, Madam
4 Chair.

5 So comparing the benchmarks of CD 10 and
6 also looking just with the HD 20, which was in
7 Ocala, Gainesville, HD 20 had similar statistics
8 as we see with CD 10. So for example, the
9 Democratic primary in HD 20 had between 43 and
10 46.7 percent black in the past eight years. It's
11 been 43 or 44 percent in the past two elections,
12 which is actually lower than CD 10, and both are
13 solidly Democratic in the general election. The
14 (indiscernible) is similar too with 29 percent in
15 HD 20 and 27 percent in CD 10. The black share of
16 registered voters as well is similar.

17 So benchmark HD 20 looks really similar,
18 but we consider HD 20 to be Tier 1 protected
19 against diminishing black voters' ability. And we
20 went out of our way to sort of maintain HD 20 in
21 Gainesville and Ocala, even splitting both cities
22 to do so.

23 So can we explain why in HD 20, it's Tier
24 1 protected, but in CD 10, it's not?

25 VICE-CHAIR TUCK: Chair Sirosis?

1 CHAIRMAN SIROIS: Thank you, Madam Chair.
2 You know, I would, I think, revisit
3 Ms. Kelly's remarks when we started this line of
4 questions. Functional analysis is a holistic
5 analysis of a district. So I don't know that
6 necessarily picking and choosing out which metrics
7 or criteria you want to look at and then applying
8 them provides an accurate depiction of the
9 district. The functional analysis has to be a
10 holistic review of all the data points in terms of
11 making that determination.

12 Madam Chair, I would request that
13 Ms. Kelly perhaps might have something to add.

14 VICE-CHAIR TUCK: Ms. Kelly, you're
15 recognized.

16 MS. KELLY: Thank you, Madam Chair, and
17 thank you, Chair Sirois.

18 Representative, additionally, I just
19 wanted to clarify. You're referencing House
20 District 20 and Congressional District 10,
21 correct?

22 REPRESENTATIVE BROWN: Thank you. Yes,
23 that's correct.

24 MS. KELLY: Okay. I just wanted to make
25 sure that that was accurate. So again, and I

1 won't repeat what the Chair just said because that
2 was one of my things that I wanted to make sure
3 was clear. I think, additionally, something to
4 think about, holistically, the Congressional
5 District 10 and its current configuration has only
6 existed since 2016 as part of the remedial process
7 when that area was reconfigured. So again, as a
8 component of the functional analysis that you have
9 to look at -- that last component I talked about
10 was the election results -- House District 20 has
11 a very long timeline and proven record of
12 electing, you know, a black population's candidate
13 of choice. CD 10 doesn't have some of those
14 additional trends that support that elongated data
15 patterns. So that's one additional data point I'd
16 like to put out. Thank you.

17 VICE-CHAIR TUCK: Representative Brown?

18 REPRESENTATIVE BROWN: Thank you, Madam
19 Chair.

20 So part of why I'm asking this is because
21 in the previous draft we had, which was I believe
22 the workshop map of 8001, we actually maintained
23 CD 10 basically, comparable to the benchmark and
24 what sort of the Senate did in their maps. So
25 regardless of whether it's sort of Tier 1

1 protected or not, it seems to me we can kind of
2 choose the configuration of 8001 for Central
3 Florida. Am I wrong with that?

4 VICE-CHAIR TUCK: Chair Sirois?

5 CHAIRMAN SIROIS: Thank you, Vice-Chair.

6 And I'm sorry I missed the tail end of
7 that question. If you could repeat for me a
8 little louder? Thank you, Madam.

9 REPRESENTATIVE BROWN: My apologies,
10 Mr. Chair. So I was saying the reason I asked --
11 and I kind of referred to our draft plan in 8001.
12 We sort of maintain CD 10 comparable to those
13 benchmarks. So I was saying regardless of whether
14 we're saying that CD 10 is protected by Tier 1 or
15 not, it seems that based off of just the ones
16 we've workshop, we could sort of choose to
17 configurate it, comparable to 8001. Is that
18 correct?

19 VICE-CHAIR TUCK: Chair Sirois?

20 CHAIRMAN SIROIS: Thank you, Madam Chair.

21 So the difference that you would see, or
22 what I would characterize as improvement, you see
23 in the map that we have, overall, more alignment
24 with our methodology. We have districts that we
25 improve where they are within the five biggest

1 counties. For example, Congressional District 20
2 in the map is more compact, and we have one less
3 split in Hillsborough County. So initially, the
4 workshop maps were presented to this Committee as
5 pieces to demonstrate the real-world application
6 of our constitutional tiers. And throughout that
7 process, subsequent discussions, follow-up,
8 feedback from Members, we were able to build and
9 improve upon the map to the product that you see
10 before you today.

11 VICE-CHAIR TUCK: Members, any additional
12 questions?

13 Representative Joseph?

14 REPRESENTATIVE JOSEPH: Thank you, Madam
15 Chair.

16 I wanted to follow up on a couple of
17 Representative Brown's questions with respect to
18 CD 10. I understand that based on the review that
19 was presented, an evaluation of the criteria,
20 there's an expectation that the black-performing
21 district would just decrease in its performance
22 overtime. That seems to be the underlying
23 assumption. Even assuming without agreeing that
24 that assumption will play out correct, are we
25 prevented from keeping CD 10 closer to its

1 benchmark form under -- using just the Tier 2
2 criteria, which we're at liberty to do because it
3 does respect several of the geographical
4 boundaries if we kept it that way as opposed to
5 how we are. I know we're still working through
6 our map, and this is the first iteration. But I'm
7 just wondering about that.

8 VICE-CHAIR TUCK: Chair Sirois?

9 CHAIRMAN SIROIS: Thank you, Madam Chair.
10 Thank you, Representative Joseph, for the
11 question, and I think my answer would also provide
12 some further insight into Representative Brown's
13 line of question as well. You know, I think it's,
14 really important for all of the Committee members
15 to understand that the PCB that we're looking at
16 today is at its first Committee stop. And as we
17 move through the legislative process, the next
18 stop for this bill, if it's passed out of our
19 Committee today, of course, is the Full
20 Redistricting Committee.

21 I can assure Committee members that Chair
22 Leek and I remain committed, as we have been since
23 day one, to being open to your feedback,
24 accessible regarding questions that you may have,
25 suggestions that you can offer within the context

1 of our two tiers that make it a better map. And I
2 know that both of us continue to be open to
3 receiving that feedback. The final point that I
4 would add of course is even after the House
5 process unfolds, we still have a reconciliation
6 with the Senate as well, where I think, you know,
7 additional issues will be brought up as well.

8 Thank you, Madam Chair.

9 VICE-CHAIR TUCK: Follow-up?

10 REPRESENTATIVE JOSEPH: Thank you, Madam
11 Chair.

12 And thank you, Mr. Chair, for the
13 explanation, and I look forward to that. Like,
14 we've had good working relationships in the past
15 in my entire time in the Legislature, so I fully
16 anticipate that we'll be able to address that. So
17 I think part of where I'm going to go with my
18 questions today is to do exactly that: to
19 highlight some of the issues that we have in
20 anticipation that ultimately, maybe not today, but
21 ultimately, we as the legislative body can stand
22 in unison behind some maps that we can actually be
23 proud of. So I think we're ready to roll up our
24 sleeves with you.

25 So following up on CD 10 real quick,

1 looking at the data, I understand -- I mean, there
2 are a number of factors that may have contributed
3 to that decrease of performance, but I think we
4 can still use the Tier 2 factors to give that
5 district a fighting chance. There's no reason we
6 need to take it away right away. I think that as
7 a policy decision, we can look at, maybe, seeing
8 if it might perform and preserving it this round.
9 So that was one thing.

10 Let me move on to CD 26. So looking at
11 CD 26, was that impacted by the fact that it's a
12 Tier 1-protected district for Latino voters or
13 Hispanic voters?

14 VICE-CHAIR TUCK: Chair Sirois?

15 CHAIRMAN SIROIS: Thank you, Madam Chair.
16 Yes.

17 REPRESENTATIVE JOSEPH: Okay. So looking
18 at kind of the image of it, it's kind of like an
19 extruded stair-step shape, stretching up from the
20 Gulf of Mexico all the way over to a little finger
21 that points just 700 yards short of Biscayne Bay
22 in Miami. Was that shape necessary to comply with
23 Tier 1? Or were there other factors that went
24 into just how it ends up looking there?

25 VICE-CHAIR TUCK: Chair Sirois?

1 CHAIRMAN SIROIS: Thank you, Madam Chair.

2 I'd like to ask Mr. Poreda to weigh in.

3 VICE-CHAIR TUCK: Mr. Poreda, you're
4 recognized.

5 MR. POREDA: Thank you, Madam Chair.

6 Yes. The shape of District 26 was
7 largely because not only it was a Tier 1-protected
8 district, but the other three districts in Miami-
9 Dade County - District 24 are protected black
10 district. And District 27 and 28 are also
11 protected districts. So trying to balance all the
12 Tier 2 issues that are there in addition to,
13 first, protecting all three of those districts and
14 their ability to elect, that largely impacted the
15 shapes of all four of those districts.

16 VICE-CHAIR TUCK: Follow-up?

17 REPRESENTATIVE JOSEPH: Thank you, Madam
18 Chair.

19 And thank you for that response. Yeah,
20 when you get to Miami-Dade, we got a lot of
21 protective folks. So -- now, still sticking with
22 CD 26, I see that it crosses the large unpopulated
23 stretch of the Everglades between --it looks like
24 Miami-Dade County and Collier. Would we consider
25 the Everglades in this area a major geographic

1 boundary?

2 VICE-CHAIR TUCK: Chair Sirois?

3 CHAIRMAN SIROIS: Thank you, Madam Chair,
4 and I'm going to ask Mr. Poreda to weigh in.

5 But I would add first that, you know,
6 there are still census block data available within
7 that territory. And I think if you recall from
8 earlier presentations when we showed slides that
9 contained the population of our census blocks,
10 there were several areas within the state where
11 maybe just a few people lived. You could count on
12 one hand the number of people identified in that
13 census block, but that doesn't change the fact
14 that they still have accounted for within our
15 congressional districts.

16 So you will see areas on the map -- the
17 Everglades is an example. I think closer to
18 Miami, you have the Miami International Airport,
19 again, huge tract of land that you're talking
20 about there. Along the East Coast, we have
21 wildlife refuges, military insulations, Kennedy
22 Space Center. You see other large tracts of land
23 that are included in the census block data as
24 well. So that's why you may see some variation
25 there.

1 But, Mr. Poreda, do you have anything
2 that you'd like to add?

3 VICE-CHAIR TUCK: Mr. Poreda, you're
4 recognized.

5 MR. POREDA: Thank you, Madam Chair.

6 Yeah. I will echo what the Chair said
7 about all of the unpopulated census blocks but
8 also add that District 26, primarily along its
9 entire length, uses the Collier County and the
10 Miami-Dade Broward County line, in addition to US-
11 41, which is the Tamiami Trail to create that
12 extension. And if you look at actually the
13 boundary analysis for District 26, it's only 5
14 percent of its boundaries that do not follow one
15 of the designated political or geographical
16 boundaries. So it uses a lot of municipal lines,
17 actually, in that area that may look a little bit
18 more jagged against District 24. I believe it
19 uses the Hialeah Municipal line along with some of
20 the others there, in addition to using county
21 lines and the Tamiami Trail for almost its entire
22 extension until it gets over into Collier County
23 where it achieves all equal population.

24 VICE-CHAIR TUCK: Follow-up?

25 REPRESENTATIVE JOSEPH: Thank you, Madam

1 Chair.

2 Thank you for that explanation. I try to
3 play around in the system. I try to be a geek,
4 but sometimes I can't hang. So this is one of
5 these instances, so forgive me if my question is a
6 little weird. So the Esri Mapping program, so it
7 includes the rivers as one of the options of the
8 boundaries, right? But the Everglades is
9 literally a river of grass. So it covers more
10 than like 4300 square miles? And it's 100 miles
11 long, and it's up like 60 miles wide? And did you
12 consider that a major geographic boundary?

13 VICE-CHAIR TUCK: Chair Sirois?

14 CHAIRMAN SIROIS: I would defer to Mr.
15 Poreda.

16 VICE-CHAIR TUCK: Mr. Poreda, you're
17 recognized.

18 MR. POREDA: The Everglades by itself,
19 no. But that's why, through that area, we're
20 actually using US-41 and the county lines of
21 Collier and Miami-Dade County. So those are the
22 geographical or really political boundaries that
23 we're using to get through that area.

24 REPRESENTATIVE JOSEPH: All right.

25 MR. POREDA: Because we have to include

1 all the census blocks. Even those census blocks
2 in the Everglades, as the chair mentioned earlier,
3 that had very little population, they all have to
4 be accounted for.

5 VICE-CHAIR TUCK: Follow-up?

6 REPRESENTATIVE JOSEPH: Thank you, Madam
7 Chair.

8 And thank you for the response. So I
9 agree about the county boundaries as an
10 alternative way to look at it. I guess it's
11 because it also coincides -- if I'm not mistaken,
12 the Everglades boundary coincides with the
13 political boundary where the Dade-Collier County
14 boundary is. So with that in mind, looking at the
15 Tier 2 factors with CD 6, like this stairway to a
16 mockley shape, it crosses those county lines. It
17 splits Collier, which is smaller than the ideal
18 district size. It splits the city of Miami in
19 three ways, and Miami is smaller than ideal
20 district size too. All of those Tier 2 -- I don't
21 want to say deficiencies, but infirmities, if we
22 can call it that, were those necessary to maintain
23 Tier 1 compliance?

24 VICE-CHAIR TUCK: Mr. Poreda.

25 Chair Sirois.

1 CHAIRMAN SIROIS: Thank you very much,
2 Madam Chair.

3 Representative Joseph, I think that's an
4 excellent example of a different approach, a concept
5 that can be brought to Chair Leek, for further
6 examination at the next Committee stop.

7 Madam Chair, I'd ask if Mr. Poreda has
8 anything more technical to add.

9 VICE-CHAIR TUCK: Mr. Poreda.

10 MR. POREDA: As I mentioned earlier, that
11 is primarily due to Tier 1 considerations In
12 addition to the equal population standard because
13 the boundaries within Collier County, for example --
14 even though, Collier County, there's lots of
15 counties throughout the map. Walton County is
16 another example; Citrus County, where counties have
17 to be split in a congressional map because of the
18 equal population standard.

19 VICE-CHAIR TUCK: And, Representative, if
20 you don't mind, I'm going to move on to a couple
21 other members and come back to you unless you have a
22 follow-up.

23 REPRESENTATIVE JOSEPH: Sure, that's fine.
24 Thank you.

25 VICE-CHAIR TUCK: Representative Fabricio.

1 REPRESENTATIVE FABRICIO: Thank you, Madam
2 Chair and --

3 VICE-CHAIR TUCK: Representative, one
4 second. I'm sorry.
5 Chair.

6 CHAIRMAN SIROIS: Thank you, Madam Chair.
7 Representative Brown's request -- her good
8 request, we're going to put the maps back up on the
9 screen when we're discussing specific areas just to
10 make it a little bit easier for everybody to follow
11 along. Thank you, Madam Chair.

12 VICE-CHAIR TUCK: Thank you.
13 Representative.

14 REPRESENTATIVE FABRICIO: Thank you, Madam
15 Chair.

16 And I'm going to preface my question with
17 an apology for its rudimentary nature. But in
18 looking at the CD 26 District and discussing Tier 1
19 requirements and Tier 2 requirements, how does the
20 factor of compactness scores factor into determining
21 the viability of a CD in light of the Tier 1
22 requirements?

23 VICE-CHAIR TUCK: Chair Sirois.

24 CHAIRMAN SIROIS: Thank you very much,
25 Representative, for the good question.

1 As you know and as we've discussed since
2 we've started, the Tier 1 standards take precedent,
3 in terms of looking at the districts. And when
4 compactness becomes a factor -- you know, I don't
5 know that it's fair to say that compactness can be
6 viewed in the context of a single district in this
7 sense, that the other districts that surround the
8 district that you're referring to also have
9 different issues at play. Whether it's following a
10 political boundary, keeping a city whole, for
11 example, that may affect the ability to keep
12 surrounding districts as compact as we would like
13 them to be.

14 The map is very much -- the districts are
15 very much tied into one another. When you change or
16 try to pursue, perhaps, one outcome with one
17 district boundary, it has impact on the surrounding
18 districts.

19 And, Madam Chair, Mr. Poreda has something
20 that he'd like to add.

21 VICE-CHAIR TUCK: Mr. Poreda.

22 MR. POREDA: I'll just echo what the chair
23 said.

24 VICE-CHAIR TUCK: Follow-up?

25 REPRESENTATIVE FABRICIO: Thank you, Madam

1 Chair.

2 And thank you, Chair Sirois, for that
3 explanation. I appreciate it. It clarifies quite a
4 bit. Because I'd like to consider the compactness
5 scores of District 26 vis-à-vis the compactness
6 scores of, say, District 3, where the Reock scores
7 in District 23 -- I'm sorry, District 26 are .3.
8 Whereas we look at CD 3 and we see a Reock score of
9 .11 and a Polsby-Popper score of .1 vis-à-vis CD 26.
10 And we see a Polsby-Popper score of .3, both low,
11 but CD 3 seems to be very low.

12 VICE-CHAIR TUCK: Chair Sirois.

13 CHAIRMAN SIROIS: Thank you, Madam Chair.
14 Ms. Kelly, if you'd like to jump in.

15 VICE-CHAIR TUCK: Ms. Kelly, you're
16 recognized.

17 MS. KELLY: Thank you, Madam Chair.

18 Thank you, Chair Sirois.

19 Thank you, Representative, for that
20 question. So I'm going to go back to something I
21 referenced earlier, but this is a really important
22 concept to hone in because it applies to several
23 factors in the map. So first of all, compactness is
24 secondary to our Tier 1 requirement to ensure that a
25 minority population has an ability to elect a

1 candidate of their choice. So both of the districts
2 that you reference, Congressional District 3 in
3 North Florida and then Congressional District 26 in
4 South Florida are both Tier 1 protected districts.

5 The first item I'd like to point out is
6 that Tier 3 is a protected black district. District
7 26 is a protected Hispanic district. So again,
8 whenever we're going through that process of
9 functional analysis, those minority populations
10 interact differently with one another. So comparing
11 their functional analysis postures would not
12 necessarily be a one-to-one comparison. Not only
13 are they in different regions of the state, those
14 voters may perform differently or interact
15 differently, but they're also in different
16 geographical locations of the state.

17 So in North Florida, you have a lot of
18 rural counties, where you have less population. So
19 you have to account for that, as you're not only
20 drawing down to plus or minus one person, but also
21 still ensuring that Tier 1 requirement, that they
22 have the ability to elect. Similarly, in South
23 Florida, as other representatives have pointed out
24 as well, you have a lot of Everglades population.
25 And I guess I say that ironically because there's

1 not a lot of people that live in the Everglades, but
2 there is a lot of census blocks that we still have
3 to account for. So even though they have a
4 different compactness scores, it also has to be done
5 in context of the geographical constraints of the
6 region, the Tier 1 constraints of the region, as
7 well as population of the region. And I believe
8 that was all the points I wanted to make. Thank
9 you.

10 VICE-CHAIR TUCK: Follow-up?

11 REPRESENTATIVE FABRICIO: Last follow-up,
12 and I appreciate your explanation. Could you tell
13 me which congressional district has the lowest
14 overall compactness score?

15 VICE-CHAIR TUCK: Ms. Kelly.

16 MS. KELLY: I'm going to ask for a
17 clarification. Do you mean a state-wide average or
18 an individual compactness score?

19 REPRESENTATIVE FABRICIO: Thank you.

20 Which congressional district has the lowest
21 compactness score if you rank compactness scores
22 from top to bottom?

23 VICE-CHAIR TUCK: Ms. Kelly.

24 MS. KELLY: So it'll take me a second to go
25 through my list. I will answer your question. I

1 would like to say though, there's not one
2 compactness score that is superior to another, and
3 they're to be viewed in context of one another. And
4 I'll further elaborate on that. Each compactness
5 score, you can think of it as measuring a slightly
6 different component of the district. So for
7 instance, if you remember back to some of the
8 presentations we did during the Interim Committee
9 weeks, the Reock score measures, you know, the more
10 circular a district is, the higher your Reock score
11 will be. For Convex Hull score, you can think of it
12 as, perhaps, putting a rubber band around that
13 district. And the more it's filled out, the higher
14 that score will be.

15 And the Polsby-Popper score oftentimes
16 measures a lot of the indentations in the overall
17 perimeter of the district. So I do need a minute to
18 get that answer for you, and I will get that answer
19 for you, but I want to elaborate that whenever we're
20 ranking compactness scores, it's more just, I think,
21 as a data point and a much bigger plane of analysis.
22 But we'll get that answer for you right now.

23 REPRESENTATIVE FABRICIO: Thank you.

24 VICE-CHAIR TUCK: Members, additional
25 questions?

1 Thank you, Member Skidmore.

2 REPRESENTATIVE SKIDMORE: Thank you, Madam
3 Chair.

4 I think we're very interested in CD 26
5 today. A few weeks ago, when we took up the House
6 maps on the floor, Rep Joseph had a series of
7 questions, and I kind of want to revert back to some
8 of them. I remember Chair Leek called the -- he
9 didn't want to go into a deep rabbit hole, but these
10 questions are not typical.

11 So Rep Joseph asked if the House analysis
12 involved ecological regression or inference analysis
13 to determine the level of minority cohesion and
14 white block voting, racially polarized voting.
15 Chair Leek said yes. But he didn't say what the
16 outcome of those analyses were. So as applied to
17 the congressional map, specifically, in South
18 Florida, does the House have an analysis of minority
19 cohesion, white block voting, and racially polarized
20 voting in the benchmark Latino majority districts of
21 South Florida or in the Miami-Dade area, just
22 generally speaking?

23 VICE-CHAIR TUCK: Chair Sirois.

24 CHAIRMAN SIROIS: Thank you, Madam Chair.
25 If I could just have a moment.

1 Represent Skidmore, could you -- I'm sorry,
2 Madam Chair.

3 VICE-CHAIR TUCK: Representative Skidmore,
4 can you repeat your question?

5 CHAIRMAN SIROIS: Thank you.

6 REPRESENTATIVE SKIDMORE: Sure. I won't go
7 through the whole setup, but the specific question
8 is, as applied to the congressional map in South
9 Florida, does the House have an analysis of minority
10 cohesion, white block voting, and racially polarized
11 voting in the benchmark Latino minority-majority
12 districts in South Florida or in Miami-Dade?
13 Generally speaking.

14 VICE-CHAIR TUCK: Chair Sirois.

15 CHAIRMAN SIROIS: Thank you very much,
16 Madam Chair.

17 You know, I want to begin by answering that
18 the Florida Supreme Court has recognized that the
19 only performance measure is the functional analysis
20 test. The data that you're referring to, that Chair
21 Leek spoke to on the floor, is some of the advanced
22 statistical analysis that legal counsel has assisted
23 the House with conducting.

24 I would ask Madam Chair that Ms. Kelly may
25 have something to add on that subject. Okay. We're

1 good. Thank you, Madam Chair.

2 VICE-CHAIR TUCK: Follow-up?

3 REPRESENTATIVE SKIDMORE: Thank you, Madam
4 Chair.

5 So the data exists, but we're just not
6 privy to it?

7 VICE-CHAIR TUCK: Chair Sirois.

8 CHAIRMAN SIROIS: Thank you, Madam Chair.

9 That data is an advanced statistical
10 analysis that was performed -- expert analysis that
11 was performed at the request of the legal counsel
12 that is advising the House on the redistricting
13 process. So the information that is a part of that
14 relationship as a part of that contract is retained
15 by outside counsel.

16 VICE-CHAIR TUCK: Follow-up?

17 CHAIRMAN SIROIS: I would just add -- I'm
18 sorry -- that information is not retained with the
19 House of Representatives.

20 VICE-CHAIR TUCK: Follow-up?

21 REPRESENTATIVE SKIDMORE: Thank you, Madam
22 Chair.

23 So is there any cohesion of voting data
24 that is available to us?

25 VICE-CHAIR TUCK: Chair Sirois.

1 CHAIRMAN SIROIS: The functional analysis
2 performs exactly the kind of feedback that you're
3 referring to. That's the analysis that the Court
4 requires to be performed is the functional analysis.
5 So beyond that, you know, I'm not able to answer
6 your question.

7 VICE-CHAIR TUCK: Follow-up?

8 REPRESENTATIVE SKIDMORE: Thank you, Madam
9 Chair.

10 Are there any reports, conclusions, or
11 analysis regarding cohesion that have been conducted
12 that would be able to be shared with us? I know
13 Chair Leek said that it's not -- you know, the
14 average person isn't going to want to go through
15 this, but is there anything that has been reported
16 that -- or, you know, memos or anything that would
17 help us understand cohesion?

18 VICE-CHAIR TUCK: Chair Sirois.

19 CHAIRMAN SIROIS: There are no formal
20 reports that exist at this stage of the game in
21 anticipation of litigation. What I would add is
22 that the Florida Supreme Court requires the
23 completion of a functional analysis. We have done
24 that, and that information is contained in your
25 packet.

1 REPRESENTATIVE SKIDMORE: Thank you.

2 VICE-CHAIR TUCK: Additional questions,
3 Members?

4 Representative Fabricio.

5 REPRESENTATIVE FABRICIO: Just following up
6 to see if the data that I requested was available.

7 VICE-CHAIR TUCK: Ms. Kelly, if it's okay,
8 we'll go and take Representative Joseph's questions.
9 We can come back?

10 MS. KELLY: Yes, absolutely.

11 VICE-CHAIR TUCK: Representative Joseph.

12 REPRESENTATIVE JOSEPH: Thank you, Madam
13 Chair.

14 I guess it's more of like a request. We
15 can work on it later as we work through the map's
16 thing. But I'd like to see how we can -- actually,
17 let me back up. It seems that the House took away a
18 benchmark Hispanic district that or the new map
19 proposed, that crossed the Everglades from Dade to
20 Collier. And I'd really like to see how we could
21 avoid crossing the Everglades because it's been a
22 practice of doing that since the 2016 court-ordered
23 Senate map. And as we continue working on the maps,
24 I'd like to see how we can preserve that because I
25 actually think it would make it more Tier 2

1 compliant. So that's more of a request than a
2 question. So there you go.

3 VICE-CHAIR TUCK: Chair Sirois.

4 CHAIRMAN SIROIS: Thank you, Madam Chair.

5 Congressional District 26 remains a
6 protected Hispanic district, so I'm not sure what it
7 is that you're referring to.

8 REPRESENTATIVE JOSEPH: My apologies.

9 Thank you. I described it wrong. So when I say
10 that, I'm talking about the benchmark district that
11 crossed from the Everglades to Dade to Collier. So
12 not that it eliminated, I totally misspoke on that.
13 I don't believe it eliminates the Hispanic district,
14 but I thought that something was moved, like there
15 was a Hispanic district that, maybe I'm mixing them
16 up. There was a Hispanic district down south that
17 was moved somewhere else in Florida.

18 VICE-CHAIR TUCK: Chair Sirois.

19 CHAIRMAN SIROIS: Thank you very much,
20 Madam Chair.

21 And, I think that the district that you
22 were referring to was in the House map for State
23 Legislative Districts.

24 REPRESENTATIVE JOSEPH: Just kidding. All
25 right.

1 CHAIRMAN SIROIS: No, don't apologize.
2 Believe me when I tell you that I understand, you
3 know, all this stuff starts to run together after a
4 while. So I appreciate where you come from.

5 REPRESENTATIVE JOSEPH: So thank you.

6 VICE-CHAIR TUCK: Follow-up?

7 REPRESENTATIVE JOSEPH: What I'm really
8 trying to say, forget the House map and that
9 district moving, is preserving the lines and trying
10 to uphold or maximize the Tier 2 criteria. I think
11 in doing so for there -- and I see staff shaking
12 their head -- I think we might be able to achieve a
13 map that does that in a way that protects that area
14 and does not have a negative impact on Tier 1 and
15 all of that good stuff. So there you go. Thank
16 you.

17 VICE-CHAIR TUCK: Chair Sirois.

18 CHAIRMAN SIROIS: Thank you very much,
19 Madam Chair.

20 I would welcome that conversation with
21 myself, staff, Chair Leek, and I think that's
22 something that, you know, we can look at as we move
23 forward through the Committee process.

24 VICE-CHAIR TUCK: And, Ms. Kelly, you're
25 recognized to answer Representative Fabricio's

1 question.

2 MS. KELLY: Thank you, Madam Chair, and
3 thank you for giving us time to pull that data.

4 So I'd like to go through each compactness
5 score. We were able to identify the district that
6 has the lowest compactness scores and give it in
7 context of that region as a whole. So whenever
8 we're looking at the lowest Reock score, we're
9 looking at CD 3, and it has a .11. Its Polsby-
10 Popper score is .10, but I'd also like to point out
11 that its Convex Hull score is .63, which is right
12 around the average for the state.

13 Moving into the Convex Hull score, that
14 one's lowest rate is on CD 28 with a .56. Again,
15 making sure I provide it in context, the Reock score
16 on that is .21 and then .24 for Polsby-Popper.
17 Going back to the Polsby-Popper score, again, CD 3
18 is there at .10. And again, just to remind everyone
19 in context, its Convex Hull score is up near the
20 average of the rest of the state as well. Thank
21 you. Hopefully that answers your question.

22 VICE-CHAIR TUCK: Members, additional
23 questions?

24 Ex officio, Davis.

25 REPRESENTATIVE DAVIS: Thank you, Chair.

1 And thank you, Committee, for allowing me to be here
2 this morning.

3 Just a question, you may have answered it
4 along the way, but we are talking to the general
5 public. So could you be clear in the sense of the
6 difference between the functional analysis and the
7 performance analysis for me, please?

8 VICE-CHAIR TUCK: Chair Sirois.

9 CHAIRMAN SIROIS: Thank you very much,
10 Madam Chair.

11 Representative, thank you for the question.
12 And I think it's important, you know, words do
13 matter because what we're talking about here is the
14 functional analysis. And the functional analysis
15 provides information related to performance, and
16 that helps us understand as to whether or not our
17 obligation to identify and to protect -- protected
18 district's remains in effect. So, you know, I'm
19 happy -- if you want some more detail on the
20 functional analysis process, I'm happy to provide
21 that. But I think that answers your question.

22 VICE-CHAIR TUCK: Follow-up?

23 REPRESENTATIVE DAVIS: Somewhat. I asked
24 for the difference between the functional analysis
25 and the performance analysis of a district. So you

1 did answer the functional analysis, but the
2 performance analysis is what I'm waiting for now.

3 CHAIRMAN SIROIS: Chair Sirois.

4 CHAIRMAN SIROIS: Thank you, Madam Chair.

5 Thank you, Representative Davis. It's the
6 same thing.

7 If I could, Madam Chair, ask Ms. Kelly to
8 elaborate.

9 VICE-CHAIR TUCK: Ms. Kelly, you're
10 recognized.

11 MS. KELLY: Thank you, Madam Chair.

12 Thank you, Chair Sirois.

13 Thank you, Representative. Sometimes I
14 feel like those terms may be used interchangeably,
15 because the functional analysis alludes to the
16 performance ability of a minority group to elect a
17 candidate of its choice. So Chair Sirois, just
18 piggybacking off of what you said, I believe what
19 you're asking about is, in fact, the same analysis,
20 the same data set. It just may be commonly referred
21 to, differently.

22 REPRESENTATIVE DAVIS: Thank you. That
23 cleared it up. Interchangeable terms, I appreciate
24 that. So with that and we were talking about the
25 cohesiveness of the districts. How did you apply

1 the non-vote dilution standard when drafting these
2 maps?

3 VICE-CHAIR TUCK: Chair Sirois.

4 CHAIRMAN SIROIS: I would ask Ms. Kelly.

5 VICE-CHAIR TUCK: Ms. Kelly, you're
6 recognized.

7 MS. KELLY

8 : So the provision that you're
9 alluding to is a provision that's in our Tier 1 of
10 requirements. It says you cannot deny or diminish
11 the ability of a racial or language minority group
12 to elect a candidate of their choice. So when doing
13 the functional analysis, you know, one of the
14 components of that is ensuring that that protected
15 district doesn't have a diluted ability to elect a
16 candidate of their choice. Which is why, as we've
17 recreated these districts, we've recreated them at
18 several similar levels to where the benchmark
19 districts are. The courts have said a lot over the
20 years as far as being able to drop different data
21 points too low or perhaps too high, and so we've
22 made an effort to make sure that those minority
23 populations don't have a diluted ability or
24 diminished ability to elect a candidate of their
25 choice, in complying with our Tier 1 standards.

Ms. Chair: Follow-up?

1 REPRESENTATIVE DAVIS: Just kind of a
2 variety of questions.

3 So with another process, what did you --
4 how did you identify the process by way of your
5 Voting Rights Act and Tier 1 protected districts in
6 the benchmark map? And did you run that process on
7 all 28 Districts?

8 VICE-CHAIR TUCK: Chair Sirois.

9 CHAIRMAN SIROIS: Thank you, Madam Chair.
10 You know, Representative, I may ask you to
11 be more specific, but I will tell you that the PCB
12 that is presented before you today is in full
13 compliance with our state constitution, state and
14 federal law, judicial president ruling by the Court,
15 and that would include the Voting Rights Act.

16 VICE-CHAIR TUCK: Follow-up?

17 REPRESENTATIVE DAVIS: Thank you for that
18 answer, Chair. And the question I was asking was
19 the process as to how we identified by way of the
20 using the Voting Rights Act and the Tier 1
21 protections to get to that. I think you've answered
22 it, and I appreciate that, saying that you feel like
23 these maps are completely legal and compliant with
24 constitutional standards. So thank you for that
25 answer.

1 VICE-CHAIR TUCK: Seeing no additional
2 question -- Representative Joseph?

3 REPRESENTATIVE JOSEPH: Thank you, Madam
4 Chair.

5 For CD 24, I see that it's shifted all the
6 way east where it wasn't that way before. Can you
7 walk us through, kind of, what went into that? I
8 know it had to do with making sure that CD 27 was
9 okay in terms of meeting the Tier 1 criteria, but
10 talk to us a little bit more about what happened
11 there.

12 VICE-CHAIR TUCK: Chair Sirois.

13 CHAIRMAN SIROIS: Thank you, Madam Chair.
14 Thank you, Representative for the question.
15 I would ask Mr. Poreda to provide an explanation.

16 VICE-CHAIR TUCK: Mr. Poreda, you're
17 recognized.

18 MR. POREDA: Thank you, Madam Chair.

19 That district is a protected black
20 district. Its black voting Age population in the
21 benchmark was about 43 percent. And the district
22 you see before you, it's about 42 and a half percent
23 -- 42, I think, .2 percent. It was brought over to
24 that population, so it wouldn't impact Districts 26,
25 27, or 28, which are all protected districts, in

1 addition to adding population to all three districts
2 to achieve our new ideal population for a
3 Congressional District.

4 So that was simply where the population
5 was. In an effort to also, where we could, take
6 those Tier 1 districts and make them a little bit
7 more Tier 2 compliant and create a more compact
8 shape.

9 VICE-CHAIR TUCK: Seeing no more questions?
10 We are in amendments.

11 Are there any amendments?

12 Representative.

13 REPRESENTATIVE FABRICIO: Thank you. And I
14 apologize for jumping in late there. In determining
15 the importance of the compactness scores, we have
16 Reock, Convex Hull, and the Polsby-Popper. Does any
17 one of those three different compactness components
18 have any different kind of weight over another, or
19 are they looked at in the aggregate?

20 VICE-CHAIR TUCK: Chair Sirois.

21 CHAIRMAN SIROIS: Thank you,
22 Representative. The answer to your question is no.
23 And that's why they have to be used in context and
24 looked at across the board.

25 VICE-CHAIR TUCK: Follow-up?

1 REPRESENTATIVE FABRICIO: So if you have a
2 particular congressional district that has two
3 compact scores that are exceedingly low and one that
4 happens to be about average, how would that analysis
5 weigh out?

6 VICE-CHAIR TUCK: Chair Sirois.

7 CHAIRMAN SIROIS: Thank you, Madam Chair.

8 You know, you have to look at in the
9 context of the entire map. Yes.

10 And, Ms. Kelly, would you like to add
11 something?

12 VICE-CHAIR TUCK: Ms. Kelly, you're
13 recognized?

14 MS. KELLY: Thank you. And I agree with
15 what Chair Sirois said. I'd also like to add,
16 compactness is one of our Tier 2 standards, but it's
17 not the only Tier 2 standard. So within that as
18 well, you have to balance political and geographical
19 boundaries. So we're looking at riverways,
20 waterways, county lines, and corporate and
21 municipality lines. So it's not just, again,
22 compactness scores as a sole analysis. It's within
23 the context of our Tier 2 standards as well as the
24 consideration that that is secondary in nature
25 always to our Tier 1 standards.

1 VICE-CHAIR TUCK: Follow-up?

2 REPRESENTATIVE FABRICIO: And in that group
3 of additional Tier 2 standards, would one of the
4 other considerations be unnecessary appendages?

5 VICE-CHAIR TUCK: Chair Sirois.

6 CHAIRMAN SIROIS: Thank you, Madam Chair.
7 I think it's -- you know, I would ask you to explain
8 what you view as being an unnecessary appendage
9 because, oftentimes, when you see those in the
10 context of a congressional district, it may be a
11 municipal boundary or some kind of other feature
12 which requires us to incorporate into the district
13 boundary.

14 VICE-CHAIR TUCK: Follow-up?

15 REPRESENTATIVE FABRICIO: For example,
16 Gadsden County in the western edge of CD 3.

17 CHAIRMAN SIROIS: I'm sorry, Representative
18 -- Madam Chair?

19 VICE-CHAIR TUCK: You're recognized.

20 CHAIRMAN SIROIS: Could you repeat that?

21 REPRESENTATIVE FABRICIO: For example,
22 Gadsden County on the western edge of CD 3.

23 VICE-CHAIR TUCK: Chair Sirois, you're
24 recognized.

25 CHAIRMAN SIROIS: Thank you very much,

1 Representative. Gadsden County is a part of a
2 majority-minority protected district. So I don't
3 understand -- in an effort to protect that district,
4 I don't understand how you view that as an
5 appendage. Maybe you could elaborate.

6 REPRESENTATIVE FABRICIO: I understand. It
7 just seems that it's linked up through a very slim
8 sliver of land there.

9 CHAIRMAN SIROIS: I'm sorry,
10 Representative. Could you repeat that into the
11 microphone?

12 REPRESENTATIVE FABRICIO: I'm sorry. Can
13 you hear me now?

14 CHAIRMAN SIROIS: Yes.

15 REPRESENTATIVE FABRICIO: It seems to be
16 linked to the rest of CD 3 through a very slim
17 sliver of land.

18 VICE-CHAIR TUCK: Representative, was there
19 a question in there?

20 REPRESENTATIVE FABRICIO: I believe the
21 Chair asked me to elaborate why I considered the
22 Gadsden County portion of CD 3 to be a appendage.

23 VICE-CHAIR TUCK: Chairs Sirois.

24 CHAIRMAN SIROIS: Ms. Leda, would you like
25 to weigh in?

1 MS. KELLY: Yes. Thank you, Chair.

2 Thank you, Chair.

3 So as far as an appendage goes, whenever
4 you look at the Gadsden County connected to
5 Congressional District 3, Gadsden County in its
6 entirety is connected to Congressional District 3.

7 So usually, whenever you, in the context of
8 redistricting, talk about appendages, or, I believe,
9 the courts have used the frayed tortured shapes,
10 things that would be abnormal to the visual eyeball
11 test of compactness, a whole county being included
12 in a district is very in-line with the rest of the
13 methodology that we've applied across the map.
14 There's several districts that include the whole
15 counties.

16 And again, I'll reiterate. District 3 has
17 Tier 1 protections. Gadsden County is Florida's
18 only majority-minority black county in the entire
19 state, which goes into part of that Tier 1
20 consideration, which, again, outranks compactness as
21 a Tier 2 requirement. Thank you.

22 VICE-CHAIR TUCK: All right. Seeing no
23 more questions, we are in amendments.

24 Are there any amendments on the PCB?

25 Representative Hunschofsky, any questions.

1 REPRESENTATIVE HUNSCHOFSKY: Thank you very
2 much. Going back to the section that my colleague
3 is so concerned about, Congressional District 3,
4 could you go again through how many counties were
5 kept whole and cities were kept whole in that
6 district, because those are also Tier 2, and I
7 wasn't sure how many were kept whole in that area?

8 VICE-CHAIR TUCK: Mr. Poreda, you're
9 recognized.

10 MR. POREDA: Thank you, Madam Chair. That
11 district contains four whole counties. Those are
12 the counties of Gadsden, Madison, Hamilton, and
13 Baker Counties. In addition to that, it has
14 portions of Leon County, Jefferson County, Columbia
15 County, and then Duval County. That district has
16 all of these municipalities that would be in those
17 whole counties. It then also splits the city of
18 Tallahassee, the city of Lake City, and the city of
19 Jacksonville.

20 VICE-CHAIR TUCK: Follow-up?

21 REPRESENTATIVE HUNSCHOFSKY: And when we
22 were going through the Tier 1 and Tier 2, in the
23 Tier 1, I just want to confirm, is it true that Tier
24 1, they're all held equally, or we have to
25 prioritize one of the Tier 1 over another?

1 VICE-CHAIR TUCK: Chair Sirois.

2 CHAIRMAN SIROIS: Thank you, Representative
3 Hunschofsky. They are equal within the tier.

4 VICE-CHAIR TUCK: Follow-up?

5 REPRESENTATIVE HUNSCHOFSKY: And the Tier 1
6 always comes before the Tier 2 when we are weighing
7 this, correct?

8 VICE-CHAIR TUCK: Chair Sirois.

9 CHAIRMAN SIROIS: Thank you very much,
10 Representative Hunschofsky. Yes.

11 REPRESENTATIVE HUNSCHOFSKY: Yeah, I was
12 paying attention to it. And then lastly, I have
13 brought up several times ad nauseam on this
14 Committee, how important I think it is to keep
15 cities and counties as whole as possible having come
16 from municipal office. So but is it true that when
17 we're looking at those Tier 2 standards, we can also
18 choose -- when looking at the totality of it and
19 what we're trying to accomplish, and that there's a
20 good representation in each of these districts, that
21 we can choose, for example, to prioritize keeping
22 counties and cities Whole over prioritizing
23 compactness? Is that within our option on those
24 Tier 2 or do we have to go in the order that it
25 would -- that they were presented to us?

1 VICE-CHAIR TUCK: Chair Sirois.

2 CHAIRMAN SIROIS: Thank you very much,
3 Madam Chair. On the issue of city splits, and I
4 know that that is important to you. You've raised
5 that consistently throughout this process, and I
6 think you should proud of the progress that this map
7 makes in that regard Because we improve -- in the
8 benchmark map, there were 39 city splits. In the
9 PCB before you today, there are 27. So we have made
10 some improvement in that regard.

11 If there are additional areas of the state
12 that you would like to make some recommendation in
13 terms of -- perhaps a way we could further reduce
14 the number of city splits, I'm happy, and I can
15 speak for Chair Leek in saying we're happy to
16 continue to have that conversation with you.

17 I would ask also, if you could repeat and
18 clarify the second part of your question?

19 REPRESENTATIVE HUNSCHOFISKY: Yeah. I just
20 wanted to make sure -- I'm asking that we are
21 allowed to prioritize in -- within the Tier 2, we
22 can make the choice to prioritize keeping more
23 counties and cities whole than compactness. Are we
24 allowed to do that?

25 VICE-CHAIR TUCK: Chair Sirois.

1 CHAIRMAN SIROIS: Within Tier 2, each of
2 those receive equal consideration.

3 REPRESENTATIVE HUNSCHOFSKY: Okay. Thank
4 you.

5 VICE-CHAIR TUCK: All right. Last chance.
6 Seeing no more questions.

7 All right. Members, we are in amendments.
8 Are there any amendments on the PCB?

9 Seeing none, we are now in public
10 testimony. I'll remind all the speakers to keep
11 their comments on topic and to the constitutional
12 standards as the maps we are voting on today must be
13 in alignment with these standards.

14 First up, Robert Popper, Judicial Watch.
15 Thank you for being here. You're recognized.

16 MR. POPPER: Thank you, Madam Chair. Good
17 morning. My name is Robert Popper. I am a voting
18 specialist at Judicial Watch. Judicial Watch is a
19 Washington DC nonprofit devoted to transparency,
20 accountability, and fidelity to the rule of law.
21 I'm here to testify in particular about the
22 constitutional status and what I view as potential
23 infirmities of District 3.

24 I've been a litigator for 32 years, and
25 I've worked on voting issues for much of that time.

1 I've submitted written testimony, which I believe
2 was emailed to the Committee. I also understand
3 that revised statistics were sent to the Committee,
4 not by me, but I do understand that that needs to be
5 emphasized as well.

6 To summarize my testimony in my written
7 statement, District 3 was drawn on the basis of
8 racial considerations, as I believe the Florida
9 Supreme Court acknowledged and as I believe this
10 Committee would frankly acknowledge. That puts it
11 in a difficult position in terms of federal law.
12 Its boundaries correlate with African American
13 populations in Duval County and Leon. And one of
14 the points I'd like to emphasize is that I believe
15 that it violates traditional districting criteria.
16 That is a specialty of mine.

17 I am the Popper of the Polsby-Popper
18 criterion. Professor Polsby and I developed that
19 criterion 30 years ago to develop and understand the
20 non-compactness of gerrymandered districts. Under
21 the Polsby-Popper criterion, that scores a 0.1 or a
22 10 percent. That is extremely low. That is low
23 nationally. That is the lowest in Florida. Below
24 20 percent for a landlocked district, which District
25 3 is, is extremely non-compact. It is not the worst

1 district I've ever seen, but 10 is low. And those
2 boundary lines do not contort as they would. For
3 example, and if this was the district in the
4 Chesapeake Bay in my home state of Maryland, those
5 districts are manmade. The contortions are manmade.
6 The district is 200 miles long. It narrows to three
7 miles wide. It runs through eight counties and
8 splits four of them.

9 In addition to the Polsby-Popper method of
10 measuring compactness, there is the Reock
11 measurement, which gives it an 11 percent or 0.11.
12 It is unusual for the Polsby-Popper and the Reock
13 method to agree. Usually, the Reock method is more
14 forgiving. The fact that they agree means that this
15 is non-compact on at least two kinds of scales. The
16 indentations measured by Polsby-Popper, the length
17 to width typically flagged by Reock. It is also the
18 third worst was my measurement.

19 Madam Chair, forgive me if I've not
20 calculated that accurately, but by my count, it was
21 the third worst scoring district in the state on
22 Convex Hull.

23 As a practitioner in the area of
24 traditional districting criteria, I do not believe
25 that Convex Hull is that useful of a measurement.

1 It doesn't see too much. If you imagine a rubber
2 band stretched over the outward points of a
3 district, anything that happens internally that
4 doesn't affect the area just is not seen at all.
5 But that being said, it does not score well on
6 Convex Hull. As I pointed out, it's a landlocked
7 district, which makes the non-compactness harder to
8 explain, and I think we know why the non-compactness
9 exists. It was to connect particular communities to
10 create a particular result.

11 Now, as a race-based district under the
12 jurisprudence of Shaw vs. Reno and Miller vs.
13 Johnson, the Supreme Court has determined that the
14 equal protection clause is potentially violated
15 unless the district meets strict scrutiny, unless
16 there is a compelling justification met by a
17 narrowly tailored remedy.

18 It has been held that Section 2 will not
19 serve as a justification where you cannot create a
20 greater than 50 percent minority voting age
21 population. That is the case here. It has been
22 held that Section 5 of the Voting Rights Act, prior
23 to its becoming unconstitutional, and Section 4
24 becoming unconstitutional, and Section 5 becoming
25 inoperative, prior to that, you needed a

1 specialized finding of a particular harm in order to
2 justify that remedy. And I would add that we in the
3 modern age have forgotten what those findings were,
4 including states of the union where minority voting
5 turnout was less than 10 percent. We don't have
6 that now. But I submit there have not been those
7 findings.

8 And this is the point I would particularly
9 like to emphasize to this Committee. If this
10 district is not narrowly tailored, it will not
11 satisfy strict scrutiny. If it is not compact, it
12 will not satisfy strict scrutiny. The Supreme Court
13 has viewed extremely non-compact districts as not
14 required by federal law. I understand that we are
15 discussing here today Tier 1 and Tier 2, and
16 compactness and traditional districting criteria are
17 Tier 2 under federal law. They are not Tier 2 --
18 I'm sorry, Tier 2 under Florida law. They're not
19 Tier 2 under federal law. It will torpedo the
20 ability of Florida to submit a set of districts that
21 it can call narrowly tailored if the district is
22 submitted, I believe, in its present form.

23 We all know that in a state of this
24 importance, this district is going to end up. The
25 entire map is going to end up in litigation. We

1 know that. I respectfully submit that this
2 Committee and this House would want to be holding
3 the strongest hand that it could. District 3 as
4 drawn will not permit that.

5 Madam Chair, I look forward to your
6 questions.

7 VICE-CHAIR TUCK: Thank you, Mr. Popper,
8 and we do have a couple of questions. We've had a
9 very transparent process throughout the entire last
10 four months or so, and I just wanted to give
11 Committee members a holistic view of the testimony
12 given here today. So I just have a couple of
13 questions. If you don't mind, other Committee
14 members do as well. Were you asked to be here by
15 Governor DeSantis today?

16 MR. POPPER: I was.

17 VICE-CHAIR TUCK: And were you compensated
18 for being here today?

19 MR. POPPER: I was not.

20 VICE-CHAIR TUCK: Then can you share with
21 us who you collaborated with in order to prepare for
22 your testimony today?

23 MR. POPPER: It was just -- I wrote my
24 testimony myself. It's based on my experience. I
25 did talk with lawyers from Holtzman Vogel and Josh

1 Pratt, but I wrote my testimony.

2 VICE-CHAIR TUCK: Chair Sirois.

3 CHAIRMAN SIROIS: Thank you, Madam Chair.

4 And good morning, sir.

5 MR. POPPER: Morning.

6 CHAIRMAN SIROIS: You know, in all my
7 reading, I've seen Polsby-Popper. I expected
8 Professor Polsby to be here with you today, joined
9 at the hip. I will see your names appearing
10 together, but thank you for being here this morning.

11 My question is: you say that the district
12 is not narrowly tailored, but in your testimony, you
13 didn't propose an alternative. Can you point us to
14 a district that does not diminish minority voting
15 ability but is more narrowly tailored?

16 MR. POPPER: Thank you for the question. I
17 would respond in a couple of ways. The first is
18 that the requirement of showing a district that
19 accomplishes the same thing in a more efficient or
20 less compact -- or more compact way was a one-time
21 requirement in federal court. It no longer is. And
22 I suppose this is a prelude to saying, no, I cannot
23 propose such a district to you, but I would
24 respectfully submit that the Tier 2 requirements of
25 Florida law will be superseded by the narrow

1 tailoring requirement of meeting the strict scrutiny
2 required for this not to be an equal protection
3 violation. I hope that answered your question.

4 CHAIRMAN SIROIS: Yes, thank you.

5 VICE-CHAIR TUCK: Representative Perez,
6 you're recognized in questions.

7 REPRESENTATIVE PEREZ: Thank you, Madam
8 Chair.

9 As I was looking up your biography before
10 you spoke -- which, by the way, welcome. Welcome to
11 the Committee. Welcome to Florida. I noticed that
12 you used to work for DOJ, and I think it's the early
13 2000s, mid 2000s. Did you ever work with Eric
14 Holder?

15 MR. POPPER: I've met Eric Holder. I guess
16 you could call it working with him when one is
17 subordinate to a subordinate to a subordinate, but
18 yes.

19 REPRESENTATIVE PEREZ: The reason that I
20 ask that is I'm sure you're aware, as many people
21 are aware, he's part of an organization now that
22 focuses on redistricting in a very partisan way,
23 specifically to make sure that that Democrats can
24 get elected or favorable redistricting measures in
25 different states. Did you consult or have you

1 consulted with anyone from Eric Holder's group that
2 he currently works with prior to today?

3 MR. POPPER: No, I have not.

4 REPRESENTATIVE PEREZ: Thank you.

5 VICE-CHAIR TUCK: Representative Clemons,
6 you may be recognized in questions.

7 REPRESENTATIVE CLEMONS: Thank you. And
8 I've read your report, your resume that you sent in
9 earlier, and you have a very impressive level of
10 expertise.

11 MR. POPPER: Thank you, sir.

12 REPRESENTATIVE CLEMONS: I'm just curious
13 though, what state do you reside in?

14 MR. POPPER: Maryland.

15 REPRESENTATIVE CLEMONS: Okay. So you
16 reside in Maryland. And then I think, previously,
17 you were asked if you were compensated, and you
18 responded that you were not. Can you just share
19 with us today the expenses, your hotel, your travel?
20 Are you borne -- are you absorbing those expenses
21 yourself, or will you submit a reimbursement to
22 anyone for those travel expenses?

23 MR. POPPER: Thank you. I must clarify,
24 based on what you're saying, that's true. It's my
25 understanding that we will be compensated. I would

1 say that we offered to forego that, but yes. We
2 would receive -- my understanding is that my flight
3 and my hotel will be compensated by the Governor's
4 office. That's my understanding.

5 REPRESENTATIVE CLEMONS: Follow-up, Madam
6 Chair.

7 There's no doubt that you are an expert in
8 these matters, and I do applaud you for being here
9 today. My follow-up question would resolve in: have
10 you offered this level of testimony in any other
11 state, at any other redistricting committee to date?

12 MR. POPPER: Missouri, long ago. Not on
13 gerrymandering; on different topics, sir.

14 REPRESENTATIVE CLEMONS: Follow-up.

15 So in the 2022 census and redistricting
16 throughout the nation, this is the only Committee
17 that you have testified in front of to share your
18 level of expertise?

19 MR. POPPER: That is correct as far as
20 committees go, but we are suing the state of
21 Maryland over their gerrymandering. And, in fact,
22 I'll be going to trial on March 15th. So that will
23 be process I'll be engaged in.

24 REPRESENTATIVE CLEMONS: And I think maybe
25 this is the last one. So when you say "we," are you

1 talking about your law firm?

2 MR. POPPER: I'm talking about Judicial
3 Watch.

4 REPRESENTATIVE CLEMONS: Okay. Judicial
5 Watch. Okay. Thank you. That concludes my
6 questions. Thank you, and thank you for being here.

7 MR. POPPER: Thank you.

8 VICE-CHAIR TUCK: Thank you,
9 Representative.

10 Mr. Popper, as you know, in the last
11 decade, we've had some landmark redistricting cases
12 in Florida law. So as it relates to Florida case
13 law, do you agree with Chief Justice Kennedy's
14 dissenting opinion, what he describes as
15 diminishment?

16 MR. POPPER: And you're talking about the
17 fair districting amendments and the Florida Supreme
18 Court's determination on those amendments? I'm not
19 an expert in Florida law. I understand the
20 decision. I understand that it's meant to be in
21 many ways an analog or even governed by the Federal
22 Authority that pertains to Section 2 and Section 5
23 of the Voting Rights Act. In that respect, if the
24 Florida courts follow the federal law, one would
25 expect that a non-compact district would not satisfy

1 the requirements of these state analogs of the
2 federal statute. Now, I don't say that as a Florida
3 practitioner. I'm not licensed in Florida. I'm not
4 as familiar with Florida law. My familiarity is
5 with federal law.

6 VICE-CHAIR TUCK: Thank you for that
7 answer. And so are you aware of any court's
8 interpretation of Section 5 that requires a district
9 to be compact?

10 MR. POPPER: Thank you for the question.
11 No. I'm not aware of any federal court decisions
12 that state that it must be compact, but I am aware
13 of Miller vs. Johnson Supreme Court decision
14 indicating that a district that was not compact was
15 not required by federal law. There's a lot of
16 interpretation from the fact that non-compact
17 districts were not permitted to fulfill certain
18 roles. And I know of no exceedingly non-compact
19 district that has been used to justify a compelling
20 explanation or justification that's narrowly
21 tailored to allow a race-based district to be drawn
22 in a congressional race.

23 VICE-CHAIR TUCK: Sure. So just keeping
24 our focus on diminishment for a minute, do you agree
25 that going from the current CD 5 to the proposed

1 Governor's district diminishes the ability to elect?

2 MR. POPPER: I'm sorry, I didn't hear that.

3 VICE-CHAIR TUCK: Oh, sorry. So just
4 focusing still on diminishment, do you agree that
5 going from the current CD 5 to the proposed
6 Governor's district will diminish the ability to
7 elect?

8 MR. POPPER: I can't speak to that, Madam
9 Chair, as an attorney. I can speak to it as an
10 individual. When you're talking about less than 50
11 percent, it's not clear. It's not clear to me as an
12 individual, not as an attorney. But there is
13 federal case law suggesting that -- well, there's
14 federal case law stating that a crossover district,
15 in which there is a minority participation that's
16 less than 50 percent, does not satisfy Section 2 of
17 the Voting Rights Act. That's Bartlett vs.
18 Strickland. There's also an indication in Perry vs.
19 Perez that the same restrictions would apply to a
20 district drawn under Section 5. But again, it's one
21 of those backwards implications where the court
22 simply says, these districts were not required. And
23 there they're talking about a coalition district,
24 which is a couple of minority groups together
25 combining to exceed 50 percent.

1 The crossover district is a minority group
2 combining with white voters to exceed 50 percent.
3 If you just have a minority-minority district, I'm
4 not sure what that accomplishes. As a practical
5 matter, it does create something of an influence
6 district, but does it diminish minority influence
7 and surrounding districts? It's ambiguous, but
8 that's not my call.

9 VICE-CHAIR TUCK: Thank you. Chair Sirois.

10 CHAIRMAN SIROIS: Thank you, Madam Chair.
11 Can you tell us, did you explore alternative
12 district configurations and performed the required
13 functional analysis to determine whether a more
14 compact district could have been drawn without
15 diminishing the minority's voting ability?

16 MR. POPPER: Representative Sirois, I did
17 not.

18 CHAIRMAN SIROIS: Thank you, Madam Chair.

19 VICE-CHAIR TUCK: Representative Fabricio,
20 you're recognized.

21 REPRESENTATIVE FABRICIO: Thank you, Madam
22 Chair. Earlier in the question and answer that I
23 was involved in, I asked about the relevance of
24 compactness, and one of the responses that I heard
25 was that compactness is also a factor of the

1 surrounding districts. And in light of CD 3 having
2 a Polsby-Popper score of .10, what would be your
3 analysis of that low score in the light of the
4 surrounding districts?

5 MR. POPPER: Thank you for the question.
6 The surrounding districts are always affected by a
7 non-compact district, but they're not as directly
8 affected. One can have non-compact districts
9 surrounded by compact districts. There tends to be
10 some spillover, particularly as districts become
11 serrated and indented on a small scale. But at the
12 same time, often, that's a smaller district
13 affecting a larger one, and the effect on
14 compactness is muted.

15 It's not always clear that changing a non-
16 compact district will affect the districts around
17 it. That being said, it can, but where you have a
18 district that is so low, when you have an average of
19 -- I believe it was 30, 37 percent Polsby-Popper,
20 and you have a district scoring 10, you could
21 increase that district. It doesn't have to just to
22 speak like someone who has sat at a computer and
23 tried to draw districts. It doesn't have to be
24 jammed up against the border like that. Those are
25 man-made district lines. Look at District 1, also

1 jammed up against the border and against natural
2 boundary. That's a compact district. Did that
3 answer your question?

4 VICE-CHAIR TUCK: And, Mr. Popper, does the
5 state of Florida's shape affect the compactness?

6 MR. POPPER: It doesn't affect the
7 compactness, Madam Chair, of District 1. I mean,
8 that's a flat border that it's pressed up -- I'm
9 sorry District 3. That's a flat border. I reside
10 in Maryland, and districts around the Chesapeake Bay
11 are naturally non-compact because the Chesapeake Bay
12 is non-compact. At the same time, you can see
13 what's man-made. There's a current district in
14 Maryland that goes across the Bay Bridge to connect
15 Anne Arundel County to the eastern portions of the
16 state. That didn't have to happen. And the
17 district we're looking at in District 3,
18 particularly the indentation in the western part of
19 the state heading north where it narrows, that
20 didn't have to be that way.

21 VICE-CHAIR TUCK: Thank you. And just
22 to provide full clarity for the Committee members
23 here. We seem to be focusing on about two of the
24 three compactness score methodologies, even though
25 there's only over 30 measures of compactness. So

1 can you provide any stats on all of these 30
2 measures of compactness?

3 MR. POPPER: No. But I -- no, Madam
4 Chair. I can tell you that the social scientists
5 tended to focus on Polsby-Popper, Reock, sometimes,
6 total perimeter, and sometimes Convex Hull. For the
7 reasons I've given, I don't believe Convex Hull is a
8 very good measure. I do think that there are things
9 captured by Reock that are not captured by Polsby-
10 Popper. I do believe there are things captured by
11 Polsby-Popper that are not captured by Reock. I
12 believe, as a professional in this field, that one
13 should focus on those two measures. But there are
14 many measures, and one can see -- if the chair has
15 any particular one in mind, one can see how they do
16 and don't work. I mean, there's a measure that you
17 look at north south divided by east west. Well,
18 that doesn't see a lot of convolutions that can
19 occur in the middle.

20 The Reock score doesn't necessarily see
21 serrations on a smaller level, while Polsby-Popper
22 does. But the Reock score is particularly good at
23 picking up a district that stretches. And as I
24 pointed out, it is unusual for those two scores to
25 agree to this extent. Usually, the Reock score is

1 more forgiving.

2 VICE-CHAIR TUCK: Now, are you aware of
3 which methodology was endorsed by the Supreme Court
4 in the last redistricting cycle?

5 MR. POPPER: We're speaking about the
6 Florida Supreme Court?

7 VICE-CHAIR TUCK: Correct.

8 MR. POPPER: I was, Madam Chair. I forget.

9 VICE-CHAIR TUCK: That's fine. Thank you.
10 Keep on going, if that's okay.

11 MR. POPPER: Please.

12 VICE-CHAIR TUCK: Representative
13 Giallombardo, you're recognized in questions? Good?
14 okay.

15 Representative Harding, any questions?

16 REPRESENTATIVE HARDING: Thank you, Madam
17 Chair.

18 And thank you for being here, and I
19 appreciate your experience and expertise you bring.
20 And I would also preface this question by saying I
21 come from a rural part of Florida, where we are the
22 large and long districts or something that we are
23 used to. And it's definitely a different
24 perspective on this.

25 If you view current Congressional

1 District 5 as racially gerrymandered, are you aware
2 of any court decision holding a state constitutional
3 provision that protects minority voting rights that
4 is insufficient to justify the use of race to draw a
5 district?

6 MR. POPPER: Well, no. But I am aware of
7 Miller versus Johnson talking about section two and
8 section five, DS versus Silver talking about section
9 two and section five, Cooper versus Harris talking
10 about section two. And these are federal statutes
11 that didn't do the job under the supremacy clause.
12 I would imagine that the Tier 1, Tier 2 requirements
13 of federal law would be in an even weaker position,
14 but no.

15 VICE-CHAIR TUCK: Representative
16 Hunschofsky, any questions?

17 REPRESENTATIVE HUNSCHOFSKY: Thank you,
18 Madam Chair. I'm not an attorney, so please forgive
19 me in my elementary way of asking this question.
20 You talk about compactness and how important it is
21 from a federal law standpoint. When looking at
22 federal law, in your opinion, is compactness more
23 important than having an equal opportunity
24 representation in our districts?

25 MR. POPPER: I suppose my answer would be

1 that I don't think that they're pitted against each
2 other in the same way that they are under Florida
3 law. Compactness arises in the legal framework --
4 I'm talking about at the tail end of an analysis of
5 a race-based district violates the equal protection
6 clause unless it satisfies strict scrutiny. It
7 satisfies strict scrutiny if there's a compelling
8 justification that is narrowly tailored to achieve
9 its object.

10 And there in the narrow tailoring is where
11 the Supreme Court has said this doesn't work. So
12 they're not aligned in the same sentence or in the
13 same provision as they are in Article III, Section
14 20 of the Florida constitution. So I can't really -
15 - as important is a difficult question.

16 VICE-CHAIR TUCK: Follow up?

17 REPRESENTATIVE HUNSCHOFSKY: Thank you,
18 Madam Chair. So, again, I'm not an attorney, and
19 your focus on compactness is just kind of as a
20 layperson, made me incredibly curious that that
21 seems to be -- and I understand, you know, with your
22 last name and everything -- why it is your focus.
23 But in the reality, we're here, big picture, trying
24 to weigh what is best for the residents of the state
25 of Florida and Florida's representation.

1 You mentioned the term "compelling
2 justification." Do you believe there is a
3 compelling justification to have less access for
4 racial or language minorities to less access and
5 less ability to elect their representatives of
6 choice? You believe there's a compelling
7 justification to have less of that in favor of more
8 compactness?

9 MR. POPPER: Thank you for the question. I
10 think I can address it both as a lawyer and as a
11 non-lawyer. As a lawyer, under Section 2 of the
12 Voting Rights Act, even under Section 5, it is
13 possible to show the strong basis and evidence that
14 permits a compelling justification that, for
15 example, a district drawn to enhance and equalize
16 the opportunity of minority populations to elect
17 their candidates of choice. This is all very much
18 as a lawyer. That can justify a race-based
19 district. It has been held to be that that can
20 happen. I'm saying that it's unlikely to happen
21 with a district that looks like this.

22 As a layperson, I think that's an entirely
23 ambiguous question, just in the sense of 42 percent
24 black voting age population in District 3, or 44
25 percent, as I believe the state's figures. Is that

1 going to lead to more representation of the kind
2 that you're talking about than 10 percent in 4
3 districts? It's not clear, particularly when the 44
4 percent comes from other districts which now have
5 less black population. That's not -- speaking as a
6 non-lawyer, it's not clear -- as a politician, I
7 guess -- it's not clear what that does. So I don't
8 know that -- I wouldn't say that that's a compelling
9 explanation unless it's explained further.

10 VICE-CHAIR TUCK: Follow up?

11 REPRESENTATIVE HUNSCHOFSKY: I'm not an
12 attorney, but I too am just a regular person. And
13 I'm asking this question because this is the
14 question that we're faced with when we are making
15 these decisions. This is a balancing act, as I
16 think we've heard from everybody. So I ask again,
17 if the two do come into conflict, that what we see
18 is the Tier 1, the opportunity of racial or language
19 minorities to participate in the political process
20 or to diminish their -- we're not allowed to deny
21 their -- or bridge the equal opportunity for racial
22 or language minorities to participate in the
23 political process or to diminish their ability to
24 elect a representative of choice, or districts shall
25 be compact. If the two come in conflict, which wins

1 out in law, in your opinion?

2 MR. POPPER: In law? That's a matter of
3 Florida law. I can't tell you. I don't know, and I
4 think there's some speculation about what the
5 Florida Supreme Court would do with that question.
6 In federal law, the district is in trouble. In
7 federal law, it's not going to come down to that
8 way. And I shouldn't presume to be in your
9 difficult position making these difficult choices,
10 and I don't mean to do that and second guess you on
11 that.

12 When I talk as a politician, I think I'm
13 talking out of turn. I should talk only as a
14 lawyer. And talking as a lawyer, this district is
15 going to have problems in federal court. If I had a
16 client, I would counsel them that way. And it's
17 going to have problems as a question of narrow
18 tailoring. And they, the federal court, are not
19 going to care to the same extent that the Florida
20 Supreme Court cares about Tier 1 and Tier 2.
21 They're going to view it as not narrowly tailored.
22 That's my prediction. Did that answer your
23 question?

24 REPRESENTATIVE HUNSCHOFSKY: Not really,
25 but thank you.

1 MR. POPPER: I would like to answer your
2 question.

3 Madam Chair.

4 VICE-CHAIR TUCK: Representative, you're
5 good? Hunschofsky?

6 REPRESENTATIVE HUNSCHOFSKY: Madam Chair,
7 I've asked my question in several ways, and it's the
8 same answer. So yes, I'm good. Thank you. And I
9 appreciate your indulgence on that.

10 VICE-CHAIR TUCK: That's good. Thank you.
11 Mr. Popper, do you agree that protecting minority
12 voting ability from diminishment is a compelling
13 state interest?

14 MR. POPPER: It can be. Yes. If it's
15 accomplished, Madam Chair, with a narrowly tailored
16 remedy. Yes.

17 VICE-CHAIR TUCK: So in that case, do you
18 believe there should be any minority districts in
19 North Florida, whether protected by state law or
20 federal law?

21 MR. POPPER: Madam Chair, you're asking me
22 to act as a politician. I mean, I think my
23 testimony -- the thing that I am an expert in -- I
24 guess everyone's an expert in their own opinions.
25 But the thing that I am an expert in is traditional

1 districting criteria and narrow tailoring of
2 districts. And there's a problem. It's a difficult
3 weighing the kind of thing you all do.

4 VICE-CHAIR TUCK: Thank you.

5 Representative Joseph, any questions?

6 REPRESENTATIVE JOSEPH: Thank you, Madam
7 Chair.

8 So how many compact metrics are there that
9 you're aware of?

10 MR. POPPER: There are a lot,
11 Representative Joseph.

12 REPRESENTATIVE JOSEPH: Estimation?

13 MR. POPPER: I believe 20, perhaps, or 30.

14 REPRESENTATIVE JOSEPH: 20 to 30?

15 MR. POPPER: Yeah.

16 REPRESENTATIVE JOSEPH: And some are better
17 than others, correct.

18 MR. POPPER: One is best, but yes.

19 REPRESENTATIVE JOSEPH: The one that you
20 believe is best, I would assume that's yours, yeah?

21 MR. POPPER: It does happen to be that.
22 Yes.

23 REPRESENTATIVE JOSEPH: Okay. So since it
24 happens to be that and you believe that it's best,
25 why don't you tell me about some of the -- talk to

1 the Committee about some of the infirmities of that
2 particular method.

3 MR. POPPER: Well, okay. That's an
4 interesting question.

5 REPRESENTATIVE JOSEPH: Yes, it is.

6 MR. POPPER: I think what it does is a
7 number of things, and perhaps as I'm discussing what
8 it does, I can pick out the infirmities. What it
9 definitely does is it arrays along a scale, so more
10 is more and less is less. There are some measures
11 of compactness that just don't see certain kinds of
12 contortions. For example, the Reock score, if a
13 district was generally compact but there was a spike
14 oriented down, it would score that as better because
15 the circumscribing circle would be smaller than if
16 that same spike were heading due east. There's no
17 logical reason for that. The person drawing a map
18 who's trying to gerrymander might want the spike to
19 point in any particular direction. That's a problem
20 with the Reock score, but Polsby-Popper doesn't have
21 that problem. That spike score is exactly the same
22 in both scenarios.

23 I suppose focusing on the Reock score, it
24 very much captures when a district is long, when a
25 district is wandering, just the whole district is

1 shooting through the state. Polsby-Popper may not
2 capture that as well. Polsby-Popper captures
3 indentations, and Convex Hull doesn't capture them
4 at all. In my opinion, barely captures them.

5 REPRESENTATIVE JOSEPH: Thank you.

6 Follow up?

7 So you compared and contrasted the Reock
8 score with the Polsby-Popper score, what about its
9 infirmities compared to any of the other metrics for
10 compactness that can be used? Are there any other
11 ones that are superior to yours, in your opinion, or
12 that you've heard or heard criticized about that
13 exceed your metric in any way, shape, or form?

14 MR. POPPER: I do not believe so. There's
15 one qualification I would make: no one has perfectly
16 compact districts. It would do -- wreak havoc on
17 political subdivisions, on communities of interest.
18 You can't have a honeycomb of hexagons. We can't be
19 silly about it, but if the minimum district length
20 were perfect, that would be a perfectly compact set
21 of districts. That's the aggregate of all district
22 lines added up the total.

23 REPRESENTATIVE JOSEPH: Thank you, Madam
24 Chair.

25 And thank you for the response. My next

1 question is following up on that. In your opinion,
2 none of the other ones come close to yours, it
3 sounds like, other than, maybe, Reock on that one
4 point of length. To your knowledge, have there been
5 any individuals, entities, organizations, court
6 opinions, policy, folks who have criticized or
7 identified other infirmities in your metric versus
8 the other alternatives.

9 MR. POPPER: No courts. I would say that
10 courts typically rely on Polsby-Popper, Reock, and
11 Convex Hull. And bear in mind, that's what the
12 Florida Legislature has done. So I guess my
13 response as a professional would be that you're very
14 much in the right ballpark. These are the ones that
15 you should be looking at. I know of no court that's
16 criticized Reock or Polsby-Popper, or Convex Hull, I
17 think.

18 REPRESENTATIVE JOSEPH: Aside from courts?

19 MR. POPPER: Yeah, they're commentators. I
20 mean, the commentators are all over the map. There
21 are commentators who don't believe that there is
22 such a thing as gerrymandering. Many of them have
23 advised the United States Supreme Court, but there
24 are state courts that think differently. There are
25 commentators that have incredibly complicated

1 mathematical expressions of compactness involving
2 minimum distance from the center of gravity, and
3 then minimum distance from the center of gravity of
4 population. And it can get absurd and certainly
5 well beyond my mathematical abilities. Thank you
6 for allowing me to get this much in the weeds. No
7 one else on earth would want to hear me talk about
8 these things, but I appreciate your interest.

9 VICE-CHAIR TUCK: Representative Joseph, if
10 it's okay, we have two more members that want to ask
11 questions. We need to move on.

12 REPRESENTATIVE JOSEPH: Sure. Yep.

13 VICE-CHAIR TUCK: Representative Perez in
14 questions.

15 REPRESENTATIVE PEREZ: Thank you, Madam
16 Chair. I want to follow up on a question that was
17 asked by Representative Harding that had to do with
18 if there were any State Court decisions that said
19 race could not be used in drawing a district. I
20 think he had asked you that question, I think you
21 had said that you were not aware of any. Assuming
22 that that premise is correct, would it be fair to
23 say that the 14th Amendment would invalidate fair
24 district amendments, specifically the prohibition on
25 not diminishing the ability of minority communities

1 to elect a candidate of their choice. And if it
2 doesn't -- assuming that that isn't true, if it does
3 not, then why is complying with the Florida
4 constitution not a compelling state interest?

5 MR. POPPER: It absolutely can be a
6 compelling state interest, just as it could have
7 been when it was operative, the compelling state
8 interest to comply with and enforce Section 5 of the
9 Voting Rights Act. It could be. It depends on the
10 remedy.

11 The remedy has to be narrowly tailored. I
12 do not suggest, and my testimony is not to suggest
13 that the Fair Districts amendment would be
14 unconstitutional in all its applications. It
15 absolutely wouldn't. It could justify a race-based
16 district. It could. My testimony is just that it
17 doesn't, not with this district.

18 VICE-CHAIR TUCK: Representative Davis in
19 questions?

20 REPRESENTATIVE DAVIS: Thank you. Kind of
21 a sidebar. Thank you, Madam Chair.

22 You mentioned earlier, as I was noting,
23 that you reside in Maryland.

24 MR. POPPER: I do.

25 REPRESENTATIVE DAVIS: And so you were

1 offered or told you would be compensated your flight
2 and hotel by the Governor's office, correct?

3 MR. POPPER: That's right.

4 REPRESENTATIVE DAVIS: Could you just tell
5 me, and I'm just curious, how often are you invited
6 to states to testify on the redistricting process
7 itself by a Governor?

8 MR. POPPER: This would be the first.

9 VICE-CHAIR TUCK: Follow up?

10 REPRESENTATIVE DAVIS: Thank you, Madam
11 Chair.

12 Is that unusual, in your opinion, to be
13 asked to come and testify about a redistricting
14 process that you've heard my colleagues say that
15 we're trying to keep this as transparent as
16 possible. Is this unusual, in your opinion, for a
17 Governor's office to reach out to you to testify on
18 the redistricting process itself?

19 MR. POPPER: Representative, I don't
20 believe so. I've testified on other bills, not
21 redistricting, other voting bills and other
22 legislatures, including every Judicial Watch,
23 including Pennsylvania. But I am a person who can
24 offer expert testimony on this district, and so I
25 believe it would have been logical to think of me.

1 VICE-CHAIR TUCK: Final question. Chair
2 Sirois.

3 CHAIRMAN SIROIS: Thank you very much,
4 Madam Chair.

5 Sir, in your written testimony that you
6 provided, that I had an opportunity to read earlier
7 this morning, I think you said that Florida's non-
8 diminishment standard protects only majority-
9 minority districts. What is your strongest legal
10 authority for that proposition? And didn't the
11 Florida Supreme Court say the exact opposite in its
12 first apportionment decision in 2012?

13 MR. POPPER: Thank you. And forgive me,
14 could you read back to me what I said again? I
15 don't recall that.

16 CHAIRMAN SIROIS: I don't have it in front
17 of me, sir, but it's your written testimony that you
18 provided this morning.

19 MR. POPPER: And if I made a representation
20 about what the Florida Supreme Court would do; is
21 that correct? I'm not --

22 CHAIRMAN SIROIS: Yes, that's correct. In
23 your written testimony.

24 MR. POPPER: I don't recall that. I should
25 not have been opining about what the Florida Supreme

1 Court would do. May I have a look at my testimony?
2 Or is that not fruitful?

3 VICE-CHAIR TUCK: Thank you. We're going
4 to try to move on a little bit so we can get through
5 all public testimony and debate. So we appreciate
6 you being here. Thank you so much.

7 MR. POPPER: Thank you for having me.
8 Thank you, Madam Chair.

9 VICE-CHAIR TUCK: All right. Next up,
10 Michael Johnson. Is he here? He's a proponent of
11 the bill. Miranda Galindo? And, Members, as a
12 reminder, we have about seven public appearance
13 cards left, and we need time for a debate. So just
14 keep that in mind.

15 You're recognized.

16 MS. GALINDO: Good morning. Miranda
17 Galindo for Latino Justice, PRLDEF. Thank you for
18 your hard work this redistricting season and for the
19 opportunity to present our opposition to the
20 proposed map, which unfairly represents your
21 constituents.

22 Florida's booming Latino population is
23 underrepresented. The 2020 census counted nearly
24 one and a half million more Latinos in Florida than
25 it did a decade ago, and common sense dictates that

1 a protected class comprising over a quarter of
2 Florida's total population should enjoy a fair
3 number of Latino majority districts. In 2010,
4 Latinos comprised about 22 percent of Florida's
5 total population and have grown substantially over
6 the last decade to now comprise over 26 percent of
7 Florida's total population. While Latinos now
8 represent over a quarter of Florida's total
9 population, only 14.2 percent of the congressional
10 seats proposed in Map H-8011 are majority Hispanic
11 voting age population districts. In contrast, non-
12 Hispanic white Floridians are approximately 53
13 percent of Florida's total population but are a
14 majority voting age population and 64 percent of the
15 congressional districts in H-8011.

16 The redistricting process should mitigate,
17 not exacerbate, the injustice of desperately low
18 Latino political power. Congress passed the Voting
19 Rights Act of 1965 to protect our democratic process
20 from racial discrimination, and I'd like to note
21 that the Voting Rights Act exists in harmony with
22 the equal protection clause of the United States
23 Constitution.

24 Florida Legislature is entrusted with
25 enforcing this landmark Civil Rights Law to combat

1 discriminatory practices that have historically
2 disenfranchised black, brown, and indigenous
3 Floridians, including English-only electoral
4 practices, all-white primaries in malapportionment,
5 all of which undermined the ability of racial and
6 language minorities to elect their candidates of
7 choice. The Voting Rights Act requires that where
8 Latino majority districts may be drawn feasibly and
9 consistent with Section 2, they must be drawn.

10 First, we urge the House to create an
11 additional Latino opportunity district in Central
12 Florida, which is supported by the census data.
13 Such a district would accurately reflect demographic
14 changes and provide districts that are more aligned
15 with the true voting strength of Latino Floridians.

16 Second, while proposed Congressional
17 District 9 create one new Latino majority district,
18 the House has drawn it with a barest Latino
19 majorities. The Hispanic voting age population is
20 only 50.06 percent. We urge the House to strengthen
21 the slim Latino majority in CD 9, a region that
22 accounts for some of the greatest Latino population
23 growth over the last 10 years.

24 Without an additional opportunity district
25 in Central Florida and a more robust Latino majority

1 in CD 9, H-8011 fails to meaningfully account for
2 the substantial Latino population growth that
3 largely fueled Florida's receipt of an additional
4 congressional seat after the 2020 Census. Census
5 data does not support the creation of additional
6 white majority districts. That benchmark map had 17
7 white majority voting age population districts, and
8 H-8011 increases that number to 18. This is
9 fundamentally unfair.

10 District maps generally violate Section 2,
11 where they crack or fragment minority voters among
12 several districts, where black voting majority can
13 routinely outvote them. The House has a duty to
14 evaluate how to avoid cracking geographically
15 compact Latino populations, yet H-8011 cracks many
16 more Latino communities than the Senate's adopted
17 map, Senate Plan H-8060. The first egregious
18 example of H-8011 cracking is proposed Congressional
19 Districts 14 and 15, which split them Latino
20 populations in Hillsborough and Pasco County, near
21 the (Indiscernible) City Riverbend area.

22 In contrast, the Senate's adopted plan and
23 the benchmark map kept these communities whole. H-
24 8011 also unnecessarily cracks Latino communities in
25 Hendry and Collier counties. In contrast, the

1 Senate's adopted plan and the benchmark map largely
2 kept these communities whole.

3 Similarly, H-8011 unnecessarily cracks
4 black communities compared to the Senate's adopted
5 plan. The most egregious example is the dismantling
6 of Congressional District 10, a benchmark district
7 in Orlando, which a geographically compact
8 population of black voters have had an opportunity
9 to elect candidates of choice. We urge the House to
10 avoid cracking Orlando's black community across
11 three separate congressional districts, as was
12 achieved in the Senate's adopted plan.

13 We call upon the House to exercise its duty
14 to keep black and Latino communities whole where
15 possible, and we know this is possible because the
16 Senate's adopted plan did a better job of it.
17 Latino Justice reiterates its request for meaningful
18 opportunities for public participation in the form
19 of improved language access services, virtual
20 participation options for public hearings, and
21 regional public hearings outside of Tallahassee.
22 Floridians who are limited English proficient
23 impacted by the COVID-19 pandemic and reside far
24 away from Tallahassee are no less deserving of
25 having their voices heard in this forum.

1 We have repeatedly asked for translation of
2 the forms to submit public input in the "get
3 involved portion" of the floridaredistricting.gov
4 website. The willful failure to provide these
5 minimal, yet fundamental, translations is an
6 inexcusable obstacle for your limited English-
7 proficient constituents and deprives the Legislature
8 and the redistricting process of complete
9 information on protected communities.

10 Finally, the earlier mention of performance
11 analysis data held by outside counsel but
12 unavailable to the members of this Committee and
13 unavailable to the public undermines the ability for
14 a meaningful public and your representatives'
15 evaluation of this map's compliance with anti-
16 discrimination laws. We urge this Subcommittee to
17 release it immediately. Where more information
18 exists, why hide it? Thank you.

19 VICE-CHAIR TUCK: Thank you for being here.
20 David Trotti. You're recognized.

21 MR. TROTTI: Good morning. My name is
22 David Trotti, and thank you for allowing me to speak
23 in front of you this morning. I'm a resident of
24 Jacksonville, Florida, but my physical office and my
25 residence is in District 3. I am here today to

1 speak on behalf of what I do in my spare time, which
2 is represent veterans. I'm the chairman of the
3 Veterans Council of Duval County. That is a
4 Committee that was born of a mayor's executive order
5 since 1986. Since 2016, I was the vice chairman,
6 and since 2020, I was Chairman.

7 There are over 80,000 veterans in Duval
8 County alone. In St. Johns, Nassau, they count as a
9 120,000. So the mass of veterans are in the east
10 side of the state, surrounding Jacksonville. I
11 believe it's only about 15,000 veterans in Leon
12 County and 3400 in Gadsden County. What we need is
13 we need representation in Jacksonville, Duval County
14 area that's going to be there, boots on the ground,
15 to hear what veterans need in Duval County.

16 In District 4, Councilman Rutherford, he's
17 there. He's present. He's at our meetings. I'm
18 not speaking that Al Lawson doesn't do things for
19 veterans. That's not what I'm here about. It's
20 like having a football team in the Super Bowl for
21 your defensive coordinator or for the front team,
22 and it's not at your practices. So I implore you to
23 reconsider the consolidation of District 3. Let
24 Duval County, Jacksonville, stay consolidated as
25 one, or -- I believe the Governor has created a new

1 district. I only saw that on Facebook a couple of
2 days ago. And I was asking some of my veteran
3 friends, what do you think about having Jacksonville
4 and Duval County as one district? I think it will
5 benefit veterans. We're talking about
6 consolidation, best interest of our residents, and
7 things we have to consider. I think we have to
8 consider the best interests of Jacksonville, Duval
9 County in that redistricting. Thank you.

10 VICE-CHAIR TUCK: Thank you for being here.
11 Jasmine Burney with Equal Ground Action
12 Fund. You're recognized.

13 MS. BURNEY: Thank you. Good morning,
14 everyone. I'd like to first say thank you all so
15 much for following the lead of the Supreme Court and
16 moving forward with a map drawing process that you
17 have all been constitutionally tasked to do so with.

18 Second, again, my name is Jasmine Burney-
19 Clark. I am the founder and director of Equal
20 Ground Education and Action Fund. We are created to
21 advocate for the voting rights of black voters,
22 specifically, along the I-4 corridor. We work to
23 register, educate, and mobilize black voters. We
24 were founded in 2019, and that's important because
25 it's two cycles after CD 10 was created and because

1 we were established to help break the barriers
2 facing black voters as we witnessed the acts of
3 voter suppression across the state of Florida.

4 Suppression tactics in the form of
5 legislation signed into law by this Governor and
6 other Governors in past years that have been proven
7 to diminish the black voter turnout. I'm also here
8 as a resident of CD 10. I ask that you learn from
9 the lessons of 2016 and don't make the same mistakes
10 that led to the redrawing of maps due to misconduct
11 and gerrymandering. I also ask that you follow the
12 lead of the Senate when it comes to preserving CD 10
13 under the Tier 1 status or, as Rep Joseph pointed
14 out earlier, of the possibility of placing it under
15 Tier 2 standards in future iterations.

16 This district only provides election
17 performance for less than a decade compared to the
18 other districts designed with similar makeup. And
19 so the general election book closing data, that I
20 had a chance to look up on black voters in Orange
21 County where they are largely situated in CD 10, saw
22 an increase in voter registration actually from
23 2016, 2018, and 2020 despite the turnout that
24 decreased as those years proceeded. So the will of
25 the resident is to elect someone who represents them

1 in their district. However, it's not something that
2 they are opposed to. It does, however, appear that
3 the laws in this state have made it difficult for
4 them to actually access the ballot box.

5 So I ask that you give CD 10 and the voters
6 of CD 10 the same fighting chance over the course of
7 the next decade without diluting the voting power
8 before you've been given a decade of data to
9 accurately prove otherwise. I am in opposition of
10 the current iteration of this map, and I thank you
11 for your time.

12 VICE-CHAIR TUCK: Thank you for being here.
13 Kristen -- I apologize, Folulee (phonetic)?

14 MS. FORLULEE: (Indiscernible)

15 VICE-CHAIR TUCK: Thank you for being here.
16 Genesis Robinson?

17 GENESIS ROBINSON: (Indiscernible).

18 VICE-CHAIR TUCK: Thank you for being here.
19 Pastor Marcus McCoy with Equal Ground as
20 well.

21 PASTOR MCCOY: (Indiscernible).

22 VICE-CHAIR TUCK: Thank you for being here.
23 Cecile Scoon with the League of Women
24 Voters of Florida.

25 MS. SCOON: Good morning. My name is

1 Cecile Scoon. I'm president of the League of Women
2 Voters of Florida, and I've been listening intently
3 to the testimony and the questioning that the
4 members have had. It's been a very robust debate
5 and conversation.

6 I have my own comments, but I also wanted
7 to speak to some of the comments that Mr. Popper
8 made. And if you listen very carefully to what
9 Mr. Popper said, he admitted to you under your
10 questioning which was very thorough, he had no case
11 to point to to support his comments. He could not
12 point to one case on point. He literally stated to
13 you that the analysis of narrowly construing and
14 protecting minority access districts did not appear
15 in the same sentence. He literally is taking
16 ingredients for salad and mixing them up in a bowl
17 and says, oop, I like this new salad. There is no
18 case law. The United States Supreme Court and,
19 certainly, the Florida Supreme Court has not
20 supported, in any way, the statements that were made
21 before you today. When you questioned him, he
22 backed up and said, no, I don't have a case. Oh,
23 but there is some other things that we're
24 discussing, some other parameters. Well, we
25 lawyers, we call that dicta, and those of us who

1 practice in court, which I do, I know that to build
2 my case on dicta, that does not directly support the
3 contention that I'm trying to make before the Court,
4 I'm just burning my client's money and time. Dicta
5 that you mix up in a bowl, that does not even occur
6 in the same sentence, does not support going against
7 the well understood analysis of the Voting Rights
8 Act Section 2 and our Fair Districts.

9 Remember the point of our Fair Districts,
10 we basically poured Section 2 into our Tier 1. So
11 there is a lot of closeness to our Tier 1 and
12 Section 2. And it literally says -- and the case
13 law when you deal with race, whether it be in
14 employment matters, where I would consider myself
15 somewhat of an expert on employment discrimination,
16 the analysis is the same when you're dealing with
17 race, when you're dealing with women. Because when
18 our nation started, there were only two groups that
19 were held down in writing. Women were considered
20 Chattel. They could not vote when our nation
21 started, and people of African descent were three-
22 fifths of a person. Because in our founding
23 documents we started that way, as our nation grew,
24 and we tried to make real this concept of equal
25 rights, their concept of strict scrutiny came about.

1 And it said, because prior to that time, the laws
2 were against women, the laws held women down and
3 blacks down, so the law came out strict scrutiny.
4 When you have a law that touches those groups
5 because they started out under the heel of our
6 government, you have to have strict scrutiny. If so
7 the idea of --

8 VICE TUCK CHAIR: Ms. Scoon.

9 MS. SCOON: Yes, ma'am.

10 THE COURT: We appreciate the passion but
11 if we could bring it back to the comments of the
12 bill --

13 MS. SCOON: I just wanted to clarify -- and
14 I thank you for getting me back on point. The point
15 is the strict scrutiny thing is not the way Mr.
16 Popper said it. It's because of the history of
17 using it against these groups. So it says when you
18 use strict scrutiny -- when you deal with race and
19 you deal with gender also, you have the government
20 needs to do it properly and narrowly. So we have
21 our guidelines in our Fair Districts. We have our
22 guidelines in our Voting Rights Act, and they were
23 written in a way that you could use strict scrutiny
24 to create the proper districts. And by taking into
25 consideration the Gingles elements which are laid

1 out in the Supreme Court, as laid out. That is
2 their methodology to doing the strict scrutiny. So
3 it's not like, we're taking race into consideration.
4 Are we being discriminatory? It's because you're
5 trying to remedy a historical problem, and you need
6 to do it following the guidelines. And so taking
7 into consideration the ability of a minority,
8 racial, or language group to be able to select a
9 representative of their choice is not being
10 discriminatory. And I have a few more comments that
11 I wanted to -- I just wanted to address some of the
12 things that he had said, and thank you for that.

13 The League would support the maintenance of
14 Congressional District 10, for reasons testified to
15 by Latino justice and Equal Ground and some of the
16 issues raised by some of your own representatives.
17 We believe that the voting record and the voting age
18 population and how they have actually functionally
19 performed demonstrates that the capacity for that
20 district to select a represent a representative of
21 their choice, who is African-American, they have
22 demonstrated that, and there's nothing like history,
23 you know, to show you that they can do that. So
24 that district, we contend should be maintained.

25 I also wanted to point out that the United

1 States Supreme Court in the Rucho v. Common Cause
2 case, literally phrased Florida and literally quoted
3 our Fair Districts in a footnote. And because at
4 the case, the people were going to the federal
5 government to the United States Supreme Court, and
6 they were saying, help me. This particular state or
7 the Governor is doing political gerrymandering. Can
8 the federal government step in? And Rucho said,
9 hey, the federal government is not laying out these
10 guidelines. The State has the capacity to, and they
11 cited Florida. And they told the rest of the
12 states, if you want guidelines in your state
13 constitution, to protect against political
14 gerrymandering, literally do what Fair Districts
15 says. And this was established in the Supreme
16 Court, I mean, our Florida Supreme Court case that
17 everyone's been talking about in 2015. And they
18 literally said Florida's Fair Districts' amendments
19 are clear. They are enforceable. And if other
20 states want to protect against political
21 gerrymandering, look and do what Florida has done.
22 They held us out to the rest of the nation. So our
23 Fair Districts were looked at by our United States
24 Supreme Court. Our Fair Districts were approved by
25 our United States Supreme Court. So whatever

1 Mr. Popper was trying to tell you that our Fair
2 Districts don't stand up to muster, the Supreme
3 Court has looked at us. They've held us out as an
4 example to the rest of the world.

5 And finally, I said that we have done a
6 good job, and I'm proud of us for that. And the
7 last thing I wanted to like to say is we would also
8 like to be able to see the analysis that the outside
9 legal counsel has been doing with regards to data
10 analysis, that was utilized in providing legal
11 advice and assistance to you. Thank you very much.

12 VICE-CHAIR TUCK: Thank you for being here.

13 Members, we are going to be going into the
14 debate. We have about 35 minutes left. We need to
15 give Chair Sirois an opportunity to close and vote,
16 so please keep that in mind.

17 With that said, any members wishing to
18 debate?

19 Representative Harding, you're recognized.

20 REPRESENTATIVE HARDING: Thank you, ma'am
21 Chair. And first, I want to commend you today.
22 You've done a great job and also Chair Sirois. And
23 the way that you've conducted this whole process,
24 it's been very educational. And I think that it's
25 probably the most awesome responsibility that we

1 have as a legislator and pretty unique that we get
2 to be a part of it here in our first term. You
3 know, I've stated it earlier in one of my questions,
4 but I come from a rural part of Florida where we
5 have really large districts, and it's interesting --
6 and part of the educational part of this Committee
7 is listening on questions of districts that are
8 obviously much smaller than the areas that I come
9 from and that I see. But it's an interesting banter
10 that I've learnt.

11 I'm going to support what is coming out of
12 this Committee today with this map, and I'm going to
13 do it for two reasons. Number one, I trust and
14 believe this Committee, and I think that the product
15 that we have proposed. And, number two, I trust the
16 process that this is the first Committee stop, and
17 there will be a process. And I think that, you
18 know, as we've heard today, I would say on both
19 sides of this issue, there's always room for
20 improvement and discussion.

21 And I have full confidence in you, Chair,
22 and then also Chair Leek, that as this moves
23 forward, any things that are necessary or changes
24 that are needed will be addressed. I look forward
25 to supporting the map, and again, I want to thank

1 all of you that have been a part of creating this.

2 VICE-CHAIR TUCK: Thank you, Representative
3 Harding.

4 Ranking member Skidmore on debate?

5 REPRESENTATIVE SKIDMORE: Thank you, Madam
6 Chair.

7 I too want to thank all the Committee
8 members for being so engaged in this process. It's
9 been a little bit challenging and the work product
10 that we have today is one that we do hope will
11 change and be amended throughout the process so that
12 at some point along the way, we will be able to
13 support it.

14 I will say also that Mr. Popper almost
15 convinced me to vote for it in his testimony, but I
16 will be voting no today because there are still some
17 major concerns that we have in Central Florida and
18 in South Florida as well. And we know that this is
19 just the beginning point of this process. It is
20 nice.

21 We are happy to finally have a map that we
22 can discuss and appreciate the pause that was taken
23 to make sure we were all on the right track moving
24 forward. So I will be a no vote today, but I do
25 also love and respect and admire the legislative

1 process that allows us to start at a point where we
2 might be in disagreement and at a point where we are
3 all on the same page. So I'm looking forward to
4 that process.

5 Thank you, Mr. Chair, and thank you, Ma'am
6 Chair.

7 VICE-CHAIR TUCK: Thank you, Ranking
8 Member.

9 Any other members?

10 Representative Brown?

11 REPRESENTATIVE BROWN: Thank you, Madam
12 Chair, and thank you, Chair Sirois, for your
13 continuous conversations relating to the maps that
14 we see today but also those that we've workshopped
15 in the past. I thank you for the open process and
16 for your continuous openness to sit down to hear
17 many of my concerns.

18 And I think I have been -- you know, I've
19 said several times just the concerns I have with CD
20 10 among other areas and just again questioning what
21 we were able to see, well, based off of my own
22 knowledge and understanding of that particular
23 community and those boundary make ups but also how
24 we weren't able to get to it, but it seems as though
25 the next chamber was able to see or have a different

1 opinion. And so it would be -- my ask, I will be a
2 no today, but just with the confidence that myself
3 along with staff and you to sort of sit down to sort
4 of figure out a different configuration of this
5 particular benchmark district.

6 Thank you again, and I appreciate staff and
7 Kelly. But I look forward to, you know, being able
8 to see it in a different way once it goes to the
9 full Committee. So thank you again, just for the
10 process and your understanding of my concerns, and I
11 look forward to working with you to see how we
12 rectify some of those issues. Thank you.

13 VICE-CHAIR TUCK: Ex-officio Davis in
14 debate.

15 REPRESENTATIVE DAVIS: Thank you, Chair, and
16 I won't be long because I definitely want to give
17 the time to Chair to make this close. But I do want
18 to thank my colleagues for allowing me to be a part
19 of the Committee today. But I definitely didn't
20 know that CD 3 on this map would be a focus of
21 conversation. I appreciate the questions that was
22 asked of the person testifying, but one of the
23 speakers made the statement, and I actually wrote
24 the note myself. There was through all of those
25 suggestions that the gentleman was making, he

1 provided us with actually no functional analysis to
2 illustrate any of the testimony that he was sharing
3 with us. And, Chair Sirois, that's why I was going
4 back and forth with you with that functional
5 analysis versus the performance analysis, to just
6 make sure I was clear with that.

7 So with that, as you've heard from my
8 colleagues, there are concerns with CD 10 because
9 the House is not in the same position as the Senate
10 with that District. I know we can get to the middle
11 and find a common ground with that. But I am glad
12 that in both of these maps, we do have an existence
13 of CD 3 in our map and CD 5 over in, I think, the
14 Senate map, and I would like to make sure I'm on
15 record to state that I appreciate wholeheartedly
16 that district being protected and being seen in both
17 maps and that we are not following the lead of an
18 administration who obviously has a different
19 mindset. So just wanted to put that on record.

20 Today, I will be down on this map just
21 because simply I know we still have work to do. And
22 I know the two Houses we'll get together and produce
23 maps that we eventually, hopefully, all can agree
24 on. So with that, I'll turn it back over to Chair
25 to close, and we get on our way. But today I will

1 be a no vote just because I know there's still work
2 to be done. Thank you.

3 Representative Joseph in debate.

4 REPRESENTATIVE JOSEPH: Thank you, Madam
5 Chair.

6 Let me say that I'm grateful to be in a
7 country that has certain constitutional protections
8 and provisions, where we have a form of government
9 where there are checks and balances, and there is a
10 separation of powers. And the Legislature has its
11 function, and the Executive branch has its function.
12 And they're not the same. Our job is to handle
13 these maps. It is highly unusual for a Governor to
14 do what our Governor has been doing.

15 I look forward to ultimately getting to a
16 point where we have some maps that we all can be
17 proud of, and I'm hopeful that we can work towards
18 that. And we've had some good conversations to get
19 that started, and we'd heard some testimony to help
20 guide us along that path. I still have my
21 reservations about CD 10 and the things we talked
22 about. We're going to work that through the
23 process, but that's literally our job. Like, that's
24 what we're here to do is to work through that
25 process. So I'm grateful for the opportunity to do

1 what the people elected us to do.

2 My question for the Chair, if he would be
3 so kind as to address in debate if possible, is:
4 we've heard a lot of testimony, and we've gotten
5 some public feedback. But as we're continuing to
6 cook the cake or bake the cake out, I would say,
7 what is the best way to get the input from the
8 public to staff without exposing members to any
9 issues? I'm still a little unclear about how that
10 is ideally supposed to work in a way that does not
11 expose anybody to anything.

12 So there were some comments made, like I
13 want to know more about what's going on in 14 and 15
14 with respect to Latino districts. I can kind of
15 just put it out there in the ether for them to send
16 those stuff. But I want to figure out what's the
17 best way to do that so that we can communicate that
18 with staffs as we continue working on these maps.
19 So that's my question, and I thank you all for your
20 service.

21 Representative Hunschofsky in debate.

22 REPRESENTATIVE HUNSCHOFSKY: Thank you,
23 Madam Chair. And I'd first like to compliment you
24 on navigating this meeting so well. Never been in a
25 meeting like this one today, and I think you did a

1 great job. And I appreciate that.

2 I've appreciated learning in this process.

3 I didn't realize there was as much to learn when I
4 originally got assigned to this Subcommittee. I
5 also appreciate the focus on cities being kept
6 whole. That has been important to me, and there has
7 been improvement in that area. I do still think
8 there is more room for improvement in this map, as
9 we've heard from my colleagues, and I do look
10 forward to the process continuing with the inclusion
11 of all these concerns that we've heard today from
12 members of the Subcommittee to make the map the best
13 map that can be. So thank you.

14 Additional members in debate?

15 Seeing none, Chair Sirois, you're
16 recognized to close on the PCB.

17 CHAIRMAN SIROIS: Thank you very much,
18 Madam Chair.

19 Members, I want to thank you for your
20 questions and your time and attention this morning
21 and over the previous weeks. Some of you have said
22 redistricting might be the most complicated of all
23 of our constitutional duties both as a body and,
24 certainly, as individual members, and I want to say
25 I share that as well. It's a historic task. It's

1 one that happens every 10 years, and I'm personally
2 honored to have had the opportunity to work with all
3 of you through it.

4 The process, as you know, requires us to
5 set personal interests aside. We had a lot to
6 learn. The external pressures are significant.
7 When it comes to our communities and neighborhoods,
8 emotions run high. But this process requires us to
9 follow the law, follow the law, specifically our
10 Tier 1 and Tier 2 constitutional standards. And I
11 want to mention, you know, I enjoy so much working
12 with Representative Hunschofsky because I've learned
13 that she has a way about her where she can just cut
14 to the heart of the matter, and I think she did that
15 today with her question.

16 And I just wanted to -- I felt compelled
17 after hearing your question, Representative, to go
18 back to where we started our Committee meetings,
19 with a review of our constitutional standards, Tier
20 1 and Tier 2. "No apportionment plan or individual
21 districts shall be drawn with the interest of favor
22 or disfavor a political party or incumbent.
23 Districts shall not be drawn with the intent or
24 result of denying or abridging the equal opportunity
25 of racial or language minorities to participate in

1 the political process or diminish their ability to
2 elect a representative of their choice. Districts
3 shall consist of contiguous territory." And then we
4 move on to Tier 2. "Districts shall be as nearly
5 equal in population as practical. Districts shall
6 be compact. District shall where feasible utilizing
7 existing political and geographical boundaries

8 We have to follow the law. Representative
9 Joseph, I appreciate your questions about receiving
10 that input, and I would remind Committee members
11 that we continue to be the vehicle for that input.
12 Those information, if there's something that you
13 hear, if there's something that you think adds to
14 the process, I encourage you to bring it forward.
15 But you have to be prepared, as we have said
16 consistently from the beginning of this process, to
17 disclose who brought it to you and be prepared to
18 back it up.

19 Individuals out there who wish to provide
20 input and feedback on this process have the ability
21 to do so, floridaredistricting.gov, where nearly 100
22 individuals have utilized the website to create and
23 to submit maps of their own. In January, we noticed
24 a two-hour meeting to accept public input in
25 addition to public input at each of our meetings,

1 where we have received testimony. As elected
2 members of this House of Representatives, it is our
3 constitutional duty and responsibility to present
4 the views of our constituents in the conduct of
5 their business.

6 Members, you're going to have an
7 opportunity as you have had today throughout our
8 Committee meetings, at Chair Leeks Committee, on the
9 floor, when we reconciled with the Senate throughout
10 this process. You will have an opportunity to
11 provide that input, and I encourage you to get with
12 me and Chair Leek if there is something on your
13 mind. But we have to follow law. And once again, I
14 want to read to you the first line from the 2012
15 Supreme Court ruling that I started today's
16 presentation with. And this is what the Court said
17 then, "A review of the House plan and the record
18 reveals that the House engage in a consistent and
19 reasoned approach." Members, we hit that mark
20 again. We hit that mark again, and I'm proud of
21 this Committee's work product.

22 Now, as I said, our PCB is going to work
23 through the normal process, just like any other
24 bill, and this PCB is going to move on to the Full
25 Redistricting Committee, where the conversation that

1 we started weeks ago will continue with our
2 colleagues. If you have further policy points for
3 discussion, please, please, Members, don't wait.
4 Get with me and Chair Leek, and we are happy to hear
5 you and to continue this conversation. But,
6 Members, I want to assuage any doubt that may be in
7 front of you today. This is a legally sound map.
8 It's a constitutionally compliant map. Please join
9 me in voting yes.

10 VICE-CHAIR TUCK: Chair Sirois having
11 closed, Members, please remember to turn on your
12 mics when you vote.

13 DJ, please call the roll on PCB CRS 22-01
14 and announced the vote.

15 THE SECRETARY: Chair Sirois?

16 CHAIRMAN SIROIS: Yes

17 THE SECRETARY: Representative Benjamin has
18 been excused.

19 Brown?

20 REPRESENTATIVE BROWN: No.

21 THE SECRETARY: Fabricio?

22 REPRESENTATIVE FABRICIO: Yes.

23 THE SECRETARY: Fetterhoff?

24 REPRESENTATIVE FETTERHOFF: Yes.

25 THE SECRETARY: Giallombardo?

1 REPRESENTATIVE GIALLOMBARDO: Yes.

2 THE SECRETARY: Harding?

3 REPRESENTATIVE HARDING: Yes.

4 THE SECRETARY: Hunschofky?

5 REPRESENTATIVE HUNSCHOFSKY: No.

6 THE SECRETARY: Joseph?

7 REPRESENTATIVE JOSEPH: No.

8 THE SECRETARY: Maggard?

9 REPRESENTATIVE MAGGARD: Yes.

10 THE SECRETARY: Massullo has been excused.

11 McClure?

12 REPRESENTATIVE MCCLURE: Yes.

13 THE SECRETARY: Morales?

14 REPRESENTATIVE MORALES: No.

15 THE SECRETARY: Perez?

16 REPRESENTATIVE PEREZ: Yes.

17 THE SECRETARY: Plakon?

18 REPRESENTATIVE PLAKON: Yes.

19 THE SECRETARY: Silvers?

20 REPRESENTATIVE SILVERS? No.

21 THE SECRETARY: Skidmore?

22 REPRESENTATIVE SKIDMORE: No.

23 THE SECRETARY: Toledo?

24 REPRESENTATIVE TOLEDO: Yes.

25 THE SECRETARY: Trabulsy?

1 REPRESENTATIVE TRABULSY: Yes.

2 THE SECRETARY: Tuck?

3 VICE-CHAIR TUCK: Yes.

4 THE SECRETARY: Williamson?

5 REPRESENTATIVE WILLIAMSON: Yes.

6 THE SECRETARY: Ex-officio Clemons?

7 REPRESENTATIVE CLEMONS: Yes.

8 THE SECRETARY: Ex-officio Davis?

9 REPRESENTATIVE DAVIS: No.

10 THE SECRETARY: 14 yeas, 7 nays, Madam
11 Chair.

12 VICE-CHAIR TUCK: Show the PCB reported
13 favorably. Now, I'll pass the gavel back to Chair
14 Sirois.

15 CHAIR SIROIS: Thank you very much,
16 Members. I'd like to thank all the members of the
17 public that provided input today and the members of
18 the Committee for your questions as well.

19 I particularly want to thank Vice-Chair
20 Tuck. You did an outstanding job, and I've been
21 proud to have you as my vice chair throughout this
22 process.

23 As a reminder, the proposed congressional
24 map has another Committee stop in the Full
25 Redistricting Committee. If you have any questions

1 for myself, or Chair Leek, or staff, I encourage you
2 to reach out to us. As this is most likely our last
3 Subcommittee meeting, I'd like to thank
4 Speaker Sprowls and Chair Leek and the Committee
5 members for this tremendous honor to lead you
6 through this process.

7 I'd also like to thank our redistricting
8 staff, Leda, Jason, Sam, Karen, DJ, for your help in
9 and your accommodation for this rookie chairman.
10 It's been a pleasure to work with you, our ranking
11 member as well. Thank you very much.

12 That concludes our Committee meeting agenda
13 for today. Representative Perez moves that we rise
14 without objection.

15 (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.



Julie Thompson, CET-1036

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EXHIBIT 6

The Florida Senate
HOUSE MESSAGE SUMMARY

Prepared By: The Professional Staff of the Committee on Reapportionment

[2022s00102.hms.re]

BILL: CS/SB102

INTRODUCER: Reapportionment Committee and Senator Rodrigues

SUBJECT: Establishing the Congressional Districts of the State

DATE: March 4, 2022

I. Amendments Contained in Message:

House Amendment 1 – 269533 (body with title)

II. Summary of Amendments Contained in Message:

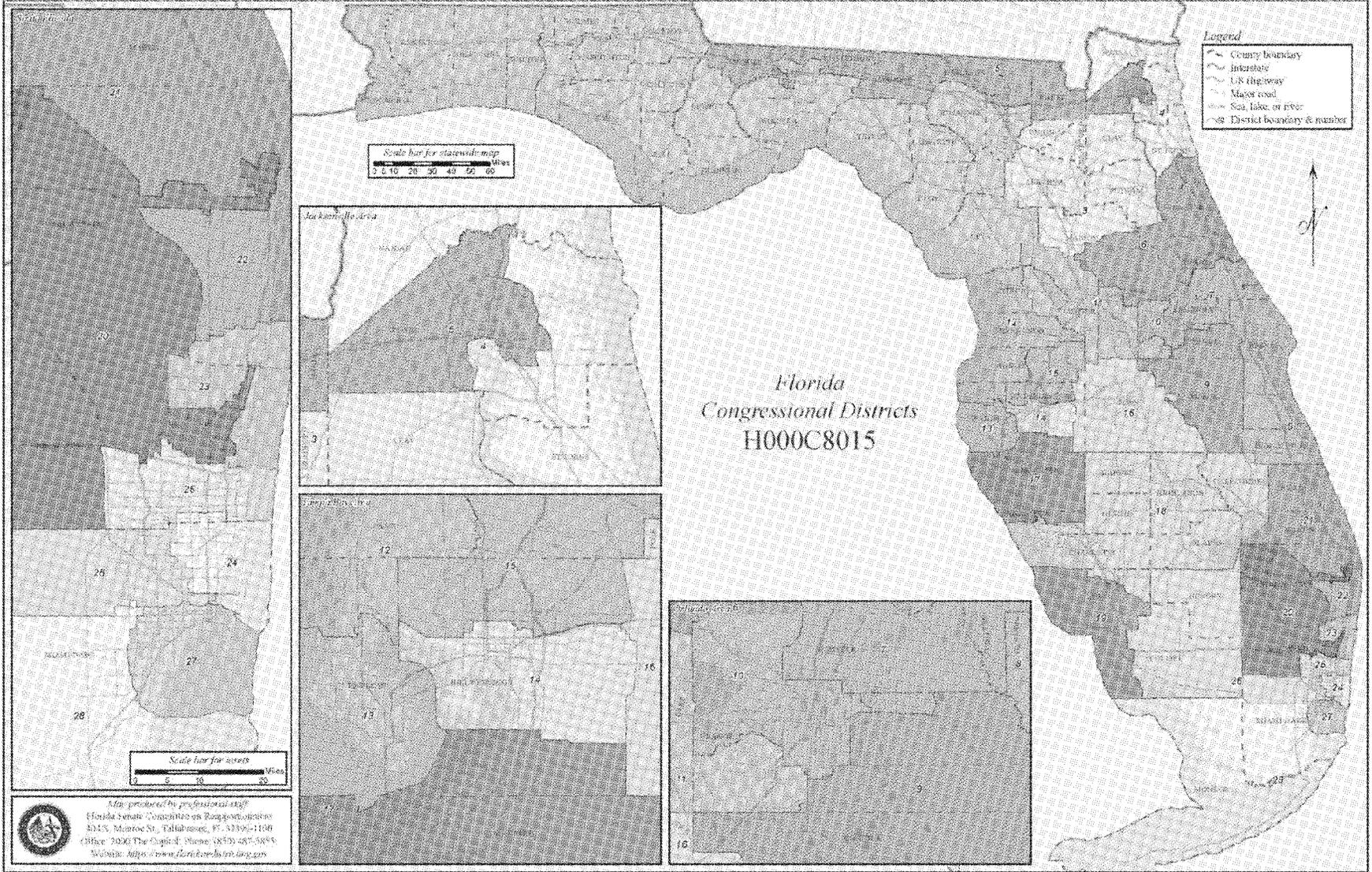
House Amendment 1 – Barcode 269533 replaces the substance of Redistricting Plan S035C8060 with plans H000C8019 and H000C8015.

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.)	Corvax Hull	Polsby Popper	Reock Ratio	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	273.3	0.80	0.40	0.45	47	52	393	42	18%
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%	14.53%	6.32%	15,766	884	0.72	0.25	0.31	15	4	56	1	6%	78%	15%	46%	0%	2%
3	0	0.00%	16.11%	10.49%	3,751	295	0.89	0.54	0.71	5	1	28	0	18%	78%	5%	25%	0%	15%
4	0	0.00%	10.24%	8.94%	1,725	350	0.64	0.18	0.33	1	2	7	1	23%	76%	17%	55%	2%	2%
5	0	0.00%	43.48%	9.24%	3,648	645	0.66	0.11	0.11	4	4	16	2	12%	73%	23%	13%	0%	2%
6	0	0.00%	10.23%	9.76%	2,737	316	0.77	0.34	0.48	1	4	20	2	17%	45%	14%	38%	3%	22%
7	0	0.00%	11.42%	21.14%	914	169	0.82	0.40	0.50	1	2	12	2	26%	47%	19%	31%	0%	15%
8	0	0.00%	9.69%	10.00%	2,263	272	0.81	0.38	0.29	2	1	22	0	3%	92%	1%	54%	0%	2%
9	0	0.00%	13.13%	50.84%	1,956	270	0.86	0.34	0.48	1	1	2	1	2%	86%	10%	36%	0%	4%
10	0	0.00%	28.60%	24.60%	377	110	0.77	0.39	0.50	0	1	9	1	20%	55%	23%	20%	0%	18%
11	0	0.00%	8.35%	15.88%	2,031	289	0.81	0.31	0.32	1	4	19	1	12%	50%	15%	13%	1%	31%
12	0	0.00%	4.53%	10.60%	2,089	312	0.61	0.27	0.40	1	3	7	1	10%	72%	6%	52%	0%	13%
13	0	0.00%	11.46%	9.77%	625	112	0.91	0.63	0.68	0	1	21	1	44%	70%	0%	88%	0%	1%
14	0	0.00%	20.26%	26.06%	456	104	0.87	0.53	0.45	0	1	0	2	23%	19%	28%	32%	1%	36%
15	0	0.00%	13.09%	26.65%	826	146	0.84	0.49	0.47	0	2	5	1	7%	51%	39%	6%	7%	7%
16	0	0.00%	14.94%	23.21%	2,198	255	0.92	0.42	0.52	1	1	17	1	2%	84%	2%	26%	3%	12%
17	0	0.00%	7.55%	14.29%	1,953	207	0.92	0.57	0.60	1	2	7	0	22%	57%	5%	51%	0%	14%
18	0	0.00%	7.69%	15.79%	5,827	404	0.82	0.45	0.48	6	2	12	1	13%	74%	6%	29%	0%	4%
19	0	0.00%	5.58%	15.79%	1,867	247	0.78	0.38	0.33	0	2	7	1	13%	62%	14%	61%	0%	8%
20	0	0.00%	50.11%	22.98%	2,397	330	0.77	0.28	0.50	0	2	13	8	25%	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%	7.11%	25.21%	3,684	365	0.67	0.35	0.40	1	2	10	1	9%	69%	20%	19%	0%	4%
27	0	0.00%	7.07%	24.13%	281	70	0.95	0.73	0.71	0	1	7	1	10%	18%	34%	59%	0%	7%
28	0	0.00%	10.32%	23.89%	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:

District, Bee, and City and County Boundaries	In Plan H000C8015
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 H000C8015

Counties included in more than one district					
County	Dist	Total Pop	Pop%	Total Area	Area%
Broward	20	535,322	27.5%	880.4	68.0%
Broward	23	561,713	28.8%	171.5	13.1%
Broward	24	78,119	4.0%	10.9	0.8%
Broward	25	769,221	39.6%	235.7	18.1%
Citrus	11	85,336	62.0%	346.2	26.0%
Citrus	12	58,507	38.0%	614.3	44.0%
Collier	19	201,747	53.6%	603.6	24.1%
Collier	26	174,505	46.4%	1,978.3	75.9%
Columbia	2	65,874	54.5%	448.5	56.0%
Columbia	5	3,824	5.0%	352.8	44.0%
Duval	4	463,814	46.8%	438.2	47.7%
Duval	5	529,753	53.2%	480.3	51.3%
Hillsborough	14	769,221	52.7%	456.3	34.3%
Hillsborough	15	533,543	36.6%	332.4	25.4%
Hillsborough	16	44,175	3.0%	188.0	14.1%
Hillsborough	17	112,722	7.7%	355.2	26.7%
Jefferson	3	4,410	20.4%	400.1	59.3%
Jefferson	5	19,100	69.6%	272.0	40.3%
Lake	6	251,639	39.5%	588.4	45.3%
Lake	11	282,337	60.5%	598.4	31.7%
Lee	18	192,848	75.4%	275.0	18.7%
Lee	19	967,974	74.7%	1,259.8	81.5%
Leon	2	170,711	58.4%	511.5	72.9%
Leon	5	121,487	41.6%	190.3	27.1%
Marion	3	154,737	41.2%	781.7	45.8%
Marion	6	102,795	27.6%	542.1	31.8%
Marion	11	117,388	31.2%	358.8	21.8%
Miami-Dade	24	691,162	25.8%	172.0	7.2%
Miami-Dade	26	555,957	20.6%	516.6	21.6%
Miami-Dade	27	769,221	28.5%	280.7	11.8%
Miami-Dade	28	686,347	25.6%	1,420.1	59.2%
Orange	7	85,712	6.0%	19.2	2.9%
Orange	9	580,965	26.6%	450.0	44.8%
Orange	10	769,221	53.8%	377.0	57.6%
Orange	11	194,416	13.6%	147.3	14.7%
Palm Beach	20	233,899	13.7%	1,307.8	63.9%
Palm Beach	21	281,964	18.9%	447.3	18.8%
Palm Beach	22	769,220	51.6%	345.3	14.5%
Palm Beach	23	207,506	13.0%	82.8	3.3%
Pasco	12	326,313	58.1%	521.4	51.4%
Pasco	15	233,576	41.9%	493.3	48.6%
Pinellas	12	189,886	19.8%	237.7	27.6%
Pinellas	13	769,221	80.2%	624.9	72.5%
Sarasota	17	256,788	59.2%	634.1	65.0%
Sarasota	18	177,416	40.8%	541.5	55.0%
St. Johns	4	219,195	77.9%	560.5	68.2%
St. Johns	6	60,370	22.1%	261.1	31.8%
Volusia	6	335,069	61.1%	804.4	56.7%
Volusia	7	212,453	38.8%	519.0	37.6%
Volusia	8	2,821	0.5%	89.0	6.2%
Walton	1	47,246	63.3%	811.0	58.3%
Walton	2	27,857	36.7%	587.5	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%

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Split Counties and Cities

Plan H000C8015

Cities included in more than one district						Cities included in more than one county						Cities included in more than one district						Cities included in more than one county					
City	Dist	Total Pop	Pop%	Total Area	Area%	City	Dist	Total Pop	Pop%	Total Area	Area%	City	Dist	Total Pop	Pop%	Total Area	Area%	City	Dist	Total Pop	Pop%	Total Area	Area%
Cape Coral	18	8,422	4.3%	11.1	9.3%																		
Cape Coral	19	185,594	93.7%	1,083	90.7%																		
Deerfield Beach	20	17,968	82.2%	3.8	23.5%																		
Deerfield Beach	26	58,891	67.8%	12.4	76.5%																		
Fort Lauderdale	20	55,428	80.5%	12.4	34.1%																		
Fort Lauderdale	25	179,601	57.8%	18.6	51.2%																		
Fort Lauderdale	25	21,731	11.9%	5.3	14.7%																		
Jacksonville	4	421,254	44.4%	395.2	45.3%																		
Jacksonville	5	528,357	55.6%	478.3	54.7%																		
Margate	20	11,080	18.9%	1.6	17.8%																		
Margate	25	47,632	81.1%	7.4	82.2%																		
Miami	24	86,644	19.0%	14.1	25.1%																		
Miami	26	56,430	15.0%	5.7	10.1%																		
Miami	27	282,167	65.4%	35.3	54.6%																		
Miramar	24	56,729	42.1%	6.9	22.3%																		
Miramar	25	77,992	57.9%	24.2	77.7%																		
Oakland Park	20	15,027	34.0%	3.5	43.0%																		
Oakland Park	25	29,192	66.0%	4.7	57.0%																		
Oldsmar	12	14,887	99.9%	10.1	100.0%																		
Oldsmar	13	11	0.1%	0.0	0.0%																		
Orange City	6	12,637	100.0%	7.9	100.0%																		
Orange City	7	0	0.0%	0.0	0.0%																		
Orlando	9	79,798	25.9%	60.6	51.0%																		
Orlando	10	221,340	72.0%	55.4	46.6%																		
Orlando	11	6,235	2.0%	2.9	2.4%																		
Plant City	14	16,635	41.9%	7.8	27.5%																		
Plant City	16	23,109	58.1%	22.7	72.5%																		
Plantation	20	44,325	48.3%	9.3	42.0%																		
Plantation	25	47,425	51.7%	12.8	58.0%																		
Pompano Beach	20	69,811	44.5%	10.9	44.1%																		
Pompano Beach	25	62,255	55.5%	14.3	55.9%																		
Port Orange	6	47,308	76.4%	18.8	65.3%																		
Port Orange	7	14,799	23.6%	10.0	34.7%																		
Riviera Beach	20	29,204	77.7%	5.8	70.7%																		
Riviera Beach	21	8,400	22.3%	2.8	29.3%																		
Tallahassee	2	136,206	54.1%	72.8	70.1%																		
Tallahassee	3	88,966	45.9%	51.0	29.9%																		
Tampa	14	285,631	74.2%	137.5	78.2%																		
Tampa	15	98,325	25.5%	38.4	21.8%																		
West Palm Beach	20	59,919	51.0%	15.1	26.0%																		
West Palm Beach	21	21,937	13.7%	34.9	80.2%																		
West Palm Beach	22	35,559	30.3%	8.0	13.8%																		

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Functional Analysis - Summary

Plan H000C8015

Dist.	2020 Census			2020 General Election Registered Voters																
	VAP who are:		RV who are:			RV who are:			Black Voters who are:			Hispanic Voters who are:			DEM who are:		REP who are:		NP/OTH who are:	
	Black	Hispanic	DEM	REP	OTH	Black	Hispanic	NP/OTH	DEM	REP	NP/OTH	DEM	REP	NP/OTH	Black	Hispanic	Black	Hispanic	Black	Hispanic
5	33.85%	9.24%	53.76%	26.68%	19.56%	43.22%	4.80%	63.09%	2.78%	13.21%	43.94%	20.83%	35.02%	67.53%	3.93%	4.50%	3.75%	29.21%	8.60%	
9	13.13%	30.84%	41.74%	23.23%	35.03%	9.40%	45.81%	71.95%	3.98%	24.05%	46.57%	13.80%	39.64%	16.21%	50.08%	1.61%	26.99%	6.46%	51.41%	
10	28.80%	24.60%	46.36%	25.41%	28.23%	24.51%	17.16%	77.83%	3.20%	18.97%	46.93%	14.94%	38.11%	41.14%	17.37%	3.08%	10.08%	16.47%	23.16%	
20	60.13%	22.98%	61.33%	13.79%	24.88%	16.82%	15.27%	81.47%	2.53%	15.98%	45.07%	17.38%	36.51%	62.20%	11.47%	8.57%	19.25%	50.08%	22.41%	
24	43.17%	38.16%	60.64%	12.59%	27.37%	44.93%	27.26%	62.62%	2.44%	14.94%	42.13%	20.67%	37.09%	60.56%	19.18%	8.52%	44.78%	14.33%	36.98%	
26	7.11%	7.97%	30.43%	37.47%	32.10%	5.62%	77.77%	77.83%	4.40%	17.62%	29.20%	36.02%	34.77%	14.58%	50.25%	0.66%	60.34%	3.09%	68.00%	
27	7.07%	7.97%	34.57%	33.39%	32.04%	6.14%	78.65%	78.65%	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%	7.98%	33.92%	32.58%	33.51%	8.68%	77.57%	77.57%	3.44%	18.87%	28.78%	35.48%	35.75%	19.84%	54.23%	0.92%	69.60%	4.89%	68.19%	

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Functional Analysis - Summary

Plan H000C8015

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:		NPAOLH who are:			Black voters who are:			Hispanic voters who are:			Avg. Ret.		Wins			Margins	
	Black	Hisp	Black	Hisp	Black	Hisp	DEM	REP	NPAOLH	Black	Hisp	Black	Hisp	Black	Hisp	DEM	REP	NPAOLH	DEM	REP	NPAOLH	DEM	REP	DEM	REP	MAX	MIN	AVG	
5	43.4%	9.24%	66.19%	1.13%	2.72%	1.51%	57.37%	29.38%	13.25%	66.06%	2.50%	3.25%	2.67%	25.84%	6.54%	89.62%	2.25%	8.30%	45.17%	25.94%	28.23%	57.6%	40.9%	14	0	D +30.0%	D +5.3%	D +17.2%	
9	13.13%	50.63%	19.07%	36.32%	1.06%	14.46%	43.53%	29.04%	27.43%	17.82%	44.36%	1.33%	19.84%	6.26%	42.85%	78.60%	3.91%	17.42%	52.63%	15.52%	31.84%	57.2%	41.0%	12	2	D +34.6%	D +0.8%	D +16.6%	
10	28.80%	24.60%	44.89%	8.28%	1.74%	4.80%	45.66%	31.63%	21.70%	42.47%	13.46%	2.06%	7.11%	13.84%	17.55%	84.33%	2.79%	12.84%	50.78%	18.23%	30.87%	58.3%	40.0%	17	2	D +31%	R +0.3%	D +18.9%	
20	86.71%	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%	19.06%	86.64%	2.11%	11.19%	49.92%	18.74%	31.05%	78.4%	20.8%	15	0	D +65.2%	D +51%	D +57.8%	
24	42.17%	33.66%	68.02%	10.67%	5.87%	49.03%	65.57%	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 +58%	D +48.9%	D +61.5%	
26	7.11%	5.42%	20.88%	44.24%	0.47%	58.47%	31.54%	42.55%	25.91%	16.81%	34.90%	0.52%	58.42%	2.88%	65.22%	84.33%	3.55%	12.04%	29.02%	42.30%	28.67%	43.5%	55.2%	2	1	R +24.2%	R +0.5%	R +11.6%	
27	7.07%	5.42%	17.88%	36.72%	0.39%	75.67%	35.72%	38.10%	26.18%	15.24%	45.37%	0.53%	72.01%	3.20%	63.12%	85.84%	3.12%	12.96%	26.84%	45.71%	27.44%	50.6%	48.3%	9	5	D +17.4%	R +0.6%	D +2.7%	
28	10.92%	5.42%	22.56%	36.22%	0.54%	65.41%	35.69%	36.75%	27.56%	21.17%	47.57%	0.75%	66.17%	4.66%	64.29%	82.78%	3.06%	14.07%	28.65%	41.33%	30.00%	50.7%	48.0%	9	5	D +15.7%	R +2.2%	D =3%	

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Functional Analysis - Returns

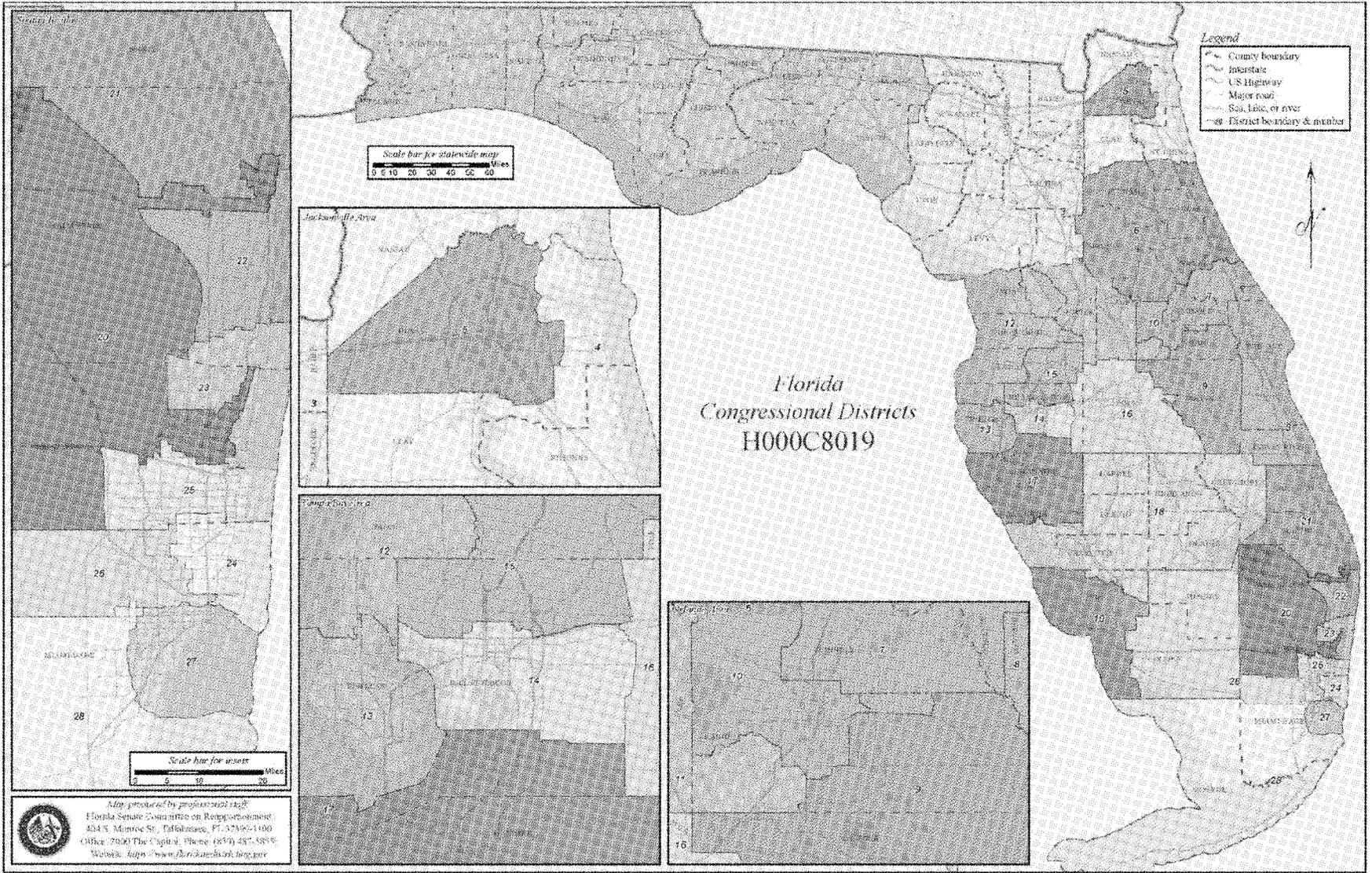
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		5	9	10	20	24	26	27	28	
Plan H000C8015		BVAP	42.48%	13.13%	28.80%	50.11%	42.17%	7.11%	7.07%	10.32%
Primary Elections		HVAP	9.24%	50.84%	24.60%	27.98%	26.40%	75.11%	75.11%	75.11%
2018	Governor (REP)	R_Baldorf	0.73%	0.93%	0.70%	1.45%	1.93%	1.86%	1.52%	1.82%
		R_DeSantis	53.16%	52.39%	49.98%	62.28%	66.81%	66.34%	67.70%	67.72%
		R_Devine	1.12%	1.97%	1.44%	2.05%	3.26%	2.81%	3.13%	3.31%
		R_Langford	1.13%	1.47%	1.87%	1.80%	1.93%	1.42%	1.56%	1.70%
		R_Mercadante	0.42%	1.29%	0.75%	1.53%	2.21%	1.86%	2.18%	2.03%
		R_Nathan	0.73%	0.91%	0.82%	1.52%	2.71%	1.10%	1.41%	1.41%
		R_Putnam	40.80%	38.28%	42.16%	25.44%	16.79%	21.84%	18.87%	18.11%
	R_White	1.60%	2.65%	2.06%	2.84%	3.90%	2.58%	3.49%	3.51%	
	Governor (DEM)	D_Gillum	58.25%	30.12%	43.54%	53.43%	50.66%	29.57%	28.97%	31.80%
		D_Graham	22.15%	29.52%	29.90%	13.31%	11.07%	20.77%	22.68%	21.12%
		D_Greene	5.78%	14.19%	8.51%	10.21%	9.33%	9.95%	7.98%	10.56%
		D_King	1.44%	4.25%	4.78%	0.91%	0.76%	2.47%	1.56%	2.11%
		D_Levine	10.87%	19.02%	12.06%	21.28%	27.38%	34.05%	37.17%	32.26%
		D_Lundmark	0.48%	1.17%	0.43%	0.29%	0.38%	1.42%	0.79%	0.90%
		D_Wetherbee	0.84%	1.63%	0.67%	0.37%	0.32%	1.32%	0.70%	0.96%
	Attorney General (REP)	R_Moody	57.79%	54.31%	56.30%	55.46%	53.14%	52.04%	54.81%	54.83%
		R_White	42.22%	45.68%	43.69%	44.16%	46.91%	47.93%	45.20%	45.11%
	Attorney General (DEM)	D_Shaw	78.50%	60.80%	74.52%	81.41%	82.21%	65.99%	74.10%	69.58%
		D_Torrens	21.48%	39.20%	25.49%	18.58%	17.77%	33.87%	25.90%	30.43%
	Agriculture Commissioner (REP)	R_Caldwell	35.47%	36.81%	34.31%	43.02%	39.87%	41.31%	40.18%	42.06%
		R_Grimley	20.72%	31.39%	31.13%	26.45%	31.49%	29.28%	32.68%	31.53%
		R_McCalister	8.64%	16.42%	15.37%	20.87%	16.88%	12.74%	16.78%	16.54%
	Agriculture Commissioner (DEM)	R_Troutman	34.98%	15.21%	19.04%	8.59%	11.33%	15.55%	10.38%	9.57%
		D_Fried	60.27%	55.00%	55.68%	63.96%	56.13%	51.02%	59.89%	53.25%
		D_Porter	19.59%	18.80%	16.93%	16.09%	17.30%	20.36%	15.15%	20.42%
	US Senate (REP)	D_Walker	19.59%	26.22%	27.41%	19.91%	23.59%	28.37%	24.89%	26.19%
		R_De La Fuente	10.03%	9.94%	12.08%	15.12%	15.72%	9.61%	12.64%	12.23%
		R_Scott	89.92%	90.04%	87.88%	84.46%	84.02%	90.34%	87.34%	87.65%
2016	US Senate (REP)	R_Beruff	22.63%	17.33%	17.72%	14.86%	8.38%	9.21%	5.63%	6.40%
		R_Rivera	3.62%	3.35%	2.39%	4.55%	3.20%	2.21%	1.92%	2.93%
		R_Rubio	67.77%	71.55%	74.24%	70.37%	80.78%	84.85%	88.89%	85.70%
	US Senate (DEM)	R_Young	5.77%	7.64%	5.44%	9.04%	7.31%	3.65%	3.50%	4.84%
		D_De La Fuente	4.09%	15.35%	4.00%	3.13%	5.63%	19.80%	12.21%	13.69%
		D_Grayson	17.41%	45.21%	39.94%	10.08%	10.80%	11.46%	11.26%	11.07%
		D_Kelth	15.22%	9.85%	12.58%	14.72%	13.76%	14.16%	17.89%	15.57%
Governor (REP)	D_Luster	12.35%	1.32%	2.13%	2.22%	2.70%	1.97%	1.55%	1.65%	
	D_Murphy	50.72%	28.14%	41.29%	69.53%	66.98%	52.07%	56.90%	57.52%	
	R_Adeshina	1.29%	1.74%	1.86%	2.51%	2.89%	1.45%	1.82%	1.75%	
2014	Governor (DEM)	R_Cuevas-Neunder	7.97%	12.33%	10.24%	14.70%	16.26%	10.38%	13.29%	15.11%
		R_Scott	90.59%	85.81%	87.79%	81.70%	80.61%	87.99%	84.83%	82.94%
	Attorney General (DEM)	D_Crist	74.06%	76.41%	77.66%	82.85%	84.36%	76.00%	79.98%	78.45%
D_Rich		25.83%	23.59%	22.27%	16.99%	15.62%	23.65%	25.94%	21.39%	
2012	US Senate (REP)	D_Sheldon	66.76%	60.90%	50.76%	38.39%	46.60%	61.45%	69.55%	61.36%
		D_Thurston	39.20%	39.06%	49.18%	61.56%	53.40%	38.12%	34.43%	38.41%
		R_Mack	57.94%	49.02%	58.59%	65.27%	71.89%	73.40%	77.15%	73.63%
	US Senate (DEM)	R_McCalister	18.40%	17.08%	10.19%	12.41%	6.67%	8.19%	5.22%	7.31%
		R_Stuart	5.99%	6.81%	4.77%	6.66%	13.36%	12.07%	13.00%	13.19%
US Senate (DEM)	R_Weldon	17.27%	31.78%	26.25%	13.82%	7.69%	6.14%	4.50%	5.63%	
	D_Burkett	22.15%	19.73%	13.70%	13.92%	14.22%	21.30%	14.82%	18.34%	
D_Nelson	77.78%	80.23%	86.25%	89.94%	85.75%	78.45%	85.13%	81.50%		

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Functional Analysis - Returns

			5	9	10	20	14	26	27	28
	Plan H000C8015	BVAP	43.48%	13.13%	28.87%	50.11%	41.17%	7.11%	7.07%	10.32%
	General Elections	H/VAP	9.24%	59.04%	24.60%	22.98%	38.46%	75.21%	75.16%	75.16%
2020	President	D_Biden	59.86%	58.35%	62.78%	75.89%	74.18%	40.33%	49.45%	46.42%
		R_Trump	39.19%	40.65%	36.18%	23.52%	25.28%	59.13%	50.01%	52.99%
2018	Governor	D_Gillum	61.72%	61.55%	63.30%	79.99%	81.45%	44.85%	53.18%	52.49%
		R_DeSantis	37.59%	37.08%	35.67%	19.45%	17.83%	53.79%	45.75%	46.31%
	Attorney General	D_Shaw	58.44%	58.23%	59.28%	78.44%	80.05%	43.00%	51.99%	50.86%
		R_Moody	40.03%	39.76%	38.97%	20.26%	18.39%	54.93%	46.10%	46.94%
Chief Financial Officer	D_Ring	58.81%	60.69%	61.24%	79.79%	81.52%	44.45%	52.59%	51.92%	
	R_Patronis	40.36%	39.31%	38.76%	20.20%	18.46%	55.53%	47.41%	48.07%	
Agriculture Commissioner	D_Fried	60.54%	62.07%	63.21%	80.08%	82.00%	45.64%	54.63%	53.44%	
	R_Caldwell	39.46%	37.93%	36.79%	19.89%	18.00%	54.35%	45.38%	46.56%	
US Senate	D_Nelson	61.41%	60.28%	63.31%	80.00%	81.36%	45.20%	54.47%	53.46%	
	R_Scott	38.59%	39.74%	36.69%	20.00%	18.64%	54.79%	45.52%	46.55%	
2016	President	D_Clinton	57.86%	61.86%	60.80%	77.83%	81.05%	51.21%	57.42%	56.46%
		R_Trump	39.29%	34.59%	35.48%	20.59%	17.28%	46.49%	40.05%	40.81%
US Senate	D_Murphy	52.11%	54.08%	55.69%	75.64%	75.92%	41.07%	47.78%	47.69%	
	R_Rubio	44.58%	40.91%	40.45%	22.42%	21.99%	55.70%	50.17%	49.99%	
2014	Governor	D_Crist	55.74%	52.68%	55.47%	79.92%	82.18%	41.24%	50.00%	51.20%
		R_Scott	40.89%	42.21%	39.64%	17.97%	16.24%	58.03%	47.55%	45.89%
	Attorney General	D_Sheldon	52.20%	48.96%	52.75%	76.13%	79.80%	36.85%	46.03%	45.82%
		R_Dondi	45.27%	48.12%	44.23%	22.42%	18.77%	60.82%	51.96%	51.75%
Chief Financial Officer	D_Rankin	52.66%	49.04%	49.58%	75.48%	79.06%	38.24%	43.49%	45.87%	
	R_Atwater	47.34%	50.96%	50.42%	24.50%	20.93%	61.75%	56.52%	54.11%	
Agriculture Commissioner	D_Hamilton	54.74%	47.89%	49.85%	77.02%	79.76%	37.88%	44.30%	46.04%	
	R_Putnam	45.25%	52.11%	50.15%	22.99%	20.21%	62.11%	55.69%	53.96%	
2012	President	D_Obama	60.17%	61.57%	59.68%	80.52%	82.82%	49.53%	52.22%	54.83%
		R_Romney	39.01%	37.59%	39.48%	19.06%	16.83%	49.98%	47.27%	44.61%
US Senate	D_Nelson	64.24%	66.05%	64.54%	81.97%	83.46%	51.33%	54.47%	56.33%	
	R_Mack	33.30%	31.47%	33.54%	16.62%	15.49%	46.52%	44.15%	42.03%	



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Census and Boundary Statistics

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Dist.	Deviation		Voting Age Population		Area (sq.mi.)	Perim. (mi.)	Convex Hull	Polsby- Popper	Reock Ratio	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	251.1	0.82	0.42	0.48	49	48	394	40	19%
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%	15.61%	9.97%	8,230	443	0.91	0.53	0.53	10	2	41	0	5%	82%	3%	31%	0%	13%
4	0	0.00%	8.91%	7.96%	2,190	408	0.68	0.17	0.40	2	2	12	1	25%	80%	5%	46%	0%	10%
5	0	0.00%	35.31%	10.75%	620	131	0.90	0.45	0.52	0	1	1	1	65%	65%	10%	29%	1%	21%
6	0	0.00%	10.89%	9.69%	3,856	312	0.92	0.50	0.71	2	4	21	2	14%	49%	14%	37%	0%	18%
7	0	0.00%	11.42%	21.14%	914	169	0.82	0.40	0.50	1	2	12	2	26%	47%	19%	31%	0%	15%
8	0	0.00%	9.69%	10.00%	2,263	272	0.81	0.38	0.29	2	1	22	0	3%	92%	1%	54%	0%	2%
9	0	0.00%	13.13%	30.84%	1,956	270	0.86	0.34	0.48	1	1	2	1	2%	86%	10%	36%	0%	4%
10	0	0.00%	28.80%	24.60%	377	110	0.77	0.39	0.50	0	1	9	1	20%	55%	23%	20%	0%	18%
11	0	0.00%	8.53%	15.87%	1,923	274	0.79	0.32	0.36	1	4	22	1	12%	48%	15%	17%	1%	29%
12	0	0.00%	4.53%	19.60%	2,089	312	0.61	0.27	0.40	1	3	7	1	10%	72%	6%	52%	0%	13%
13	0	0.00%	11.46%	9.77%	625	112	0.91	0.63	0.68	0	1	21	1	44%	70%	0%	88%	0%	1%
14	0	0.00%	20.26%	26.06%	456	104	0.87	0.53	0.45	0	1	0	2	23%	19%	28%	32%	1%	36%
15	0	0.00%	13.09%	26.65%	826	146	0.84	0.49	0.47	0	2	5	1	7%	51%	39%	6%	7%	7%
16	0	0.00%	14.94%	23.21%	2,198	255	0.92	0.42	0.52	1	1	17	1	2%	84%	2%	26%	3%	12%
17	0	0.00%	7.55%	14.29%	1,953	207	0.92	0.57	0.60	1	2	7	0	22%	57%	5%	51%	0%	14%
18	0	0.00%	7.69%	15.79%	5,827	404	0.82	0.45	0.48	6	2	12	1	13%	74%	6%	29%	0%	4%
19	0	0.00%	5.58%	15.79%	1,867	247	0.78	0.38	0.33	0	2	7	1	13%	62%	14%	61%	0%	8%
20	0	0.00%	30.11%	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%	66%	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%	7.11%	25.44%	3,684	365	0.67	0.35	0.40	1	2	10	1	9%	69%	20%	19%	0%	4%
27	0	0.00%	7.07%	24.13%	281	70	0.95	0.73	0.71	0	1	7	1	10%	18%	34%	59%	0%	7%
28	0	0.00%	10.32%	23.23%	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 H000C8019
Number of Counties	67
Counties with only one district	49
Districts with only one county	7
Counties split into more than one district	16
Counties with all population in a single district	49
Aggregate number of county splits	46
Aggregate number of splits with population	48
Number of Cities	412
Cities with only one district	394
Cities split into more than one district	16
Cities with all population in only one district	395
Aggregate number of city splits	40
Aggregate number of splits with population	39

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Split Counties and Cities

Plan H000C8019

Counties included in more than one district						Counties included in more than one district						Counties included in more than one district						Counties included in more than one district						
County	Dist	Total Pop.	Pop%	Total Area	Area%	County	Dist	Total Pop.	Pop%	Total Area	Area%	County	Dist	Total Pop.	Pop%	Total Area	Area%	County	Dist	Total Pop.	Pop%	Total Area	Area%	
Broward	23	585,322	27.5%	899.4	68.0%																			
Broward	25	561,713	28.5%	173.5	13.1%																			
Broward	24	78,119	4.0%	3.0	0.8%																			
Broward	25	769,221	39.6%	256.7	18.1%																			
Citrus	11	95,536	61.0%	346.2	56.0%																			
Citrus	12	58,507	38.0%	614.5	64.0%																			
Collier	19	201,247	53.8%	676.8	74.1%																			
Collier	26	174,505	46.4%	1,978.3	75.9%																			
Duval	4	226,346	22.7%	298.6	31.5%																			
Duval	5	769,221	77.3%	619.8	67.5%																			
Hillsborough	14	769,221	52.7%	456.3	24.2%																			
Hillsborough	15	533,642	36.0%	351.4	25.0%																			
Hillsborough	16	44,175	3.0%	188.0	14.1%																			
Hillsborough	17	114,723	7.7%	355.2	26.7%																			
Lafayette	2	1,731	21.0%	43.3	7.9%																			
Lafayette	3	6,495	79.0%	504.6	92.1%																			
Lake	6	306,811	27.8%	487.3	41.3%																			
Lake	11	277,192	72.2%	669.4	57.9%																			
Lee	18	392,848	25.4%	275.0	18.2%																			
Lee	19	567,874	74.7%	1,239.6	81.9%																			
Manatee	8	206,835	53.0%	615.6	57.0%																			
Manatee	6	56,495	25.7%	866.7	30.1%																			
Manatee	11	72,578	19.5%	180.4	10.8%																			
Miami-Dade	24	681,102	25.6%	172.0	7.2%																			
Miami-Dade	26	555,987	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	85,712	5.0%	29.2	1.8%																			
Orange	9	380,565	26.8%	450.0	44.8%																			
Orange	10	769,221	50.8%	377.0	37.6%																			
Orange	11	351,410	19.6%	147.3	14.7%																			
Palm Beach	10	243,899	15.7%	1,307.8	63.3%																			
Palm Beach	21	261,964	18.5%	447.3	18.8%																			
Palm Beach	22	769,220	51.8%	345.3	14.1%																			
Palm Beach	23	707,506	18.5%	67.8	3.5%																			
Passo	12	326,313	58.1%	521.4	51.4%																			
Passo	13	235,278	47.9%	489.3	46.6%																			
Pinellas	12	189,806	19.9%	237.7	27.6%																			
Pinellas	13	769,221	50.2%	624.9	72.5%																			
Sarasota	17	256,786	35.2%	634.1	65.0%																			
Sarasota	19	177,216	43.8%	341.5	35.0%																			
St. Johns	4	234,278	85.7%	321.6	69.5%																			
St. Johns	6	39,147	14.3%	299.9	36.5%																			
Volusia	6	338,969	61.1%	804.4	56.2%																			
Volusia	7	212,659	38.4%	599.0	37.8%																			
Volusia	8	2,823	0.5%	89.0	6.2%																			
Walton	1	47,848	63.3%	821.5	58.3%																			
Walton	2	27,657	38.7%	587.9	41.7%																			

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Functional Analysis - Summary

Plan H000C8019

Dist.	2020 Census			2020 General Election Registered Voters															
	VAP who are:		RV who are:			RV who are:		Black Voters who are:			Hispanic Voters who are:			DEM who are:		REP who are:		NP/OTH who are:	
	Black	Hisp	DEM	REP	OTH	Black	Hisp	DEM	REP	NP/OTH	DEM	REP	NP/OTH	Black	Hisp	Black	Hisp	Black	Hisp
5	35.32%	10.75%	46.32%	31.48%	22.20%	34.81%	5.87%	81.59%	3.39%	15.03%	40.04%	23.13%	36.83%	61.31%	5.07%	3.75%	4.31%	23.56%	9.74%
9	13.13%	50.04%	41.74%	23.23%	35.03%	9.40%	45.43%	71.95%	3.90%	24.05%	46.57%	13.80%	39.64%	16.21%	50.69%	1.61%	26.98%	6.46%	51.41%
10	28.80%	24.60%	46.36%	25.41%	28.23%	24.51%	17.36%	77.85%	3.20%	18.97%	45.93%	14.94%	38.11%	41.14%	17.37%	3.08%	10.08%	16.47%	23.16%
20	8.11%	72.98%	61.35%	13.79%	24.84%	46.82%	15.27%	81.47%	2.53%	15.98%	45.07%	17.38%	36.51%	62.20%	11.47%	8.57%	19.25%	30.08%	22.41%
24	44.27%	38.46%	60.04%	12.59%	27.37%	44.31%	27.26%	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	7.11%	74.47%	39.43%	37.47%	32.10%	5.61%	77.83%	3.40%	17.62%	29.20%	36.02%	34.77%	14.58%	60.25%	0.66%	60.14%	3.09%	68.00%	
27	7.07%	77.18%	34.57%	33.39%	32.04%	6.14%	78.63%	3.69%	17.60%	28.05%	38.96%	33.00%	13.97%	50.31%	0.88%	73.27%	3.58%	64.68%	
28	10.32%	73.96%	33.52%	32.58%	33.51%	8.68%	77.57%	3.44%	18.87%	28.78%	35.48%	35.75%	19.84%	54.23%	0.92%	69.60%	4.89%	68.19%	

3/1/2022

Functional Analysis - Summary

Plan H000C8019

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:			Hispanic 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
5	35.22%	10.75%	62.77%	1.71%	2.31%	1.79%	47.49%	36.77%	15.74%	61.70%	3.36%	2.72%	3.00%	20.62%	7.20%	87.35%	2.97%	9.67%	40.91%	20.29%	29.74%	51.0%	47.3%	0	5	D +17.5%	R +3.9%	D +4.3%
9	13.11%	50.84%	19.07%	36.32%	1.06%	14.46%	43.53%	29.04%	27.43%	17.82%	44.58%	1.33%	19.84%	0.20%	42.85%	78.60%	3.91%	17.42%	52.63%	15.52%	31.84%	57.2%	41.0%	11	2	D +34.6%	R +0.6%	D +16.0%
10	28.80%	24.60%	44.89%	8.28%	1.74%	4.80%	46.65%	31.63%	21.70%	42.47%	13.46%	2.08%	7.11%	13.84%	17.55%	84.33%	2.79%	12.84%	50.78%	18.23%	30.87%	58.3%	40.0%	12	2	D +31%	R +0.3%	D +18.8%
20	50.11%	22.94%	64.50%	4.45%	6.38%	10.02%	66.49%	14.54%	18.97%	62.40%	8.78%	6.95%	14.88%	28.23%	19.00%	86.64%	2.11%	11.19%	49.92%	18.74%	31.05%	78.4%	20.8%	14	0	D +65.2%	D +51%	D +57.8%
24	42.17%	38.46%	68.02%	10.87%	5.87%	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	7.11%	6.74%	20.88%	44.24%	0.40%	58.47%	31.54%	42.55%	25.91%	16.81%	34.30%	0.52%	58.42%	2.86%	65.22%	84.33%	3.59%	12.04%	19.01%	42.30%	28.67%	43.5%	35.2%	2	12	R +24.2%	R +0.5%	R +11.6%
27	7.07%	6.19%	17.88%	36.74%	0.49%	75.67%	35.72%	38.10%	26.18%	15.24%	45.37%	0.53%	72.03%	3.20%	63.12%	85.84%	3.12%	12.96%	16.84%	45.71%	17.44%	50.6%	48.4%	9	5	D +17.4%	R +0.6%	D -2.7%
28	10.32%	8.39%	22.56%	36.22%	0.54%	69.41%	35.69%	36.75%	27.56%	21.17%	47.37%	0.75%	66.17%	4.66%	64.29%	82.78%	3.06%	14.07%	28.65%	41.33%	30.00%	50.7%	48.0%	9	5	D +15.7%	R +2.2%	D +3%

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Functional Analysis - Returns

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		5	9	10	13	24	26	27	28	
Plan H000C8019 Primary Elections	BVAP	35.32%	13.13%	28.80%	86.71%	42.17%	7.11%	7.07%	10.32%	
	HVAP	10.75%	59.84%	24.60%	21.98%	38.46%	7.11%	7.07%	10.32%	
2018	Governor (REP)	R_Balduf	0.71%	0.93%	0.70%	1.45%	1.93%	1.86%	1.52%	1.82%
		R_DeSantis	59.21%	52.39%	49.98%	62.28%	56.81%	66.34%	67.70%	67.72%
		R_DeVine	1.18%	1.97%	1.44%	2.05%	3.26%	2.81%	3.13%	3.31%
		R_Langford	1.01%	1.47%	1.87%	1.80%	1.93%	1.41%	1.56%	1.70%
		R_Mercadante	0.51%	1.29%	0.75%	1.53%	2.21%	1.26%	2.18%	2.03%
		R_Nathan	0.76%	0.51%	0.82%	1.52%	2.71%	1.10%	1.41%	1.41%
		R_Putnam	34.98%	38.28%	42.16%	25.44%	16.79%	21.84%	18.87%	18.11%
	R_White	1.57%	2.65%	2.06%	2.84%	3.90%	2.58%	3.49%	3.51%	
	Governor (DEM)	D_Gillum	54.21%	30.12%	43.54%	53.43%	50.66%	29.57%	28.97%	31.80%
		D_Graham	21.58%	29.52%	29.90%	13.51%	11.07%	20.77%	22.68%	21.12%
		D_Greene	6.92%	14.19%	8.51%	10.21%	9.33%	9.95%	7.36%	10.56%
		D_King	1.70%	4.25%	4.78%	0.91%	0.76%	2.47%	1.56%	2.11%
		D_Levine	14.26%	19.02%	12.06%	21.28%	27.36%	34.05%	37.17%	32.26%
		D_Lundmark	0.48%	1.17%	0.43%	0.29%	0.38%	1.42%	0.79%	0.90%
	D_Wetherbee	0.78%	1.63%	0.67%	0.37%	0.32%	1.32%	0.70%	0.96%	
	Attorney General (REP)	R_McCody	57.28%	54.31%	56.30%	58.46%	53.14%	52.04%	54.81%	54.88%
		R_White	42.75%	45.68%	43.69%	44.16%	46.91%	47.93%	45.20%	45.11%
	Attorney General (DEM)	D_Shaw	75.96%	60.80%	74.52%	81.41%	82.21%	65.99%	74.10%	69.58%
D_Torrrens		24.04%	39.20%	25.49%	18.58%	17.77%	33.67%	25.90%	30.43%	
Agriculture Commissioner (REP)	R_Caldwell	32.18%	36.81%	34.31%	43.02%	39.87%	42.31%	40.18%	42.06%	
	R_Grimley	16.70%	31.39%	31.13%	26.45%	31.49%	29.28%	32.68%	31.53%	
	R_McCallister	7.96%	16.42%	15.37%	20.87%	16.88%	12.74%	16.78%	16.54%	
R_Troutman	43.34%	15.21%	19.04%	8.59%	11.33%	15.55%	10.38%	9.57%		
Agriculture Commissioner (DEM)	D_Fried	62.78%	55.00%	55.66%	63.96%	59.13%	51.02%	59.89%	53.25%	
	D_Porter	20.10%	18.80%	16.93%	16.09%	17.50%	20.36%	15.13%	20.42%	
	D_Walker	17.12%	26.22%	27.41%	19.91%	22.59%	28.37%	24.89%	26.19%	
US Senate (REP)	R_De La Fuente	9.48%	9.94%	12.08%	15.12%	15.72%	9.61%	12.64%	12.23%	
	R_Scott	90.52%	90.04%	87.88%	84.46%	84.02%	90.34%	87.34%	87.65%	
2016	US Senate (REP)	R_Beruff	23.79%	17.33%	17.72%	14.86%	8.38%	9.21%	5.63%	6.40%
		R_Rivera	3.30%	3.35%	2.39%	4.55%	3.20%	2.21%	1.92%	2.99%
		R_Rubio	67.90%	71.65%	74.24%	70.37%	80.78%	84.85%	88.89%	85.70%
	R_Young	5.02%	7.64%	5.44%	9.04%	7.31%	3.65%	3.50%	4.84%	
	US Senate (DEM)	D_De La Fuente	3.44%	15.35%	4.00%	3.13%	5.63%	19.80%	12.21%	13.69%
		D_Grayson	11.84%	45.21%	39.94%	10.08%	10.80%	11.46%	11.26%	11.07%
D_Keith		15.69%	9.85%	12.58%	14.72%	13.78%	14.16%	17.89%	15.57%	
D_Luster	17.28%	1.32%	1.13%	2.22%	2.70%	1.97%	1.55%	1.65%		
D_Murphy	51.70%	28.14%	41.20%	69.53%	66.98%	52.07%	56.90%	57.52%		
2014	Governor (REP)	R_Adeshina	0.96%	1.74%	1.86%	2.51%	2.89%	1.45%	1.82%	1.75%
		R_Cuevas-Neunder	6.83%	12.32%	10.24%	14.70%	16.26%	10.38%	13.29%	15.11%
		R_Scott	92.24%	85.81%	87.79%	81.70%	80.61%	87.99%	84.83%	82.94%
	Governor (DEM)	D_Crist	69.50%	76.41%	77.66%	82.85%	84.36%	76.00%	73.98%	78.45%
D_Rich		30.37%	23.59%	22.27%	16.99%	15.62%	23.65%	25.94%	21.39%	
Attorney General (DEM)	D_Sheldon	58.78%	60.90%	50.76%	38.33%	46.60%	61.45%	68.55%	61.36%	
D_Thurston	41.26%	39.06%	49.18%	61.50%	53.40%	38.12%	34.43%	38.41%		
2012	US Senate (REP)	R_Mack	62.96%	49.02%	58.59%	65.27%	71.98%	73.40%	77.15%	73.83%
		R_McCallister	16.99%	12.08%	10.19%	12.41%	6.67%	8.19%	5.22%	7.31%
		R_Stuart	5.77%	6.81%	4.77%	6.66%	13.36%	12.07%	13.00%	13.19%
	R_Weldon	14.36%	31.78%	26.25%	13.82%	7.69%	6.14%	4.50%	5.63%	
US Senate (DEM)	D_Burkett	21.01%	19.73%	13.70%	13.92%	14.22%	21.30%	14.82%	18.34%	
	D_Nelson	78.59%	80.23%	86.28%	85.94%	85.75%	78.45%	85.13%	81.50%	

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Functional Analysis - Returns

			5	9	10	23	24	26	27	28
Plan H0008019		BVA ²	35.32%	13.13%	28.80%	56.11%	42.17%	7.11%	7.07%	10.32%
General Elections		HVA ²	10.75%	30.34%	24.60%	22.98%	38.46%	36.61%	43.88%	39.35%
2020	President	D_Biden	55.58%	53.35%	62.78%	75.89%	74.18%	40.33%	49.45%	46.42%
		R_Trump	43.11%	40.65%	36.18%	23.52%	25.28%	59.13%	50.01%	52.99%
2018	Governor	D_Sillum	56.70%	61.55%	63.30%	79.93%	81.45%	44.85%	53.18%	52.49%
		R_DeSantis	42.37%	37.08%	35.67%	19.45%	17.83%	53.79%	45.75%	46.31%
	Attorney General	D_Shaw	53.03%	53.23%	59.28%	78.44%	80.05%	43.00%	51.93%	50.86%
		R_Moody	45.35%	39.76%	38.97%	20.26%	18.39%	54.98%	46.10%	46.94%
	Chief Financial Officer	D_Ring	64.27%	60.69%	61.24%	79.79%	81.63%	44.45%	52.59%	51.92%
		R_Patronis	45.75%	39.31%	38.76%	20.20%	18.46%	55.53%	47.41%	48.07%
Agriculture Commissioner	D_Fried	55.15%	62.07%	63.21%	80.09%	82.00%	45.64%	54.63%	53.44%	
	R_Caldwell	44.86%	37.93%	36.79%	19.89%	18.00%	54.35%	45.38%	46.56%	
US Senate	D_Nelson	55.64%	60.28%	63.31%	80.00%	81.36%	45.20%	54.47%	53.46%	
	R_Scott	44.36%	39.74%	36.69%	20.00%	18.64%	54.79%	45.52%	46.55%	
2016	President	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%	48.49%	40.05%	40.81%
US Senate	D_Murphy	44.53%	54.98%	55.69%	75.64%	75.93%	41.07%	47.78%	47.69%	
	R_Rubio	54.97%	40.91%	40.45%	22.42%	21.99%	56.70%	50.17%	49.92%	
2014	Governor	D_Crist	45.95%	52.68%	55.47%	79.92%	82.18%	41.24%	50.00%	51.20%
		R_Scott	49.80%	42.21%	39.64%	17.97%	15.24%	56.03%	47.55%	45.89%
	Attorney General	D_Sheldon	43.69%	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%	60.82%	51.96%	51.75%
	Chief Financial Officer	D_Ransin	44.48%	49.04%	49.58%	75.48%	79.06%	35.24%	43.49%	45.87%
		R_Atwater	55.52%	50.96%	50.42%	24.50%	20.93%	61.76%	56.52%	54.11%
Agriculture Commissioner	D_Hamilton	47.42%	47.38%	49.85%	77.02%	79.78%	37.88%	44.30%	46.04%	
	R_Putnam	52.58%	52.11%	50.15%	22.99%	20.21%	62.11%	53.69%	53.95%	
2012	President	D_Obama	52.96%	61.57%	59.68%	80.52%	82.82%	40.50%	52.22%	54.83%
		R_Romney	46.20%	37.59%	39.48%	19.06%	16.83%	49.98%	47.77%	44.61%
	US Senate	D_Nelson	57.33%	66.05%	64.54%	81.97%	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%	

EXHIBIT 7

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

TRANSCRIPTION OF AUDIO FILE
 SENATE SESSION PART 2
 March 4, 2022

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

1 SECRETARY BROWN: A quorum is present,
2 Mr. President.

3 PRESIDENT SIMPSON: The Senate will be in
4 order. Senators, just so everyone knows, I know it's
5 about 65 degrees in here. Leader Passidomo requires us
6 to keep it a little cooler than normal. But I have
7 asked the sergeant to raise it up to at least, say 68-9
8 degrees, so y'all are welcome.

9 Senators, we are going to take up
10 returning messages from the House, the actions available
11 to us, available to the Senate, are included in Rule
12 7.8. We will read each message and hear the
13 recommendation of the Senate Sponsor. Read the first
14 message.

15 THE CLERK: The Honorable Wilton Simpson,
16 President, I am directed to inform the Senate that the
17 House of Representatives has passed committee substitute
18 for Senate Bill 102 with one amendment, 269533, and
19 requests the concurrence of the Senate. Jeff Takacs,
20 Clerk.

21 Committee substitute for Senate Bill 102,
22 a bill to be entitled an act Establishing the
23 Congressional Districts of the State, amendment bar code
24 269533, by Representative Leak. Remove everything after
25 the enacting clause and insert amendment.

1 PRESIDENT SIMPSON: Senator Rodrigues,
2 you are recognized for an explanation.

3 SENATOR RODRIGUES: Thank you, Mr.
4 President. House Amendment 1, bar code 269533, replaces
5 the substance of redistricting plan S035C8060, which is
6 what we passed off this floor back in January with Plans
7 H000, C8019, and H000C8015. When you came in this
8 morning, those maps should have been laid on your desk
9 for your review.

10 Plan H000C8019 is the primary plan. It
11 apportions the state into 28 single-member congressional
12 districts. It contains a configuration of Congressional
13 District 5 that keeps it wholly within Duval County.
14 This plan will serve as the map for elections beginning
15 in 2022 and thereafter, unless Congressional District 5
16 were to be invalidated by the Court.

17 Plan H000C8015, which is the secondary
18 plan, apportions the state into 28 single-member
19 congressional districts. This map contains the
20 configuration of CD 5 that more closely resembles what
21 we passed out of this chamber back in January. If
22 Congressional District 5 in the primary map is
23 invalidated, Plan H000C8015 will take immediate effect
24 and serve as Florida's congressional districts for
25 elections beginning in 2022 and thereafter.

1 House Amendment 1 additionally provides
2 that any action challenging this act shall be commenced
3 within 30 days of becoming law, and that is the change
4 the House has made to the bill, Mr. President.

5 PRESIDENT SIMPSON: Are there questions?
6 Senator Pizzo, you're recognized for a question.

7 SENATOR PIZZO: Thank you, Mr. President.
8 And apologize in advance for my candor. There's a Tweet
9 from the Governor that says he's going to veto if this
10 comes to the desk. Is this what he's talking about
11 today?

12 PRESIDENT SIMPSON: Senator Rodrigues,
13 you're recognized.

14 SENATOR RODRIGUES: Thank you, Mr.
15 President. This is the map that the House just passed
16 off the floor, so that would appear to be the case.

17 PRESIDENT SIMPSON: Senator Pizzo, you're
18 recognized.

19 SENATOR PIZZO: Thank you, Mr. President.
20 And Senator Rodrigues, you and your staff have worked
21 very hard on -- on these issues, and I would expect a
22 commensurate effort across the hall. What is your,
23 obviously, not emotional, but intellectually and as it
24 relates to the keeping in the spirit and application of
25 what your task was, how do you take a statement that

1 says in advance of us passing anything and being sent to
2 his desk that he says he's going to veto it? Can you
3 think of any infirmity in these maps that give you
4 concern that they would be -- that they should be
5 vetoed?

6 PRESIDENT SIMPSON: Senator Rodrigues.
7 you're recognized.

8 SENATOR RODRIGUES: Thank you, Mr.
9 President, and thank you for the question. We believe
10 these maps to be constitutionally valid, and therefore,
11 we believe these maps fulfill the responsibility we have
12 as a legislative body to apportion our congressional
13 districts.

14 PRESIDENT SIMPSON: Are there any
15 additional questions? Senator Torres, you're recognized
16 for a question.

17 SENATOR TORRES: Thank you, Mr.
18 President. Senator Rodrigues, the question I have, the
19 original Senate product kept CD 7 as an original metro
20 area district, keeping Orlando suburbs of Seminole
21 County together with parts of Orange County. Why didn't
22 the Senate decide to push back on the new configuration,
23 which put Seminole together with the coastal areas in
24 Daytona Beach and Volusia County?

25 PRESIDENT SIMPSON: Senator Rodrigues,

1 you're recognized.

2 SENATOR RODRIGUES: Thank you, Mr.
3 President. If you'll recall, when we passed our map off
4 the floor back in January, we were very clear that we
5 preserved the districts of opportunity for our minority
6 voters. And the benchmark plan, which is the plan that
7 was ordered by the court, back in either 2014 or '15,
8 that our congressional representatives are currently
9 being elected under, there were -- I'll start with the
10 African American districts -- one majority minority
11 seat, two affected minority seats, and one opportunity
12 minority seat.

13 And for the Hispanic districts, there
14 were three majority minority seats and one opportunity
15 minority seat. That's the benchmark. The map that we
16 passed maintained one majority minority seat, two
17 effective minority seats, and one opportunity minority
18 seat that we passed off this floor in January.

19 This map that we've received from the
20 House also maintains that configuration; one majority
21 minority, two affected minority, and one opportunity
22 minority for African Americans. On the Hispanic
23 opportunity seats, the map that we passed contained four
24 majority minority seats. This map that we've received
25 from the House also contains four minority majority

1 seats.

2 If you go back and look, just yesterday,
3 the Florida Supreme Court accepted our state Senate and
4 state House maps. If you read the decision that they
5 offered in articulating why they were accepting our maps
6 as constitutional, one of the grounds they looked at was
7 they said the benchmark map offered up these seats as
8 opportunity seats for minority voters. And because our
9 Senate map did not retrograde and preserved all of those
10 opportunities, the court found that that map that we
11 passed was constitutionally valid. This congressional
12 map does the same thing.

13 I believe, if you go back and look at the
14 original map that was going through the House Committee
15 and subcommittee process, their seat in the Central
16 Florida area did not look like it does now. I think
17 they have moved closer to our position, and by moving
18 closer to our position, they have left us in a position
19 where we now preserve minority access seats and can say
20 that this is indeed a constitutional map.

21 PRESIDENT SIMPSON: Senator Torres,
22 you're recognized.

23 SENATOR TORRES: So let me get this
24 straight. We're saying that the House map is in
25 alignment with the Senate that we put together or is

1 more constitutional?

2 PRESIDENT SIMPSON: Senator Rodrigues,
3 you're recognized. Thank you, Mr. President. And I
4 don't want to mislead you. I'm not going to say it's
5 more constitutional. I'm going to say that the map that
6 they've passed and sent over to us we believe is
7 constitutional. And the reason we believe it is
8 constitutional, one of those reasons, is in the Central
9 Florida area, they have moved closer to the position
10 that was in the Senate map. They haven't matched our
11 lines up exactly. But based upon what they have done
12 and a functional analysis that's been performed on those
13 seats after they have proposed them, it is clear that we
14 are preserving the opportunity for minority voters,
15 which makes it constitutional. That's in the aggregate.

16 PRESIDENT SIMPSON: Senator Torres,
17 you're recognized.

18 SENATOR TORRES: But you would say that
19 the Senate map was more constitutional than the House
20 map?

21 PRESIDENT SIMPSON: Senator Rodrigues,
22 you're recognized.

23 SENATOR RODRIGUES: Thank you, Mr.
24 President. I would say constitutional is a lot like
25 being pregnant. You either are or you are not. I

1 believe that our map was constitutional. I believe this
2 map is constitutional. If I had to give a preference, I
3 would prefer our map. But I do believe that their map
4 is constitutional, and they have moved to get close to
5 us in the areas where it was required to do so.

6 PRESIDENT SIMPSON: Thank you. Are there
7 any additional questions? Senator Ausley, you're
8 recognized.

9 SENATOR AUSLEY: Thank you, Mr.
10 President. So the map that we are talking about now is
11 the map that splits black communities across three
12 different congressional districts. The current CD 5
13 unifies these communities into one district. The map
14 that we passed unanimously, almost unanimously, did as
15 well. So why are we capitulating to the House on this?

16 PRESIDENT SIMPSON: Senator Rodrigues,
17 you're recognized.

18 SENATOR RODRIGUES: Thank you, Mr.
19 President. And thank you for the question.
20 Particularly, we're looking at what is currently
21 Congressional District 5, which stretches from Duval
22 County to Gadsden County. In the map that we passed, we
23 preserved that. And the reason we preserved that is the
24 configuration of that district was drawn by the Court,
25 the Florida Supreme Court, and it was ordered by the

1 Court in the last round of litigation. We maintained
2 that district in the map that we produced.

3 If you go back and look, the governor
4 petitioned the Florida Supreme Court to give advisory --
5 an advisory opinion on the constitutionality of that
6 district. There have been federal court decisions tied
7 to Section 2 Voting Rights Act's decisions since the
8 Court ordered the configuration of that district. The
9 request was to see if those decisions changed the
10 Court's position that that map was constitutional. The
11 Florida Supreme Court declined to weigh in and offer an
12 advisory opinion.

13 So what the House did was they said,
14 okay, the governor has indicated -- and remember, we're
15 in a legislative process -- which means the House, the
16 Senate have to agree on a bill, and then we send that
17 bill to the governor for the governor's signature or
18 veto. Since it was clear the governor had indicated
19 that a district that stretched from Duval to Gadsden was
20 one that he viewed as unconstitutional because it did
21 not conform to those two court decisions dealing with
22 the Section 2 Voting Rights Act, the House configured a
23 Minority Opportunity District, preserving the
24 opportunity for minorities to elect a candidate of their
25 choice solely within Duval so that it would be compact

1 and address the concern that was raised, as well as the
2 concern that emanated from those two court decisions.

3 We believe it is best to put forth the
4 bill, as the House has prepared it, with a map that
5 addresses the concern that was officially stated by the
6 governor of why that map would potentially be vetoed,
7 and to have a secondary map should the court find that
8 that is unconstitutional and it is their preference that
9 we retain the current configuration of Congressional
10 District 5.

11 So we're doing this because we want to
12 put forth a constitutional map into the hands of the
13 court -- of the Governor for approval and into the Court
14 to be approved, should we be challenged, rather than
15 send up a map that would be vetoed for sure and then
16 necessitate, potentially, a special session where we
17 would have to come back and try to draw around the
18 subject of the veto letter, whatever that may be.

19 PRESIDENT SIMPSON: Senator Ausley,
20 you're recognized.

21 SENATOR AUSLEY: Thank you, Mr.
22 President. But it's my understanding that the governor
23 has already said he's going to veto anything we send
24 him. So why don't we put forward a map that we know
25 passes constitutional muster?

1 PRESIDENT SIMPSON: Senator Rodrigues,
2 you're recognized.

3 SENATOR RODRIGUES: Thank you, Mr.
4 President. We do believe both of these maps pass
5 constitutional muster. One of these maps is a map that
6 gives the Court the opportunity to weigh in on whether
7 they believe the decisions that have been made since
8 they ordered Congressional District 5 to be drawn in the
9 manner that they ordered it impacts their position on
10 that. And one is a map that should they decide that
11 their position has not changed and that is
12 unconstitutional because their position has not changed,
13 that we then have a secondary map which does address
14 their concerns and leaves that district in the manner
15 that they ordered it during the last redistricting
16 cycle.

17 PRESIDENT SIMPSON: Senator Ausley,
18 you're recognized.

19 SENATOR AUSLEY: Thank you, Mr.
20 President. Has the Senate performed its own functional
21 analysis of this current CD 5 configuration?

22 PRESIDENT SIMPSON: -- remind everyone
23 that Senator Stargel is still the Budget Chair. Senator
24 Rodrigues, you're recognized.

25 SENATOR RODRIGUES: Thank you, Mr.

1 President. Yes. Our staff has performed a functional
2 analysis, the functional analysis that was prescribed by
3 the Court in the Apportionment 1 decision from a decade
4 ago. And our functional analysis reveals that this does
5 perform as a Minority Opportunity District. I'm sorry,
6 an affected minority district.

7 PRESIDENT SIMPSON: Senator Ausley,
8 you're recognized.

9 SENATOR AUSLEY: Thank you, Mr.
10 President. The CD 5 configuration that we're looking at
11 right now, we have done a functional analysis of that
12 configuration that the House just sent us?

13 PRESIDENT SIMPSON: Senator Rodrigues,
14 you're recognized.

15 SENATOR RODRIGUES: Thank you, Mr.
16 President. Yes, we have.

17 PRESIDENT SIMPSON: Senator Rod -- okay.
18 Are there any additional questions? Senator Pizzo,
19 you're recognized.

20 SENATOR PIZZO: Thank you, Mr. President.
21 Senator Ausley, I was asking the question, but I just
22 want to be just a little greater particularity. Can you
23 provide members here with the House's functional
24 analysis on racial performance? And I may have missed
25 it, but just on racial performance, the House's

1 analysis?

2 PRESIDENT SIMPSON: Senator Rodrigues,
3 you're recognized.

4 SENATOR RODRIGUES: Thank you, Mr.
5 President. I do not have the data from the House on
6 their racial analysis. However, I do have the data that
7 the Senate staff utilized in performing our functional
8 analysis, which I can provide you.

9 PRESIDENT SIMPSON: Senator Pizzo, you're
10 recognized.

11 SENATOR PIZZO: Thank you, Mr. President.
12 Senator Rodrigues, that was a yes on your work because I
13 read it and based my vote on that. But we have not been
14 provided -- we were sent over maps, but no analysis as
15 it relates to race performance on their iterations that
16 have come back to us.

17 PRESIDENT SIMPSON: Senator Rodrigues,
18 you're recognized.

19 SENATOR RODRIGUES: We do have the
20 functional analysis that we have performed on those
21 districts that we can provide you.

22 PRESIDENT SIMPSON: Senator Pizzo, you're
23 recognized.

24 SENATOR PIZZO: Thank you, Mr. President.
25 Is it your understanding that the House relied on our

1 analysis, the Senate's analysis, to draft these maps
2 that we're now looking at?

3 PRESIDENT SIMPSON: Senator Rodrigues,
4 you're recognized.

5 SENATOR RODRIGUES: Thank you, Mr.
6 President. No, I don't believe they used our analysis.
7 They used their own analysis, which we do not have. But
8 they gave us their product, which we then ran our
9 analysis on, that we used when we composed our maps, to
10 see if they met the standards that were required to pass
11 constitutional muster. And the analysis our staff has
12 provided leads us to believe that it does.

13 PRESIDENT SIMPSON: Senator Pizzo, you're
14 recognized.

15 SENATOR PIZZO: And I'll skip debate to
16 tell you that I'm now a no, because, again, I do have
17 faith. It's not that I'm discounting what work they
18 tried to do and their efforts that they made. But you
19 have to arrive at a product that's based on analysis
20 that I'd like to read and something so critically
21 important.

22 I read yours. I agree with yours. I
23 voted for yours. But we're now being sent back things
24 to vote on that is not backed up by any analysis that
25 we're even able to review before we do so, from the

1 House, not yours.

2 PRESIDENT SIMPSON: Thank you. Are there
3 any additional questions? Is there debate? Any debate?
4 Senator Bracy, you're recognized in debate.

5 SENATOR BRACY: Sorry, no. I had a
6 question.

7 PRESIDENT SIMPSON: You're recognized for
8 a question.

9 SENATOR BRACY: Thank you, Mr. President.
10 Do you have information on how these districts would
11 perform as far as likely to elect a Republican, likely
12 to elect a Democrat? There was information that said --
13 that was reported that our Senate maps, I think it was
14 16 to 12. How do these House maps perform; do you have
15 any information on that?

16 PRESIDENT SIMPSON: Senator Rodrigues,
17 you're recognized.

18 SENATOR RODRIGUES: Thank you, Mr.
19 President. We do not have that information. We have
20 that information for the minority districts because that
21 is part of the functional analysis that was ordered by
22 the Supreme Court in the Apportionment 1 case, back
23 during the first cycle of redistricting. So for those
24 four districts that are one is majority minority, two
25 are affected minority, one is opportunity minority. For

1 the African American Opportunity districts, we have that
2 analysis. And for the four seats that are four majority
3 minority, for the Hispanic seats, we have that analysis.
4 But those are the only seats that we have any analysis
5 that would indicate partisan performance.

6 PRESIDENT SIMPSON: Senator Bracy, you're
7 recognized.

8 SENATOR BRACY: Thank you, Mr. President.
9 I know that the governor complained that the North
10 Florida seat wasn't compact. And so, there is an option
11 that makes that area more compact. So if it is vetoed,
12 what would be the difference between his map and what we
13 see here today? Because if we're complying with the
14 compactness that he talked about, what else is there to
15 comply with?

16 PRESIDENT SIMPSON: Senator Rodrigues,
17 you're recognized.

18 SENATOR RODRIGUES: Thank you, Mr.
19 President, and thank you for the question. I can't
20 speak to the governor and his concern, but what I can
21 speak to is what he asked the Supreme Court to weigh in
22 on, because we filed briefs supporting the request for
23 an advisory opinion. And his concern there was that
24 that district was not compact, stretching from Duval to
25 Gadsden County, and therefore, not being compact was in

1 violation of the now traditional redistricting standards
2 as articulated in the Section 2 Voting Rights Act
3 decisions that had recently come out.

4 It is the position of the House, and we
5 agree with them, that the primary map we're offering up
6 addresses that concern by taking what was that district
7 and keeping that minority opportunity district wholly
8 contained in Duval County.

9 So we believe, if you look at the request
10 for the advisory opinion to the Supreme Court, that this
11 map addresses the concern that was articulated in that
12 request.

13 PRESIDENT SIMPSON: Senator Bracey,
14 you're recognized.

15 SENATOR BRACEY: Thank you, Mr.
16 President. The difference I see is in we keep the
17 minority access seats in both of these House versions,
18 and the governor's map does not.

19 Of course, you can't speak to the
20 governor's intentions, but is that -- could that be a
21 reason for his veto?

22 PRESIDENT SIMPSON: Senator Rodrigues,
23 you're recognized.

24 SENATOR RODRIGUES: Thank you, Mr.
25 President. I would prefer not to speculate on what may

1 or may not occur or why it may or may not occur. I
2 would prefer that we accept these maps, which we believe
3 are constitutional, send them to the governor and see
4 what his action will be. The governor will either sign
5 them or he will not sign them and let them become law
6 that way or he will veto them. He will do one of the
7 three things.

8 Traditionally, when there is a veto,
9 there is a veto letter that accompanies the veto that
10 provides guidance on why the governor chose to veto that
11 particular bill. I would prefer to see what's
12 articulated for the reason that this map is violated or
13 vetoed, should he choose to go down that road.

14 PRESIDENT SIMPSON: Question? Senator
15 Jones, you're recognized for a question.

16 SENATOR JONES: Thank you so much, Mr.
17 President. I just have one quick question. Looking at
18 8015 and looking at 8019, Senator Rodrigues, why not
19 send 8015 back to the House to make this option one and
20 make 8019 option two, considering that 8015 follows the
21 law in it being contiguous? Because if you look at
22 8019, it is not contiguous, which would be based off of
23 the law.

24 PRESIDENT SIMPSON: Senator Rodrigues
25 you're recognized.

1 SENATOR RODRIGUES: Thank you, Mr.
2 President. I will quibble with you on whether both maps
3 are contiguous or are not contiguous. I think both of
4 them are contiguous. The 8015 is less compact than
5 8019. And I believe the reason that the House chose to
6 send 8019 as the primary map was the concern that had
7 been articulated by the governor in the request that he
8 sent to the Florida Supreme Court for an advisory
9 opinion was his belief that current configuration of CD
10 District 5, which stretches from Duval to Gadsden
11 County, was not compact, which is what he expressed his
12 concern over. And the belief was, if we send
13 legislature a map up that addresses that concern, that
14 there was a greater likelihood that the bill would be
15 signed and the map would be implemented. So that is why
16 that was chosen by the House as the primary map.

17 PRESIDENT SIMPSON: Senator Jones you're
18 recognized.

19 SENATOR JONES: Thank you so much, Mr.
20 President. And Chair Rodrigues, but there's nothing
21 wrong with map number two, so what would stop us from
22 sending that back over to them?

23 PRESIDENT SIMPSON: Senator Rodrigues,
24 you're recognized.

25 SENATOR RODRIGUES: Thank you, Mr.

1 President. I would say there's nothing wrong with
2 either map one or two. I believe they're both
3 constitutional. And so, I say that we move forward with
4 the map that addresses the concern that's been
5 articulated, and that potentially gives us the greater
6 opportunity to have it signed.

7 From my perspective, and I think we've
8 articulated this back in January, I know we did during
9 committees, and I think we did this during debate in
10 January when we presented the maps. As a legislature,
11 we have two responsibilities that we have to do. The
12 first responsibility is one we have every year. We
13 could convene in, and if the only thing we do is pass a
14 balanced budget, we have fulfilled our constitutional
15 responsibilities. Everything we do beyond that is
16 gravy. It's good that we're making great policy and
17 improving the state, but we can't leave without having
18 passed a balanced budget.

19 The second responsibility we have,
20 according to the Constitution, is that every decade, we
21 have to reapportion. We have to reapportion our
22 congressional delegation based upon the data from the
23 census and we have to redistrict our State Senate and
24 State House delegations according to the census data. I
25 believe we need to pass maps that are constitutional,

1 which has been our singular focus during this process,
2 is to pass maps that would survive Court scrutiny and
3 Court review and that we should fulfill that
4 responsibility. If we don't fulfill the responsibility,
5 then what we may be facing is a situation that occurred
6 during the last redistricting cycle where the courts are
7 either drawing a map for us or taking a map from a
8 plaintiff given to them by an outside entity who's not
9 accountable to the voters.

10 I think it's important, as elected
11 officials that are accountable to the voters, that took
12 an oath to uphold the Constitution when we were sworn
13 in, that we pass the map that we believe is
14 constitutional and gives us the greatest opportunity to
15 fulfill that duty that's placed upon us.

16 PRESIDENT SIMPSON: Are there -- Leader
17 Gibson, question? You are recognized for a question.

18 SENATOR GIBSON: Thank you, Mr.
19 President. In 8019, CD 5 has a BVAP of 35 percent and
20 8015 has a 43 percent BVAP. Are both of those non
21 diminishment?

22 PRESIDENT SIMPSON: Senator Rodrigues,
23 you're recognized --

24 SENATOR GIBSON: Or both of those
25 figures, I guess?

1 SENATOR RODRIGUES: Thank you Mr.
2 President, and thank you for the question because that's
3 a very important point. It is our responsibility to
4 ensure that we preserve the opportunity. I would draw
5 your attention back to the last round of redistricting
6 and what occurred. If you'll recall, in the last round
7 of redistricting that seat had a north-south
8 configuration that went from Jacksonville down to
9 Orlando and was actually a minority majority district.
10 And the Court tossed that district and said we don't
11 believe that north-south configuration is
12 constitutional. We believe that is a gerrymander. We
13 believe that it has been drawn majority minority in
14 order to pack minority voters into that district. So
15 we're going to find that district configuration
16 unconstitutional and instead they drew the east-west
17 configuration.

18 The second thing that's important is not
19 only did that run east-west but that changed from a
20 minority majority district into an affected minority
21 district because the percentage of minority voters
22 decreased from a majority to less than a majority. And
23 the Court found that just because the percentage goes
24 down doesn't necessitate diminishment.

25 The key question is, will it still

1 perform and will the minorities be able to elect the
2 candidate of their choice and participate? And they put
3 forth a functional analysis that they believe we should
4 go through in order to make that determination. The
5 functional analysis that they required -- a I'll just
6 walk through this for the benefit of everybody -- is
7 does the benchmark district perform Democrat or
8 Republican in statewide contests since 2012? And then,
9 there are subsections to that. What is the partisan
10 breakdown of registered voters? How many wins during
11 that period? What is the average margin of victory?
12 What is the average vote share? Are minority voters
13 registered cohesively? What percentage of the
14 registered voters by race and party? And then, what is
15 the minority registration among the political parties?
16 And then, the key question is, does the minority control
17 the primary?

18 So even though the percentage has gone
19 down, the functional analysis shows that that is still a
20 Democrat performing seat and that the minority controls
21 the Democrat primary in that seat. That is why we
22 believe it to be constitutional.

23 PRESIDENT SIMPSON: Senator Gibson,
24 you're recognized.

25 SENATOR GIBSON: Thank you, Mr.

1 President. And so, I just want to go back to the
2 comment you made about using, I think you said, you used
3 the data from the House and used the Senate process for
4 a functional analysis. Do I have that right.

5 PRESIDENT SIMPSON: Senator Rodrigues,
6 you're recognized.

7 SENATOR RODRIGUES: Thank you, Mr.
8 President. We took the House map, took the districts
9 that were the minority districts, and then applied a
10 functional analysis to those seats, which was the
11 process we used on our maps when we brought that
12 forward. For each of the Minority Opportunity seats, we
13 had performed the functional analysis that I just went
14 through that the Court articulated.

15 So the House drew those districts. We
16 got their map. We took the districts that we know to be
17 Minority Opportunity Districts, and then we ran that
18 functional analysis to see if we agree that those seats
19 will perform as Minority Opportunity seats.

20 PRESIDENT SIMPSON: Senator Gibson,
21 you're recognized.

22 SENATOR GIBSON: Thank you, Mr.
23 President. So the process -- the process was the same
24 as if those were the maps that we produced; is that
25 correct?

1 PRESIDENT SIMPSON: Senator Rodrigues,
2 you're recognized.

3 SENATOR RODRIGUES: Thank you, Mr.
4 President. The process after the maps were drawn is the
5 same. I can't speak to the process before the maps were
6 drawn because I don't know what the House did in
7 preparing those districts. We're not privy to that.
8 Whereas, I do know what we did every step of the way
9 when we drew our districts. So I'm very comfortable
10 talking about our process.

11 I'm not going to go and say I know what
12 their process was because I wasn't in the room with
13 them. I don't know what their process was. But after
14 their lines were set, in order to determine if those
15 districts are constitutional, we applied the same
16 functional analysis on their map that we did to ours.

17 PRESIDENT SIMPSON: Leader Gibson, you're
18 recognized.

19 SENATOR GIBSON: Thank you, Mr.
20 President. And the map is the map, is that right? The
21 map is the map. If you have the district drawn and you
22 do the functional analysis on it, that's what we're
23 after, correct?

24 PRESIDENT SIMPSON: Senator Rodrigues,
25 you're recognized.

1 SENATOR RODRIGUES: Thank you, Mr.
2 President. Yes, Leader, I would agree with that. And
3 that's the approach we've taken here.

4 PRESIDENT SIMPSON: Are there any
5 additional questions? Okay. We will go to debate. Is
6 there any debate? Senator Jones, you're recognized in
7 debate.

8 SENATOR JONES: Thank you so much, Mr.
9 President. And thank you so much to Chair Rodrigues for
10 the work that you previously did on this bill that we,
11 in this chamber, that we voted for because Senator
12 Rodrigues, Jay, Jason, and their entire team, they made
13 sure that we were following the law. And the fact that
14 we are here right now over a fight because the governor
15 does not like the maps, in an unprecedented approach,
16 coming and wanting to insert himself in map drawing,
17 when we, in this body, wanted to follow the rules and do
18 the right thing.

19 And Mr. President, you made it clear in
20 the beginning of session that we were going to do things
21 right. We were going to do things based off the
22 Constitution. And the fact that we are here right now
23 because the governor wants to Tweet this morning that
24 the map is dead on arrival, which I believe is
25 inappropriate. It's inappropriate when we come up here

1 with our families, we don't to come up here to be
2 threatened by the governor when we all, unanimously,
3 bipartisan sent those maps and said, this is what our
4 maps look like. I believe that we did what was right.
5 We as a body came together and said, those individuals
6 who drew those maps, who's sitting right over there,
7 took their time to draw these maps to be legal and
8 constitutional. And I think if the governor wants to
9 veto the map, let him veto it. But we came together to
10 do the right thing, and so be it.

11 PRESIDENT SIMPSON: Is there any
12 additional debate? Senator Ausley, you're recognized.

13 SENATOR AUSLEY: Thank you, Mr.
14 President. So I hadn't really been involved -- I mean,
15 I've been involved in watching and voting on this
16 redistricting, but I tend to agree with Senator Jones on
17 this. You know, we're thrusting ourselves into this
18 disagreement, I guess, and I'm very concerned about this
19 map. I believe that it violates the Florida
20 Constitution. The Voting Rights Act. I mean, we we've
21 talked about the compactness of this, of this
22 configuration of Congressional District 5. But
23 compactness is not the only factor to be considered in
24 the Fair District's constitutional requirements, one of
25 the tier 1 criteria is that no apportionment plan or

1 district shall be drawn with the intent to favor or
2 disfavor a political party or an incumbent. This seems
3 to me to be very close to being disfavoring the current
4 incumbent of Congressional District 5, Al Lawson [ph],
5 and I believe that's a blatant violation of the Florida
6 Constitution. And I liked our initial map. And I'm
7 going to vote no on this today, and I hope many of you
8 will join me.

9 PRESIDENT SIMPSON: Is there any
10 additional debate? Senator Pizzo, you're recognized in
11 debate.

12 SENATOR PIZZO: I said I wasn't going to,
13 but I just want to be -- I was not lying. It was just
14 miscommunication.

15 PRESIDENT SIMPSON: That's fine; I
16 understand.

17 SENATOR PIZZO: Mr. President, to my
18 final -- final -- I'm a no because our work here, our
19 work product was sound, solid; in spirit, and an
20 application, it was good. We sent it back, comes back
21 here. Senator Jones made a really excellent point both
22 in its just functional simplicity. I think most of us
23 think the alternative map number 2 is better, so why
24 don't we just flip them around and send it back? We
25 have time.

1 A no vote for me is not because these
2 maps are going to be any better than the work product
3 that the governor would have drawn himself or his staff
4 would have drawn himself. So I don't want people to
5 think that. But a yes also would be blessing concerns
6 that I share with Senator Ausley, I think, a few others,
7 about some of the implications which could have been
8 overcome had they sent over the data to back up or we
9 had the data to back up their cartography.

10 And I hear whisperers around, and I don't
11 disagree that this is headed to the Courts. Concerns
12 about the votes on the other side. Senator Rodrigues,
13 I'm going to ask you, you and I have a good
14 relationship. We're very honest with each other. Talk
15 to the members in this chamber, because on the other
16 side, there was individual members on both sides that
17 were yeses and noes and I'm reading quotes where a
18 Republican, just said, this is absolutely
19 unconstitutional.

20 So if you would, a and as a courtesy to
21 members, I'm a no and I've expressed why and I think
22 I've articulated why. But talk to some of us as members
23 in your closing, if you would, about the implications of
24 being a no or being a yes.

25 PRESIDENT SIMPSON: Is there any

1 additional debate? Senator Berman, you're recognized in
2 debate.

3 SENATOR BERMAN: Thank you, Mr.
4 President. And I, too, voted for the original Senate
5 map because I believed that that map generally respected
6 the communities of interest in our state and in my
7 county, which is the one I'm able to analyze the best.
8 And unfortunately, with the maps that we have today, I
9 am concerned about Palm Beach County. It looks like the
10 map cracks -- as that term is used in the vernacular of
11 redistricting -- this cracks our communities of color in
12 Palm Beach County. And we've already proven we can draw
13 a map that doesn't do that.

14 And the other concern that I have is when
15 have we ever passed legislation that says, here's two
16 pieces, if not A, then go with B? I don't understand
17 that we're doing a two-pronged piece of legislation. To
18 me, that's extremely unconventional and it makes no
19 sense.

20 But I do want to be clear. While I'm
21 going to be a no vote and I can't support this map
22 today, I am also deeply troubled by the governor's
23 efforts to hijack this process. And if the governor
24 does insist on vetoing this map, I will certainly be
25 with anyone voting to override that veto. Thank you.

1 PRESIDENT SIMPSON: Senator Torres,
2 you're recognized.

3 SENATOR TORRES: Thank you, Mr. President
4 and Senator Rodrigues. Before I begin, I just want to
5 say that I was looking forward to having constituents'
6 input by going around the state like they did in 2016,
7 to listen to their concerns as to the maps and the
8 growth that was going on in the county, especially in my
9 Central Florida, Osceola and Orange. I was a no on the
10 original Senate product because I was concerned about
11 the Latino representation on the I-4 corridor. I am a
12 no today because these issues are still not fixed on
13 this map. And by putting all of Polk County into a
14 single district, I'm also concerned that we are robbing
15 the rapid growing Hispanic community along the I-4
16 corridor of additional representation over the next ten
17 years -- ten years.

18 As long as a longtime Central Florida
19 resident, I am concerned about the rest of the
20 configuration of Orange and Seminole County as well,
21 particularly the configuration of CD 7 under this map.
22 It cracks the student communities in Seminole County
23 away from the University of Central Florida and
24 generally ignores that many residents in Seminole County
25 work in Orange County and vice versa. I see no reason

1 for these changes, and that is why I still cannot
2 support this matter. Thank you, Mr. President.

3 SENATOR RODRIGUES: Leader Farmer, you're
4 recognized in debate.

5 SENATOR FARMER: Thank you, Mr.
6 President. There's a Yiddish word called chutzpa.
7 Chutzpa has been described in a legal opinion as that
8 quality of a man that compels him to, having killed his
9 mother and father, throw himself on the mercy of the
10 Court because he's now an orphan. I think this governor
11 is demonstrating extreme chutzpa in the way he is
12 inserting himself into this legislative process, in the
13 way he is taking unprecedented action in submitting his
14 own proposed map with a clear goal in mind to reduce or
15 eliminate minority access. It's plain, it's simple,
16 it's patent.

17 Patent is the opposite of latent, as we
18 learned in the construction defect debate. With such
19 obvious mal intention, how can we countenance that? How
20 can we in good conscience countenance that? And how can
21 we pass an either/or product? I mean, how many times do
22 we debate versions of a bill and we go with our version
23 over the House version or a lot more frequently lately,
24 we go with the House version over our version. We don't
25 get to send two versions to the governor and say, hey,

1 you pick which one you like better. That's not how this
2 works, folks. That's not how this works.

3 The sheer arrogance is really appalling.
4 And I guess we shouldn't be surprised that somebody
5 who's going to wag his face, wag his finger in a kid's
6 face --

7 PRESIDENT SIMPSON: Senator Farmer --

8 SENATOR FARMER: -- because he's choosing
9 to wear a mask would take such action. But we're not
10 doing our job. We're not doing our job appropriately.
11 We're not doing our job constitutionally, and we should
12 vote no on this map. Thank you.

13 PRESIDENT SIMPSON: Is there any
14 additional debate? Senator Cruz, you're recognized.

15 SENATOR CRUZ: Thank you, Mr. President
16 and members. We passed a constitutional amendment that
17 said we want fair districts. We took it to the people.
18 We went around this body and we took it to the people
19 and they said, we want fair districts. We want compact
20 and contiguous districts that represent the people that
21 live there. Not drawing the African American district
22 in a circle here and not drawing the wealthy white group
23 on the beaches here; that's not fair. We want compact
24 and contiguous districts.

25 So I'm a no on this map and I'm going to

1 tell you, it's because of the obvious., what I see not
2 as bad as it used to be, gerrymandering and partisan
3 favoritism. This map has cracks. It cracks the
4 community around my area in Tampa, the University of
5 South Florida, into two districts. And it also kind of
6 cracks communities of color in Tampa and in Temple
7 Terrace.

8 Now, I have concerns over the Senate's
9 original product. I did. I was hopeful that I would
10 let it go on and some of these concerns might be
11 addressed as the process kind of moved forward. Not
12 only were these concerns not addressed in this map, this
13 map has gotten worse. I can't support a map today as I
14 don't believe it's constitutional. I truly do not
15 believe this one is constitutional, and I believe it
16 undermines the opportunities for racial minorities in
17 Tampa Bay and in your district, Senator Torres.

18 I cannot understand how all we have
19 talked about for the last ten years, and even more so
20 after the devastating hurricane in Puerto Rico, all
21 we've done is talk about this rapid growth in the I-4
22 quarter, specifically the Orlando area. Yet the map
23 comes out and I see little or no additional Hispanic
24 representation. Instead, it's been pushed toward the
25 center of the state. Not fair. Just not fair.

1 I don't have confidence, you know? I
2 don't have confidence in what we passed as a fair
3 district amendment. Look at congressional District 5.
4 I think that's currently Congressman Lawson, is that
5 right? He is a little stain in the center of
6 Congressional District 4. Ridiculous. He's a stain
7 right there in the middle. Just let's forget about the
8 rules. Let's just put him right there in the middle and
9 forget about what we're supposed to do. There's a stain
10 there.

11 There's a stain in this whole process.
12 It is an ugly stain, and I don't know how we fix it.
13 But I'll tell you what I do know, that my no vote today
14 is not a no vote against this body that I have much
15 respect for. I believe that our maps and the work that
16 we did, with the exception of more Hispanic
17 representation, was an honorable map. What I don't want
18 to see is this project hijacked. I don't want to see
19 someone inject themselves and try to use this as
20 political theater. And I am going to say that, in my
21 opinion, trying to hijack this map, one of the most
22 important aspects of our work is the redistricting of
23 our state. I mean, we work hard on the budget and make
24 sure that we send out a balanced budget. We don't spend
25 any more money than we have, and we work hard to do

1 that. It's honorable, good work. This is the zenith or
2 the pinnacle of the work that we do here. We are here
3 following an amendment, a constitutional amendment, that
4 our people said, we want fair districts. We want
5 democracy. We see it falling apart in other places of
6 this world, but here, democracy stands. So I'm going to
7 say, Governor DeSantis, do not become a stain on the
8 democracy of the state of Florida. Thank you, Mr.
9 President.

10 PRESIDENT SIMPSON: Is there any
11 additional debate? Senator Rodrigues, you're recognized
12 to close on your bill. Excuse me. Senator Taddeo,
13 you're recognized in debate.

14 SENATOR TADDEO: Thank you, Mr.
15 President. And I'm on the corner, so sometimes it's
16 hard to -- it's easy to miss. I first want to say to
17 Senator Rodrigues, I am so impressed with the work that
18 you have done and the staff. I really -- I have been
19 really impressed. I didn't sit on any other committees,
20 but I've watched and I voted for the maps that we sent
21 over to the House. And I know it's hard work. I mean,
22 you even got rid of your cell phone. I was really
23 impressed with that. I don't know that I could do that,
24 although I'm sure some people would love for me to do
25 that. This has been hard work, and I commend you.

1 I am, however, really, really concerned
2 about the map we received and extremely disappointed by
3 the process that's been going on in the public with
4 respect to the governor's office getting involved.
5 Look, let's be real. On the eve of Martin Luther King
6 Day, there was a map that was released by the governor's
7 office, which, as far as I know, we had never seen, in
8 which it actually erased majority black seats. I -- I
9 can't believe it. I couldn't believe it when I saw it.
10 I can't believe that that was happening. Have we gotten
11 so far in our extremism, in our politics, that we're
12 putting aside the importance of minority districts
13 that's in law? It's very disappointing.

14 And now, we're seeing a play with the
15 separations of powers. I mean, we're here to do our
16 job, a very important job. And the governor has every
17 right to veto the congressional maps. But we should put
18 out our maps, the maps we've drawn, the maps we feel
19 pass the intent of the voters when they sent a very
20 strong message about us not injecting politics into the
21 drawing of the maps. Not playing favoritism on
22 incumbents, not paying attention where someone lived,
23 not playing politics with the map drawing, whether it's
24 blue or red. It's a sad day. It's a sad day when we
25 are not standing up to the governor. So I ask you,

1 let's stand up to the governor. Let's send our original
2 map, the one that we drew, the one that we feel was the
3 appropriate map after a ton of work, a ton of research
4 and clear following of the constitutional amendment that
5 was asked of us from the voters. Thank you.

6 PRESIDENT SIMPSON: Is there any
7 additional debate? Senator Bracy, you're recognized in
8 debate.

9 SENATOR BRACY: Thank you, Mr. President.
10 I'm actually okay with the House maps because I
11 understand where they're coming from. If they are
12 anticipating the governor to veto it, and he asked for
13 certain things, they tried to comply, and he's still not
14 satisfied. And what is clear is that he wants to remove
15 black districts. That's the only other thing that could
16 be done. And I think that's where we should draw the
17 line.

18 I'm going to vote for the Senate maps.
19 That's what I would prefer, because I think it's a
20 better product. But I thought it was important to
21 highlight what is going on here. And so I think, as a
22 Senate, we should stand against what the governor is
23 trying to do. Thank you.

24 SENATOR BRACY: Any additional debate?
25 Senator Rodrigues, you're recognized to close.

1 SENATOR RODRIGUES: Thank you, Mr.
2 President, and thank you, members, for your debate
3 today.

4 As I close on this, I'm going to begin by
5 saying I do believe this is a constitutional map. And I
6 was asked to address some of the concerns that have been
7 expressed by colleagues on this. And I watched the
8 committee hearings in the other chamber, and I've read
9 some of the comments that other members have made on why
10 they're objecting to the map, and I don't agree with
11 them.

12 So what's been offered as a reason for
13 objection is there are two maps on this one bill. Even
14 in this chamber, I heard someone say, we shouldn't send
15 the governor two maps and tell him, you pick the one you
16 like. That's not what we're doing in this bill. We're
17 sending one bill with two maps, and the governor has a
18 choice when he receives the bill. He can either sign it
19 and let it become law; not sign it, and it becomes law;
20 or veto it. But he doesn't get to say, I want this map,
21 not that map. We say that in the bill. It is the first
22 map, unless the Court invalidates it because they find
23 District 5 to be unconstitutional. And then, and only
24 then, does that second map become effective. And that's
25 not any different than what this legislature commonly

1 does during every session. Many bills contain a
2 severability clause that we pass because we recognize in
3 some areas there may be issues that the Court objects to
4 and so we put into the bill a severability clause so
5 that that portion can go away, but the rest of the bill
6 can remain. That's what we've done here.

7 Now let's look at the actual map itself.
8 I heard a member express concern because it looks like
9 the House has made tweaks, and we were in particular in
10 South Florida, that may be unconstitutional because
11 they're either packing or cracking. That's not the case
12 in the analysis that I've done as I've looked at the
13 maps.

14 When we drew our map, we laid down the
15 county boundaries as our foundation. And the reason we
16 did that was the Court blessed that in apportionment one
17 as the foundation. There are 67 counties, their borders
18 do not change, and they're contiguous. So that is the
19 perfect foundation to begin building the map.

20 Then we made the decision as a body to
21 prioritize geographic boundaries over municipal
22 boundaries. And the reason we did that was geographic
23 boundaries don't change. I-75 hasn't moved. I-95
24 hasn't moved. Our state roads may get wider as we
25 expand them to accommodate the traffic, but they're not

1 physically relocated.

2 The issue with using municipal
3 boundaries, as we looked at it, is that they're ever
4 changing. When we examined the data from the last
5 reapportionment cycle to today, we saw that there was,
6 on average, one city boundary change every day for the
7 last decade in the 412 cities that we have here in the
8 state of Florida. So we went with the geographic
9 boundaries, and then where we could accommodate keeping
10 municipalities whole, we did that.

11 If you look at fair districts, those are
12 all co-equal tier 2 criteria; geographic boundaries,
13 municipal boundaries, county boundaries. Each approach
14 is valid. To put geographic boundaries over city
15 boundaries is constitutionally valid. What the House
16 did was they put keeping cities whole over geographic
17 boundaries. So they started with the counties as their
18 foundation, and as they built from there, they worked to
19 keep cities whole. That is perfectly constitutional.
20 That is a tier 2 criteria; two different approaches,
21 both of them entirely legal.

22 And so I draw your attention to what the
23 Court said when they upheld our state Senate and the
24 state House map in the joint resolution that we sent to
25 them. When they went through and upheld those maps,

1 they said, here is the benchmark map that was ordered by
2 the Court last time. This map is more visually compact,
3 but we only don't have to rely only on visual
4 compactness because there are metrics that are
5 recognized by the Court and were used by the Court. So
6 they went through the convex hull metric, the Polsby-
7 Popper metric, and the Reock metric. And they said on
8 each of these metrics, the Senate map is more compact
9 than the previous map, which is an indication that it
10 was not gerrymandered.

11 The map that we passed off this floor,
12 8060, was an improvement over the benchmark map. The
13 benchmark map had a convex hull of .77; the map that we
14 passed in January was .80. The map in front of you
15 today that we're asking you to vote yes on has a convex
16 hull of .82, better than the benchmark and even better
17 than the map that we passed in January.

18 The Polsby-Popper map. The benchmark was
19 .36. The map that we passed in January was .43. The
20 map in front of you that we're asking you to vote yes on
21 today is .42. That's just a tick less than our map, but
22 I'm going to tell you why that's okay when I get to the
23 last metric.

24 The third mathematical metric is the
25 Reock. The benchmark was .44. The map that we passed

1 was an improvement at .46. The map we're asking you to
2 vote yes on today is .48. Better than the benchmark,
3 better than the map that we passed in January.

4 So we've got the one metric that was just
5 a tick lower than ours. If you go down and look at
6 counsel kept whole and cities kept whole. In the
7 benchmark map, there were 49 counties kept whole. In
8 the map that we passed, we kept 48 whole. In the map in
9 front of you today, 49 counties are being kept whole.
10 It's an improvement over what we passed, and it is as
11 good as the benchmark map.

12 And now we get to the municipal
13 boundaries. Now, remember, we didn't prioritize
14 municipal boundaries, but the House did. Out of 412
15 cities in the benchmark map, 373 of them are kept whole,
16 wholly contained in one congressional district. In the
17 map that we passed, we kept 368 of them wholly contained
18 in a district. This map, the map that we're asking you
19 to vote for today, keeps 394 of the 412 cities
20 completely whole in a district. That accounts for the
21 changes that you see as you look at our map compared to
22 their map. Where there were changes, the changes were
23 made where they kept cities whole. It wasn't packing or
24 cracking. It was following municipal boundaries, which
25 is constitutional. That is a tier 2 criteria that the

1 Court has upheld. So they keep 26 additional cities
2 whole, one additional county whole and are more visually
3 compact and the map is more mathematically compact on
4 two of the three and practically a tie on the third.
5 This is a constitutional map. It is a good map. And
6 with that, I'd ask for your favorable support.

7 SENATOR BRACY: Senator Rodrigues, you
8 are recognized for a motion.

9 SENATOR RODRIGUES: Thank you, Mr.
10 President. I move that the Senate concur in House
11 Amendment 269533.

12 PRESIDENT SIMPSON: Without objection,
13 sir, that motion adopted, we are back on the bill as
14 amended. The Secretary will unlock the board and
15 Senators will proceed to vote. Lock the board and
16 record the vote.

17 THE CLERK: 24 yeas, 15 nays, Mr.
18 President.

19 PRESIDENT SIMPSON: So the bill passes.
20 Read the next bill. Oh, excuse me, Senators. We are
21 staying on special order where we were this morning.
22 We're going to read the next bill.

23 THE CLERK: Committee substitute for
24 committee substitute for Senate Bill 1430, a bill to be
25 entitled an act relating to insolvent insurers.

1 PRESIDENT SIMPSON: Senator Burgess, you
2 are recognized on your bill.

3 SENATOR BURGESS: Thank you very much,
4 Mr. President. This bill is related to insolvent
5 insurers and revamps some provisions within the Florida
6 Insurance Guarantee Association. And I believe --

7 PRESIDENT SIMPSON: Are there amendments?

8 THE CLERK: None on the desk, Mr.
9 President.

10 PRESIDENT SIMPSON: Are there questions?
11 Senator, there's a companion bill if you wish to explain
12 the differences. Please explain the differences should
13 you wish to substitute.

14 SENATOR BURGESS: Thank you very much,
15 Mr. President. These bills are similar and accomplish
16 the same goals. However, there is an additional
17 provision in the Senate Bill that the House bill did not
18 pick up after conversations with OIR and with
19 stakeholders within the industry.

20 The provision would have allowed for some
21 officers of companies declared insolvent to serve in the
22 same capacity at another company. We had included that
23 in our bill, and there's some merit to that discussion.
24 But there were concerns at which we had put the language
25 in. And so at this time, we're going to just basically

1 take up the House bill and try to work on that issue
2 another day.

3 PRESIDENT SIMPSON: Are there questions?
4 Is there objection to the motion of taking up the House
5 bill? Does anyone have a question? Senator Burgess
6 moves that the House bill be substituted. Without
7 objection, motion is approved. Read the House bill.

8 THE CLERK: Committee substitute for
9 House Bill 1023, a bill to be entitled an act relating
10 to insolvent insurers.

11 PRESIDENT SIMPSON: Are there questions
12 on the House bill? Questions on the House bill?
13 Senator Burgess moves the rules be waived and the bill
14 be read a third time. Is there objection? Without
15 objection, read the bill a third time.

16 THE CLERK: Committee substitute for
17 House Bill 1023, a bill to be entitled an act relating
18 to insolvent insurers.

19 PRESIDENT SIMPSON: Is there debate? Is
20 there debate? Senator Burgess, having waived has closed
21 the question. Now occurs on the bill, The Clerk will
22 unlock the board and Senators will proceed to vote.
23 Clerk will now lock the board and announce the vote.

24 THE CLERK: 36 yeas, zero nays, Mr.
25 President.

1 PRESIDENT SIMPSON: Show the bill passes.
2 Read the next bill.

3 THE CLERK: Committee substitute for
4 committee substitute for Senate Bill 1292, a bill to be
5 entitled an act relating to fraud prevention.

6 PRESIDENT SIMPSON: Senator of the 23rd
7 is Senator Gruters, you're recognized to explain the
8 bill.

9 SENATOR GRUTERS: Thank you, Mr.
10 President. This bill addresses key components related
11 to CFO's fraud prevention package. These components
12 include ensuring that an individual could sign up and
13 cancel a service contract in the same manner increasing
14 fines for unlicensed public adjuster practices during
15 declared state of emergencies, reducing the frequency of
16 warranty advertisements by requiring solicitations from
17 a licensed warranty insurance agent to include
18 verifiable information and addressing motor vehicle
19 insurance solicitations by requiring proper
20 identification and providing incentives for insurance to
21 invest in fraud prevention, detection and other special
22 investigative unit activities. That's the bill, Mr.
23 President.

24 PRESIDENT SIMPSON: Are there amendments?

25 THE CLERK: None on the desk, Mr.

1 President.

2 PRESIDENT SIMPSON: The House bill is
3 raising its hand wishing to be recognized. Should you
4 wish to recognize it, can you explain the differences,
5 Senator Gruters?

6 SENATOR GRUTERS: Thank you, Mr.
7 President. The bills are the same.

8 PRESIDENT SIMPSON: Senator Gruters moves
9 an identical House bill be substituted. Is there
10 objection? Without objection, read the House bill.

11 THE CLERK: Committee substitute for
12 committee substitute for committee substitute for House
13 Bill 749, a bill being entitled an act relating to fraud
14 prevention.

15 THE CLERK: Are there questions?
16 Additional questions? Senator Gruters moves the bill be
17 read a third time. Is there objection? Without
18 objection, read the bill a third time.

19 THE CLERK: Committee substitute for
20 committee substitute for committee substitute for House
21 Bill 749, a bill to be entitled an act relating to fraud
22 prevention.

23 PRESIDENT SIMPSON: Let's do debate. Any
24 debate? Any debate? Senator Gruters having waived his
25 close, the question now occurs for final passages. The

1 clerk will now unlock the board. Senators will proceed
2 to vote. Have all Senators done their duty and voted?
3 The Clerk will now lock the board and announce the
4 votes.

5 THE CLERK: 39 yeas, zero nays, Mr.
6 President.

7 PRESIDENT SIMPSON: Show the bill passes.
8 Read the next bill.

9 THE CLERK: Committee substitute for
10 Senate Bill 1736, a bill be entitled an act relating
11 records of physical examinations.

12 PRESIDENT SIMPSON: Let's go to the
13 Senator of the 16th, Senator Hooper, you're recognized
14 to explain the bill.

15 SENATOR HOOPER: Thank you, Mr.
16 President. This bill requires the employing agency of a
17 law enforcement officer, firefighter, corrections
18 officer, or correctional probation officer to maintain
19 the records of that officer's pre-employment physical
20 for five years after separation.

21 PRESIDENT SIMPSON: Are there amendments?

22 THE CLERK: None on the desk, Mr.
23 President.

24 PRESIDENT SIMPSON: Are there questions?
25 Senator, once again, a House bill has shown up trying to

1 catch a ride here. And Senator, if you wish to
2 substitute, as you do, can you explain the differences,
3 please?

4 SENATOR HOOPER: Thank you, Mr.
5 President. The only difference is, this bill does not
6 require the five year maintenance for a firefighter.
7 Their pre-employment physical fulfills that obligation.

8 PRESIDENT SIMPSON: Very good. Senator
9 Hooper moves the House bill as explained be substituted
10 for the Senate Bill. Is there objection? Without
11 objection, the motion is adopted. Read the House bill.

12 THE CLERK: Committee substitute for
13 House Bill 453, a bill to be entitled an act relating to
14 officer and firefighter physical examination
15 requirements and records.

16 PRESIDENT SIMPSON: Are there questions?
17 Senator Hooper is going to move and does move. Are
18 there questions, questions? Moves the bill be read a
19 third time. Is there objection? We've already agreed
20 to it. Democratic and Republican leaders have said yes.
21 Without objection, the motion is adopted. Read the bill
22 a third time.

23 THE CLERK: Committee substitute for
24 House Bill 453, a bill to be entitled an act relating to
25 officer and firefighter physical examination

1 requirements and records.

2 PRESIDENT SIMPSON: Is there debate? Is
3 there debate? Senator Hooper, having waived his close,
4 the question occurs on final passage. The clerk will
5 unlock the board. Senators will proceed to vote. The
6 Clerk will now lock the board and announce the votes.

7 THE CLERK: 38 yeas, zero nays., Mr.
8 President.

9 PRESIDENT SIMPSON: Show the bill passes.
10 Read the next bill.

11 THE CLERK: Senate Bill 1708, a bill to
12 be entitled an act relating to child welfare. Senator
13 Garcia, you are recognized to explain the bill.

14 SENATOR GARCIA: Thank you, Mr.
15 President. This is a wonderful bill and builds on our
16 commitment to take care of those who need it the most;
17 in this case, our homeless youth. Senate Bill 1708
18 expands the Campus Coach program to serve certain
19 homeless youth in addition to foster youth to ensure
20 success in post-secondary education. The bill also
21 directs OPPAGA to conduct a study on the effectiveness
22 of the Campus Coaching program.

23 The bill clarifies provisions related to
24 certified homeless youth to remove barriers for
25 accessing medical and other care currently provided to

1 them in Florida law. The bill requires a local school
2 districts to provide these youth with a card that
3 includes pertinent information related to the care for
4 which they are entitled. The bill expands the fee
5 waiver exemption for birth records to foster youth who
6 have aged out and certified homeless youth, and the Keys
7 to Independence program to certified homeless youth.
8 This will help get rid of barriers so that they can gain
9 employment and help put them on a path to independence.
10 With that, I'd like to take up the House bill and
11 explain the differences, sir.

12 PRESIDENT SIMPSON: One question; are
13 there amendments?

14 THE CLERK: None on the desk, Mr.
15 President.

16 PRESIDENT SIMPSON: Senator, you're
17 recognized to explain the differences, if any?

18 SENATOR GARCIA: Thank you, Mr.
19 President. The bills are identical, with the exception
20 of the following few provisions that are included in the
21 House Bill: post-secondary institutions are required to
22 have a dedicated staff person who serves as the campus
23 liaison and must provide the liaison's name and contact
24 info to the student. The institution must maintain the
25 original documentation submitted by the student as proof

1 of tuition eligibility, and may not take additional
2 requests for documentation. The documentation of a
3 student's homelessness must be adequate if it meets
4 federal standards until the student, notifies the
5 educational institution, that the situation has changed,
6 and that is the difference.

7 PRESIDENT SIMPSON: Are there questions
8 on the differences? Senators, are there questions?
9 Senator Garcia, moves the House bill be substituted as
10 described by Senator Garcia. Without objection, read
11 the House bill.

12 THE CLERK: Committee substitute for
13 committee substitute for House Bill 1577, a bill be
14 entitled an act relating to homeless youth.

15 PRESIDENT SIMPSON: Are there questions
16 on the House bill as presented by Senator Garcia?
17 Senator Garcia moves the rules be waived and the bill be
18 read a third time. Is there objection? Without
19 objection to the amendment, the motion adopted, and read
20 the bill a third time.

21 THE CLERK: Committee substitute for
22 committee substitute for House bill 1577, a bill to be
23 entitled an act relating to homeless youth.

24 PRESIDENT SIMPSON: Is there a debate?
25 Is there debate? Senator Garcia having waived her

1 close, the question now occurs final passage. The clerk
2 will unlock the board. Senators will proceed to vote.

3 The clerk will now lock the board and announce the vote.

4 THE CLERK: 36 yeas, zero nays, Mr.
5 President.

6 PRESIDENT SIMPSON: Show the bill passes.
7 Senators, we've got a treat for you this afternoon.
8 It's my pleasure to recognize and welcome our Chief
9 Financial Officer. Please give a warm Senate welcome to
10 Jimmy Petronez.

11 Read the next bill.

12 THE CLERK: Senate Bill 1682, a bill to
13 be entitled an act relating to transportation facility
14 designations.

15 PRESIDENT SIMPSON: Senator Pizzo for the
16 38th, you're recognized to explain the bill.

17 SENATOR PIZZO: Thank you, Mr. President.
18 1682 designates a portion of AlA Collins Avenue from
19 87th Terrace to 88th Street in Miami-Dade County,
20 Specifically Surfside, to be designated as 98 Points of
21 Light Road.

22 PRESIDENT SIMPSON: Are there amendments?

23 THE CLERK: On the desk, Mr. President.

24 PRESIDENT SIMPSON: Read the first
25 amendment. Late filed amendment, Barcode 392960 by

1 Senator Pizzo. Delete lines 10 to 16 and insert
2 amendment.

3 PRESIDENT SIMPSON: Senator Pizzo, you're
4 recognized on the amendment.

5 SENATOR PIZZO: Mr. President, we can
6 withdraw this amendment and we can take up the House
7 bill.

8 PRESIDENT SIMPSON: Without objection,
9 show the amendment withdrawn. Senator, would you
10 explain the differences, if any, of the House bill?

11 SENATOR PIZZO: We, after great
12 deliberation, we're deciding between Road and Way, and
13 we've gone with Way.

14 PRESIDENT SIMPSON: Very good.
15 Additional questions? Without a question, Senator Pizzo
16 moves that the House bill be substituted. Is there
17 objection? Without objection, the House bill is
18 substituted. Let's read the House bill.

19 THE CLERK: House Bill 1469, a bill to be
20 entitled an act relating to transportation facility
21 designations.

22 PRESIDENT SIMPSON: Are there amendments?

23 THE CLERK: None on the desk, Mr.

24 President.

25 PRESIDENT SIMPSON: Are there questions

1 on the bill? Are there questions? Senator Pizzo moves
2 the rules be waived and the bill be read a third time by
3 title. Without objection, read the bill a third time.

4 THE CLERK: House Bill 1469, a bill to be
5 entitled an act relating to transportation facility
6 designations.

7 PRESIDENT SIMPSON: Is there debate? Is
8 there debate? Senator Pizzo, I wish to debate and I'm
9 up here. There is debate. Leader Book, you're
10 recognized from the 32nd.

11 SENATOR BOOK: Thank you, Mr. President.
12 And I just want to thank Senator Pizzo for all of the
13 hard work that he did in his community, along with
14 Senator Garcia and myself from the day that the collapse
15 occurred. You've been there every step of the way for
16 your constituents, for your community. At one point in
17 time, I thought Maggie and I and Senator Garcia were
18 going to have to restrain you from getting on top of the
19 pile to pull people and parts out. And the work that
20 you've done for those families that you continue to do
21 for those families each and every day, your community,
22 your state is lucky to have you representing them.

23 PRESIDENT SIMPSON: Additional senators
24 and debates, Leader Book, I would concur. Senators, I
25 happened to be in South Florida when -- when the tragedy

1 occurred, and I didn't want to go. I did not want to
2 go. It's almost like going to a funeral where you don't
3 want to go. But I called Senator Pizzo. He said, Bean,
4 you got to come. Come, we'll wave you through. And for
5 anybody that saw it on TV or saw pictures, you have no
6 idea the magnitude of how large it was. I'm getting
7 goosebumps telling you about it because it was truly one
8 of the -- it was very sad. It was very sad.

9 And as Senator Book described, Leader
10 Book, we were all grateful, not just his district, but
11 all of Florida was truly blessed to have Senator Pizzo
12 on site. When I got there, he had organized. I thought
13 I was going to get in the way.

14 You know, as public officials, we try to
15 stay out of the rescue zone and letting our professional
16 firefighters and first responders do their thing. And I
17 didn't want to get in the way. And not only was he not
18 in the way, he was leading the way of comforting, of
19 welcoming, of organizing whatever they needed, he was
20 there. And there were truly, in the afternoon that we
21 were there, two bodies had been recovered and families
22 that wished to immediately take those, he negotiated
23 that release. There were officials there. It was --
24 I'm just grateful that you were, Senator Pizzo. If you
25 know that you spent ten days on site almost leading the

1 way, I'm proud of you. I just wanted the world to know
2 that we were grateful to have you there.

3 So with that, you are recognized to close
4 on this bill.

5 SENATOR PIZZO: Thank you, Mr. President.
6 And thank you to many members here who called, who
7 texted, who showed up. Also this may be the only
8 opportunity. I'll do so when we hopefully successfully
9 pass Senator Bradley's SB 1702, which is a very good
10 bill, and I really appreciate your professionalism and
11 your friendship on this.

12 I want to just thank you guys. Most of
13 you reached out immediately to offer, you know, both
14 condolences and what you could do. I'm incredibly
15 appreciative. 2020 was a really hard year for all of us
16 because we're in the throes of the pandemic and I spent
17 a lot of time on unemployment up here. My kids had only
18 asked for a week with dad. So the first day of that
19 week that we took off, Maggie woke me up at four o'clock
20 in the morning to tell me the building had collapsed and
21 I needed to get home immediately, so they haven't gotten
22 that day.

23 But, if I may, this is the one
24 opportunity, if you'll indulge me just for one minute,
25 Mr. President. It's a road designation and I know some

1 of you don't like to look into these and all that stuff,
2 but today, this is for the following. It's for Richard,
3 it's for Ingrid, it's for Z, Michael, Luis, Claudio,
4 Maria, Debra, Elena, Lewis, Cassie, Valeria, Maria,
5 Andrea, Graciela, Gino, Stella, Elena, Gary, Brad,
6 Magali, Nicole, Lorenzo, Christina, David, Bonnie,
7 Stacy, Mercedes, Sofia, Andreas, Andreas, Anastasia,
8 Edgar, Luma, Lucia, Marcus, Orisme, Catalina, Estelle,
9 Miguel, Frank, Nancy, Jay, Sofia, Andreas, Nicole,
10 Theresa, Lady, Angela, Julio and Benny. I appreciate
11 your support.

12 PRESIDENT SIMPSON: Senators, for what
13 purpose says Leader Book?

14 SENATOR BOOK: Thank you, Mr. President.
15 When Senator Pizzo and I went over to the House, when
16 the bill passed, the representative asked the board to
17 be open for everybody to support this piece of
18 legislation. I would ask that we do the same here.

19 PRESIDENT SIMPSON: Senator Book moves
20 the board be open to allow for co-sponsorship. Without
21 objection, the motion passes. The clerk will now open
22 the board for co-sponsorship of the bill. Clerk will
23 now lock the board and announce the vote.

24 THE CLERK: 39 co-sponsors, Mr.
25 President.

1 PRESIDENT SIMPSON: The clerk will now
2 open the board and senators will proceed to vote. Clerk
3 will lock the board and announce the vote.

4 THE CLERK: 39 yeas, zero nays, Mr.
5 President.

6 THE CLERK: And show the bill passes.
7 Read the next bill. Senate Bill 390, a bill to be
8 entitled an act relating to restraint of students with
9 disabilities in public schools.

10 PRESIDENT SIMPSON: Senator of the 32nd,
11 Senator Book, you're recognized.

12 SENATOR BOOK: Thank you so much, Mr.
13 President. This bill furthers the important work done
14 by this body when we passed the Seclusion Restraint Bill
15 last session. Senate Bill 390 would prohibit the use of
16 mechanical restraints in public schools by school
17 personnel. Mechanical restraints are devices used to
18 restrict a person's movement, including handcuffs, zip
19 ties, straight jackets, and Velcro restraint vests.

20 Recognizing that sometimes emergencies do
21 occur, the bill still allows for safe, alternative
22 physical restraints if there is imminent risk of serious
23 injury to students or school personnel.

24 At the end of the day, this is about
25 keeping students safe and giving families peace of mind.

1 Thank you so much, Mr. President.

2 PRESIDENT SIMPSON: Are there amendments?

3 THE CLERK: None on the desk, Mr.

4 President.

5 PRESIDENT SIMPSON: Senator, there's a
6 House bill and if you can explain the differences, we
7 will consider substituting. What say you to the
8 differences, Senator Book -- Leader Book?

9 SENATOR BOOK: Mr. President, they are
10 identical.

11 PRESIDENT SIMPSON: They are identical.
12 Leader Book moves the identical House bill to be
13 substituted. Is there objection? Without objection,
14 read the House bill.

15 THE CLERK: House Bill 235, a bill to be
16 entitled an act relating to restraint of students with
17 disabilities in public schools.

18 PRESIDENT SIMPSON: Are there questions
19 on the House bill? Leader Book moves the rules be
20 waived and the bill will be read a third time by title.
21 Is there objection? Without objection, the motion is
22 adopted. Read the bill a third time.

23 THE CLERK: House Bill 235, a bill to be
24 entitled an act relating to restraint of students with
25 disabilities in public schools.

1 PRESIDENT SIMPSON: Is there a debate?

2 Is there a debate? Leader Book?

3 SENATOR BOOK: No. I am going to wait.

4 PRESIDENT SIMPSON: You're recognized to
5 close or you can give me the secret signal that we
6 proceed. She does. She gives me the secret signal.
7 Leader Book, having waived her close, the question now
8 occurs with a final passage. The clerk will now unlock
9 the board. Senators will proceed to vote. Clerk will
10 now lock the board and announce the vote.

11 THE CLERK: 38 yeas, zero nays, Mr.
12 President.

13 PRESIDENT SIMPSON: And the bill passes.
14 Senators, once again it is celebrity day in the Florida
15 Senate because we have a very special guest. When I was
16 a freshman some many years ago, the senate president at
17 that time -- of course he's now at the time too -- but
18 larger than life he is here today on this floor. Let's
19 give him a warm Senate welcome. Would you please
20 welcome President Don Gates.

21 President Gates, I just straightened up
22 your photograph just to make sure it's still looking
23 pretty good. Read the next bill.

24 THE CLERK: Committee substitute for
25 committee substitute for Senate Bill 398, a bill to be

1 entitled an act relating to transportation projects.

2 PRESIDENT SIMPSON: Senator Hooper moves
3 that bill be temporarily postponed. Without objection,
4 show the bill postponed. Read the next bill.

5 THE CLERK: Committee substitute for
6 committee substitute for Senate Bill 654, a bill to be
7 entitled an act relating to protective injunctions.

8 PRESIDENT SIMPSON: The senator of the
9 18th, Senator Cruz, you're recognized to explain the
10 bill.

11 SENATOR CRUZ: Thank you, Mr. President.
12 This bill makes a simple change to the domestic violence
13 injunction or restricting order filing process which
14 could have a really huge impact on the safety of the
15 petitioner or the domestic violence survivor.

16 Senate Bill 654, believe it or not, Mr.
17 President, would allow the clerks of the court statewide
18 to transmit these important protective injunction
19 documents to the sheriff's office electronically rather
20 than through the mail. If you can believe it, that's
21 the way it's happening now. And they're going certified
22 copies, so you can imagine how many days that adds to
23 protecting someone or not being able to protect someone.
24 So by allowing these documents to be sent
25 electronically, we can shorten the timeline for

1 defendants to be served with injunctions and increase
2 government efficiency. We all like that. And while
3 improving the safety of petitioners and especially the
4 domestic violence survivors. That is the bill, Mr.
5 President.

6 PRESIDENT SIMPSON: Are there amendments?

7 THE CLERK: None on the desk, Mr.
8 President.

9 PRESIDENT SIMPSON: Senator Cruz, there
10 is a companion bill waiting to be substituted. Can you
11 explain the differences, please?

12 SENATOR CRUZ: Thank you, Mr. President.
13 The difference in these bills, they are very similar.
14 The House bill speeds up the timeline for implementation
15 and our Senate Bill had required a work group and we've
16 eliminated that.

17 PRESIDENT SIMPSON: Senator Cruz moves
18 the House bill be substituted for the Senate Bill. Is
19 there objection? Without objection, the motion is
20 agreed to. Read the House bill.

21 THE CLERK: Committee substitute for
22 House Bill 905, a bill to be entitled an act relating to
23 protective injunctions.

24 PRESIDENT SIMPSON: Are there amendments?

25 THE CLERK: None on the desk, Mr.

1 President.

2 PRESIDENT SIMPSON: Senator Cruz moves
3 rules be waived and the bill be read a third time by
4 title. Is there objection? Without objection, read the
5 bill a third time.

6 THE CLERK: Committee substitute for
7 House Bill 905, a bill to be entitled an act relating to
8 protective injunctions.

9 PRESIDENT SIMPSON: Is there debate? Is
10 there debate? Senator Cruz, you are recognized to close
11 on the bill.

12 SENATOR CRUZ: Thank you. Quickly, Mr.
13 President, I am very proud of this work. I want to
14 thank my clerk of the court, Cindy Stewart, who brought
15 this issue to me. I couldn't believe it and her
16 assistant Jenna worked it tirelessly. Also, need to
17 thank my staff, Jack Anderson and Devon Bletch, for
18 working with all parties involved to make this bill
19 happen. And Rep Federerhoff is here. We worked on this
20 together and I appreciate you very much. Thank you.
21 That is it.

22 PRESIDENT SIMPSON: Thank you so much.
23 Senator Cruz having closed with the bill, the question
24 occurs for final passage. The clerk will unlock the
25 board. Senators will proceed to vote. Clerk will lock

1 the board. Announce the vote.

2 THE CLERK: 39 yeas, zero nays, Mr.

3 President.

4 PRESIDENT SIMPSON: Show the bill passes.

5 Read the next bill.

6 THE CLERK: Committee substitute for
7 committee substitute for committee substitute for Senate
8 Bill 876, a bill to be entitled an act relating to stunt
9 driving on highways.

10 PRESIDENT SIMPSON: Let's go to the
11 Senator of the 38th, Senator Pizzo you're recognized to
12 explain the bill.

13 SENATOR PIZZO: Thank you, Mr. President.
14 I'm actually going to run over to the House here. I'm
15 going to TP it and make sure that my House companion
16 gets passed.

17 PRESIDENT SIMPSON: Without objection,
18 show the bill TP'd. Read the next bill.

19 THE CLERK: Committee substitute for
20 Senate Bill 1452, a bill be entitled an act relating to
21 funding for sheriffs providing child protective
22 investigative services.

23 PRESIDENT SIMPSON: Let's go to the
24 Senate of the 35th Senator -- let's go to the Leader of
25 the 32nd and that is TP'd. Without objection, show that

1 bill temporarily postponed. Read the next bill.

2 THE CLERK: Committee substitute for
3 committee substitute for Senate Bill 1536, a bill to be
4 entitled an act relating to money, services, businesses.

5 PRESIDENT SIMPSON: Senator Boyd, you are
6 recognized to explain the bill.

7 SENATOR BOYD: Thank you, Mr. President.
8 Senators, last year, the FBI informed the Office of
9 Financial Regulation it found the definitions for
10 "responsible person" and "control of money services
11 businesses" to be overly broad. They also stated they
12 would cease processing background checks unless this
13 definition was fixed. So we fixed it in Senate Bill
14 1536.

15 It repeals the definition of "responsible
16 person," proposing a new term, "control person," and
17 incorporating the new control person throughout the
18 chapter. That's the bill, Mr. President.

19 PRESIDENT SIMPSON: Are there amendments?

20 THE CLERK: None on the desk, Mr.
21 President.

22 PRESIDENT SIMPSON: Are there questions?
23 Senator Boyd, there's a companion bill. Please explain
24 the differences should you wish to substitute.

25 SENATOR BOYD: Thank you, Mr. President.

1 We do wish to substitute. Very simple differences; it
2 revised -- the House version, revised the definition of
3 "control person" to narrow the scope, and it reinstated
4 the change of control application, so the bill now has
5 no physical impact.

6 PRESIDENT SIMPSON: Senator Boyd moves
7 the House bill be substituted to the Senate the bill.
8 Is there objection? Without objection, the motion is
9 agreed to. Read the House bill.

10 THE CLERK: Committee substitute for
11 committee substitute for House Bill 389, a bill to be
12 entitled an act relating to money services businesses.

13 PRESIDENT SIMPSON: Are there amendments?

14 THE CLERK: None on the desk, Mr.
15 President.

16 PRESIDENT SIMPSON: Are there questions?
17 Senator Boyd moves the bill be read a third time. Is
18 their objection? Without objection, read the bill a
19 third time.

20 THE CLERK: Committee substitute for
21 committee substitute for House Bill 389, a bill to be
22 entitled an act relating to money services businesses.

23 PRESIDENT SIMPSON: Debate? Is there
24 debate? Senator Boyd, you are recognized to close on
25 the bill. Senator Boyd, having waived his close, the

1 question occurs. The clerk will unlock the board, and
2 senators will proceed to vote. Have all senators voted?
3 The clerk will now lock the board and announce the vote.

4 THE CLERK: 38 yeas, zero nays, Mr.
5 President.

6 PRESIDENT SIMPSON: Show the bill passes
7 and read the next bill.

8 THE CLERK: Committee substitute for
9 committee substitute for Senate Bill 1556, a bill to be
10 entitled an act relating to golf course best management
11 practices certification.

12 PRESIDENT SIMPSON: Let's go back to the
13 23rd District, where Senator Gruters is standing by to
14 explain the bill. He is recognized.

15 SENATOR GRUTERS: Thank you, Mr.
16 President. This bill clarifies that this voluntary best
17 management certification program will be administered by
18 the UF/IFAS Turf Grass Science Program. This program is
19 designed to ensure that golf course superintendents are
20 using the most up to date scientific environmental
21 standards in the care of their courses, and protection
22 of the water and soil in their communities. That is the
23 bill, Mr. President.

24 PRESIDENT SIMPSON: Are there amendments?

25 THE CLERK: None on the desk, Mr.

1 President.

2 PRESIDENT SIMPSON: Senator Gruters,
3 there is a golfing partner known as the House Companion
4 Bill. Please explain the differences should you wish to
5 substitute.

6 SENATOR GRUTERS: Thank you, Mr.
7 President. The bills are the same, so we'll substitute.

8 PRESIDENT SIMPSON: The bills are
9 identical. Is there objection to substituting the
10 identical House bill in lieu of the Senate Bill? Is
11 there objection? Without objection, motion is agreed
12 to. Read the House bill.

13 THE CLERK: Committee substitute for
14 committee substitute for committee substitute for House
15 Bill 967, a bill to be entitled an act relating to golf
16 course best management practices certification.

17 PRESIDENT SIMPSON: Are there amendments?

18 THE CLERK: None the desk, Mr. President.

19 PRESIDENT SIMPSON: Are there questions?
20 Senator Gruters moves the rules be waived and the bill
21 be read a third time by title. Is there objection?
22 Without objection, the motion is agreed to. Read the
23 bill a third time.

24 THE CLERK: Committee substitute for
25 committee substitute for committee substitute for House

1 Bill 967, a bill to be entitled an act relating to golf
2 course best management practices certification.

3 PRESIDENT SIMPSON: Is there debate?
4 Senator Gruters, having waived his close, the question
5 occurs for final passage. The Clerk will unlock the
6 board. Senators will proceed to votes. Clerk, please
7 lock the board and announce the vote.

8 THE CLERK: 38 yeas, zero nays, Mr.
9 President.

10 PRESIDENT SIMPSON: Show the bill passes.
11 Read the next bill.

12 THE CLERK: Committee substitute for
13 committee substitute for committee substitute for Senate
14 Bill 1024, a bill to be entitled an act relating to
15 renewable energy generation.

16 PRESIDENT SIMPSON: The Senator of the
17 5th District, Senator Bradley, you are recognized to
18 explain the bill.

19 SENATOR BRADLEY: Thank you, Mr.
20 President. Senate Bill 1024 allows us to make revisions
21 to the state's net metering program. It allows
22 industries time to shift their business model away from
23 one based on a subsidy. And after a glide path, the
24 state will have no subsidy from our non-solar rooftop
25 customers to our solar customers.

1 And specifically, I want to just step
2 through some of the specifics on the bill, because I
3 know it's one that has drawn some interest.
4 Specifically, the bill will direct the PSC to adopt
5 rules by January 1, 2024, and it will then have a seven
6 year step down from our current full retail rate that is
7 currently paid to our solar households. During calendar
8 year '24-'25, the excess energy at the end of a billing
9 cycle will be credited to the next month's billing cycle
10 at 75 percent. Energy usage in 2026 is offset by 60
11 percent, and in '27 to '28, energy usage is offset by 50
12 percent of the amount credited. This is a gradual
13 reduction in the retail credit rate, and it will help
14 provide certainty to the system.

15 A couple of important things to note.
16 One, the glide path does not begin until 2024. So until
17 then, there are no changes to the status quo. The
18 second is the grandfather provision, and that provides
19 that everyone with an interconnection agreement by
20 12/31/23 will be grandfathered under current terms. And
21 anyone who comes online during the glide path will also
22 be grandfathered in for 20 years under the terms in
23 effect at the time. And that is a difference from the
24 Senate bill as it passed out of its last committee.

25 The bill also provides that a utility may

1 petition the PSC for fees or charges to ensure recovery
2 of fixed costs, but none are mandated. The PSC is
3 directed to have new rules in place at the end of the
4 glide path by January 1, 2029. And a few important
5 points about this rulemaking. The rule must ensure that
6 the net metering customer pays the full cost of the
7 electric service and may not be subsidized by the
8 general body of ratepayers. The bill includes a
9 provision that if at any time the penetration rate for
10 utility service territory exceeds 6 1/2 percent, then
11 the PSC must initiate rulemaking that interrupts the
12 glide path, and rulemaking must then begin.

13 And lastly, the bill provides that if a
14 public utility wishes to offer terms more favorable than
15 those contained herein, they may petition the PSC to do
16 so. And Mr. President, I have just described the House
17 bill that I wish to substitute.

18 PRESIDENT SIMPSON: Senator Bradley has
19 described the differences of the House bill and moves to
20 substitute the House bill. Is there objection? Any
21 objection? Without objection, the motion is agreed to.
22 Read the House bill.

23 THE CLERK: Committee substitute for
24 committee substitute for House Bill 741, a bill to be
25 entitled an act relating to net metering.

1 PRESIDENT SIMPSON: Are there amendments?

2 THE CLERK: On the desk, Mr. President.

3 PRESIDENT SIMPSON: Read the first
4 amendment.

5 THE CLERK: Amendment barcode 967140 by
6 Senator Farmer, delete lines 23 to 166 and insert
7 amendments.

8 PRESIDENT SIMPSON: Senator Farmer, you
9 are -- Leader Farmer, you are recognized on the Farmer
10 amendment.

11 SENATOR FARMER: Thank you, Mr.
12 President. This amendment will direct the Florida
13 Public Service Commission to work with the Office of
14 Energy inside the Florida Department of Agriculture and
15 Consumer Services, the United States Department of
16 Energy, and the Florida Solar Energy Center to produce a
17 report that identifies all of the fixed costs associated
18 with serving utility customers that have rooftop solar
19 panels.

20 The report will also consider the
21 holistic value of solar panels, including the economic,
22 environmental, resilience, efficiency, technical and
23 social aspects in ensuring that ratepayers do not
24 subsidize customer owned or leased renewable generation.

25 That is the amendment, Mr. President.

1 PRESIDENT SIMPSON: Are there questions
2 on the Farmer amendment? Questions? Questions?
3 Senator Rouson from the 19th, you're recognized for a
4 question.

5 SENATOR ROUSON: Thank you very much, Mr.
6 President. What do you mean by taking into account or
7 issuing a report on the social aspects?

8 PRESIDENT SIMPSON: Leader Farmer?

9 SENATOR FARMER: Thank you, Mr.
10 President. Yeah, thank you for that question, Senator
11 Rouson. If you recall, we had the situation involving
12 the Archer, Florida community, where what we found in
13 Archer was really emblematic of the issue, where
14 oftentimes some of these renewable energy facilities are
15 rather large, they're somewhat unsightly, and they tend
16 to be located in less affluent communities and often in
17 communities of color. And so that is why we have the
18 language of the social aspects in this amendment.

19 PRESIDENT SIMPSON: We're in questions,
20 additional questions of Leader Farmer and the Farmer
21 amendment? Questions? Debate? Is there debate? We
22 are in debate of the Farmer amendment. Debate? Senator
23 Bradley, you're recognized in debate.

24 SENATOR BRADLEY: Thank you, Mr.
25 President. And thank you, Senator Farmer, for this

1 amendment. I share your desire to make sure that each
2 utility has an opportunity to prove up the costs and
3 benefits associated with solar energy. That is provided
4 in the bill after the glide path. It will go to the PSC
5 for a full vetting for the costs and the benefits. And
6 so at this time, I'd consider it unfriendly and I
7 believe we will do substantially what you propose.

8 PRESIDENT SIMPSON: Leader Farmer, to
9 close on the Farmer Amendment.

10 SENATOR FARMER: Thank you, Mr.
11 President. Yeah. You know, the crux of this issue has
12 been this dispute over what are the real costs? Is
13 there a subsidy involved? We've all been spoken to, I
14 think, probably multiple times on this bill. There is a
15 very divergent set of opinions here as to whether those
16 cost factors exist. One paper calls it the "myth of a
17 solar cost shift." And there simply isn't any reliable
18 data out there that will really close that issue for us.
19 So this amendment would examine this and help figure out
20 precisely what the subsidization costs are when
21 considering total value of distributed solar.

22 And so let's just make sure we get it
23 right, folks. Before we're going to negatively impact
24 our generation of solar powered activity, let's find out
25 exactly what the costs are associated with that, so that

1 ratepayers don't unnecessarily pay something they
2 shouldn't have to pay. So I'd ask you to please support
3 this amendment.

4 PRESIDENT SIMPSON: Leader Farmer, having
5 closed the question occurs on the Farmer Amendment. All
6 those senators in favor of the Farmer Amendment, please
7 signify by saying yea. Opposed, say nay. The motion is
8 not agreed to and the amendment is not adopted. Read
9 the next amendment.

10 THE CLERK: Amendment Bar Code 541830 by
11 Senator Brandes. Delete lines 36 to 59 and insert
12 amendment.

13 PRESIDENT SIMPSON: Senator Brandes,
14 you're recognized on the Brandes One Amendment.

15 SENATOR BRANDES: Thank you, Mr.
16 President. The amendment states that public utility
17 customers owning or leasing renewable energy generation
18 pay a reasonable cost or electric services and are not
19 subsidized by other ratepayers. It also states that all
20 energy delivered by the customer owned or leased
21 renewable generation to the public is credited to the
22 customer at a 75 percent of the retail rate. That is a
23 reasonable compromise and I think the right plan for
24 Florida.

25 PRESIDENT SIMPSON: Are there questions

1 of Senator Brandes on the Brandes One Amendment? Are
2 there questions? There is. It's the Senator of the
3 31st District, Senator Berman, you're recognized for a
4 question.

5 SENATOR BERMAN: Thank you, Mr.
6 President. And I do want to ask you, and I want to
7 understand your first point. So you make a statement in
8 here that public utility customers pay reasonable rate
9 costs. And I just want to know what is the evidence for
10 that statement?

11 PRESIDENT SIMPSON: Senator Brandes?

12 SENATOR BRANDES: Thank you. We're just
13 saying that they should pay a reasonable cost and that
14 the PSC should determine what that reasonable cost is.
15 So we're allowing that PSC to determine the
16 reasonableness of what they're paying. So that's the
17 key. It leaves it up to the PSC to make that decision.

18 PRESIDENT SIMPSON: Senator Berman has
19 concluded questions. Additional questions for Senator
20 Brandes? Additional questions? We are in debate. Is
21 there debate on the Brandes One Amendment? Is there
22 debate? Senator Bradley, you're recognized in debate.

23 SENATOR BRADLEY: Thank you, Mr.
24 President. And thank you, Senator Brandes, for this
25 amendment. I would disagree with the premise of the

1 amendment. I would suggest that a reasonable rate is
2 one that does not include a cost shift and a subsidy,
3 and that's the goal of the bill is to get to that point.
4 And so I would have to say that it's an unfriendly
5 amendment and would ask you to vote it down.

6 PRESIDENT SIMPSON: Senator Brandes,
7 you're recognized the close on the Brandes One
8 Amendment.

9 SENATOR BRANDES: Thank you. And I would
10 just reply to Senator Bradley that if we had studied
11 this, we would know what was reasonable and what was
12 unreasonable. Unfortunately, the state did not study
13 it. In fact, the PSC hasn't looked at this at all. In
14 fact, there's no evidence to suggest what is reasonable
15 and what is unreasonable. We're just arbitrarily
16 throwing numbers out in this piece of legislation.

17 This seeks to not just arbitrarily throw
18 numbers out, but to simply say that people should be
19 charged a reasonable rate and people should get paid a
20 reasonable rate, and that the PSC is the person and the
21 group that should determine the reasonableness of that
22 rate. Not the legislature, who has no knowledge, not
23 studied it, not looked at it.

24 If you and I were on any company board
25 and they brought this to us and they said, well, we're

1 going to make this major policy change, we would say,
2 great, send it off to be studied, and then bring it back
3 to the board. What is this board doing? It's just
4 picking a random number. Totally arbitrary, totally
5 capricious, no basis in fact. Why? Because we can. Is
6 it the responsible thing to do? No. Would we be all
7 checking our D&O coverage if we were on a regular board
8 to make sure we were going to make this decision?
9 Absolutely. We would be going, hey, look, we need to
10 make sure we have full coverage on our D&O policy,
11 because we're about to make a wild decision.

12 At the end of the day, we have a PSC. We
13 either trust that PSC to make decisions, or we believe
14 that they're full of utility hacks. One of those two
15 can't -- you know, it has to be one of the two. So
16 let's make a decision to charge a reasonable rate and
17 let the PSC determine what is a reasonable rate. That's
18 what this amendment does.

19 PRESIDENT SIMPSON: Senator Brandes,
20 having closed on the Brandes One Amendment, the question
21 now occurs. All those Senators in favor of the Brandes
22 One Amendment, please signify by saying yea. Opposed,
23 say nay. The motion is not agreed to and the amendment
24 is not adopted. Read the next amendment.

25 THE CLERK: Amendment Barcode 972756 by

1 Senator Brandes. Between lines 166 and 167 insert
2 amendment.

3 PRESIDENT SIMPSON: Senator Brandes,
4 you're recognized on the Brandes Two Amendment.

5 SENATOR BRANDES: Thank you, Mr.
6 President. This amendment just simply makes it
7 explicitly clear that a utility customers have the right
8 and the ability to disconnect from the grid. That is
9 all the amendment does. It just says, utility customers
10 shall have the right to disconnect from the grid.

11 If we believe in renewable energy, we
12 believe in battery power, then customers should have the
13 right, if they choose, to disconnect from the grid. It
14 also says that you can't include that number in the
15 overall departing load. That's the grid. That's the
16 amendment.

17 PRESIDENT SIMPSON: Senators we're in
18 questions. Are there questions of Senator Brandes on
19 the Brandes Two Amendment? Are there questions?
20 Debate? Is there debate? There is debate. Senator
21 Berman, followed by Leader Farmer. Senator Berman of
22 the 31st, you're recognized in debate.

23 SENATOR BERMAN: Thank you, Mr.
24 President. I think this is a great amendment. I'm a
25 strong believer in renewable energy, and I think that if

1 somebody has a battery power and renewable energy and
2 they want to get off the grid, they should be allowed
3 to. And I don't see any reason why we wouldn't allow
4 that when we want to have a free market in this state.
5 Thank you.

6 PRESIDENT SIMPSON: Leader Farmer in
7 debate.

8 SENATOR FARMER: Yeah, I'll just echo the
9 comments by my friend and colleague, Senator Berman.
10 This would be like up in North Carolina, we have our own
11 wells that bring up the water for the house. And it'd
12 be like if you had your own well and you were bringing
13 water in, but then you had to give some of that water to
14 the city or county. It makes no sense. You're doing
15 something for the betterment of yourself, betterment of
16 the environment, in this case, for all of us. We should
17 be encouraging more solar use.

18 And so I think this is a great amendment
19 and I'd urge you to support it.

20 PRESIDENT SIMPSON: In debate.
21 Additional senators in debate of the Brandes Two
22 Amendment? Senator Bradley in debate.

23 SENATOR BRADLEY: Thank you, Mr.
24 President. There is currently no state law that
25 requires a customer to connect to the grid. So I'd

1 suggest that this is unnecessary at this time and
2 unfriendly.

3 PRESIDENT SIMPSON: Senator Brandes,
4 you're recognized to close on the Brandes Two Amendment.

5 SENATOR BRANDES: Thank you, Mr.
6 President. There is one thing to have no state law on
7 it, and there's another thing to make it explicitly
8 clear that you're allowed to do it. This simply makes
9 it explicitly clear that somebody who lives in a house
10 doesn't have to connect to the grid if they choose not
11 to.

12 It's one thing to have a monopoly on a
13 service. It's another thing to force you to purchase
14 from that monopoly. If you choose not to purchase from
15 that monopoly, at least as it relates to energy, you
16 don't have that choice. Now, we can say, well, it
17 doesn't say. It's amorphous. But go ahead and try to
18 disconnect your house from the grid and see what
19 happens. See who comes. Are you still going to have to
20 pay a utility charge? Potentially. Let's be explicitly
21 clear that you have the right, as a Floridian, if you
22 choose to do it yourself, to put solar panels on your
23 roof, to put batteries in your garage, and to disconnect
24 100 percent from the grid if you should choose. That
25 should be the right policy for the state. That should

1 be something that you all can support very easily.

2 PRESIDENT SIMPSON: Senator Brandes
3 having closed on the Brandes Two Amendment, the question
4 now occurs before you. Senators, if you are in favor of
5 the Brandes Two Amendment, please signify by saying yea.
6 Opposed, say nay. The motion is not agreed to and the
7 amendment is not adopted. Read the next amendment.

8 THE CLERK: None on the desk, Mr.
9 President.

10 PRESIDENT SIMPSON: Are there questions
11 on the bill? Are there questions on the bill? Senator
12 Jones, you're recognized in questions for a question.

13 SENATOR JONES: Thank you so much, Mr.
14 President. And thank you so much, Chair Bradley, for
15 the conversation that we had earlier today. I just
16 wanted to get some clarity on some things. I've never
17 seen this bill, so this is the first time I'm going
18 through it. And so there have been quite a few op eds
19 and things that have come out looking at net metering.
20 And so one of the things that some of the opponents are
21 saying is talking about saying that there's no evidence
22 that suggests that such a subsidy exists or is burdening
23 on non-solar customers. Can you speak to that?

24 PRESIDENT SIMPSON: Senator Bradley.

25 SENATOR BRADLEY: Thank you, Mr.

1 President. And thank you for that question. Let's just
2 preface the response with when we get to through the
3 process, there's going to be no change. There will be a
4 full study on exactly what that cost shift is. But let
5 me just talk about the cost shift a little bit more
6 broadly so that you can understand what I'm describing.

7 So right now, our utility companies have
8 a mandate to provide power to all their customers,
9 rooftop customers -- customers with rooftop solar and
10 non-rooftop solar customers. And they have to provide
11 that at all times and have to provide even a buffer on
12 that to make sure, in case there's a period of peak
13 demand, they can't -- they don't have the option to do
14 that. And then in addition to that, there's two things
15 that happen. They have a mandate to purchase back all
16 excess energy that's produced by the rooftop customer.
17 And the mandate requires that they purchase it at the
18 full retail rate. And that is a much higher rate. It's
19 a much higher rate than the utility will purchase from
20 any other provider.

21 And so you end up with this increased
22 cost in the system that raises costs for everyone and
23 those costs get shifted to the non-solar household. So
24 that's the cost shift that we're talking about. And
25 that gets spread across all rate payers.

1 PRESIDENT SIMPSON: Follow up? Senator
2 Jones?

3 SENATOR JONES: Thank you so much, Mr.
4 President. And thank you for explaining the cost shift.
5 And so that cost shift, is there a miscommunication of
6 that cost shift where some of the opponents are speaking
7 of individuals, say, like in my district or community
8 are paying for other people's utilities? Is that what
9 they're saying?

10 PRESIDENT SIMPSON: Senator Bradley?

11 SENATOR BRADLEY: Thank you, Mr.
12 President. And yes, that's exactly right. So the solar
13 -- that cost isn't shifted onto the solar. Those extra
14 costs are shifted onto the non-solar households and they
15 are only absorbed by those households.

16 PRESIDENT SIMPSON: Senator Jones?

17 SENATOR JONES: Thank you so much, Mr.
18 President. And thank you for clarifying that, Chair
19 Bradley. One of the other things that has been said,
20 that people are saying that ending the cost saving
21 incentives will make solar an option only for wealthy
22 people. Can you share with us? Because based on what
23 you just made mention of, I don't see that. But many
24 people believe that it makes it only available to the
25 wealthy to be able to get solar. Is that fact?

1 PRESIDENT SIMPSON: Senator Bradley?

2 SENATOR BRADLEY: Thank you, Mr.

3 President. And I think we just touched on the first
4 aspect with regard to low income Floridians, and that
5 is, right now the cost shift and the increase in their
6 bill as a result of this policy is very small. But if
7 we look into the future, it's going to continue to go
8 up. We can see what's happened in other states. And so
9 for our poor, low income community, they are shouldering
10 that burden, and that burden will grow.

11 With regard to your question about
12 whether low income will be able to finance solar in the
13 future, we're going to have a seven year glide path.
14 Costs have continued to come down in solar, and
15 technology has continued to advance. And at the end of
16 that glide path, it really will be a financial decision
17 on behalf of Floridians, and it will be based on a non-
18 subsidized rate.

19 And so I know now I hear stories and a
20 lot of advocates where we want to put very expensive
21 rooftop solar systems, and they can be \$30,000, on top
22 of a home, and the individual is earning maybe less than
23 \$50,000. And that's going to be a financial decision
24 that has to be made by that household. It will require
25 long financing. And the reason that financing becomes

1 difficult in Florida is because we already have such low
2 electric rates. In other states where we have high
3 electric rates, the delta is easier to make it more
4 affordable. But in Florida, where we have some of the
5 lowest rates in the country, that becomes more
6 difficult. The financial equation becomes more
7 difficult.

8 PRESIDENT SIMPSON: Senator Jones?

9 SENATOR JONES: Thank you so much, Mr.
10 President. And thank you, Chair Bradley. So to talk
11 about the glide path. So if I'm someone who currently
12 now has solar on my roof, in my house, and paying on the
13 loan that you're making mention of, you're saying that
14 once we pass this, with that 20 year glide path, that
15 means I can continue to keep my rate that I have for 20
16 years prior to any changes happening, correct?

17 PRESIDENT SIMPSON: Senator Bradley?

18 SENATOR BRADLEY: Thank you, Mr.
19 President. That's absolutely correct. If you have
20 solar now or you adopt solar before December 31, 2023,
21 no change to the status quo. And people who come on
22 board and adopt during the glide path, they also are
23 grandfathered in for 20 years at the rate at which they
24 enter the glide path.

25 PRESIDENT SIMPSON: Senator Jones?

1 SENATOR JONES: Thank you so much, Mr.
2 President. Just a few more questions, Chair Bradley. I
3 know many in the low income community -- well, let me go
4 back. Let me go to another question, because we already
5 spoke about as far as low income families.

6 So I know that over the years, as we look
7 at these new initiatives and something like net
8 metering, I know other states have done this. Other
9 states have gone in this direction that we're in right
10 now. And I know that we do a lot through OPPAGA looking
11 at data and studies on any major changes. So has the
12 Public Service Commission conducted any research on the
13 cost shift? Have they made any recommendations that
14 they can or will bring back to us to show the
15 effectiveness of this?

16 PRESIDENT SIMPSON: Senator Bradley?

17 SENATOR BRADLEY: Thank you, Mr.
18 President. And the Public Service Commission has
19 workshopped the issue. They've gotten comment and
20 feedback from the utilities. And a full study at the
21 end of this glide path will have to be -- all the data
22 will have to be -- each utility will go and present
23 their costs, their revenues. Everything will have to be
24 trued up. And if ultimately, at that point it shows
25 that it's a de minimis, then there's not going to be a

1 disruption to the system.

2 PRESIDENT SIMPSON: Senator Jones?

3 SENATOR JONES: Thank you so much, Mr.
4 President. And thank you for your indulgence, Mr.
5 President, and for your responses, Chair Bradley.

6 My last question is, I went back
7 yesterday, or day before yesterday, actually, to look at
8 some of the testimony from those who are in the solar
9 installation company, who have solar installation
10 companies. Excuse me. And there's this fear that many
11 of them believe that they will go out of business. I
12 think one gentleman was speaking yesterday and spoke
13 about that as soon as this bill passed that they will go
14 out of business. Is their concern valid? That's the
15 first one.

16 And if not, what assurances can we give
17 to those people who have that fear of them going out of
18 business that that's not the case?

19 PRESIDENT SIMPSON: Senator Bradley?

20 SENATOR BRADLEY: Thank you, Mr.
21 President. And thank you for that question, because
22 that's a very -- very important question. And what I
23 can tell you is that in other states, and we are not the
24 only state, we do not stand alone in seeking to revise
25 our net metering system. There are a lot of other

1 states that are looking at revising their system. And
2 other states that have undertaken such revision have not
3 seen a significant decrease in growth of solar. They
4 have not seen significant job loss.

5 I know that Nevada is a state that is
6 often cited as one in which the state had to go back a
7 couple of years after the revision went into place and
8 fix it. There wasn't a glide path. The revision that
9 they put in place was very abrupt. And I don't even
10 believe there was a grandfather provision, but don't
11 hold me to that. But it was very severe. It was a very
12 abrupt change and it looked nothing like this.

13 Other states, actually, that have done
14 more severe changes than we have, their industry has
15 continued to be fine. They have not seen those
16 significant job losses.

17 I think this is one of those problems
18 where we can see it coming. And the earlier we fix it,
19 the more thoughtfully we can address it. If we wait
20 down the road and then we have to make it, then we don't
21 have the luxury of having this long glide path and this
22 grandfather and really working to just smooth the system
23 to one of no subsidy.

24 PRESIDENT SIMPSON: Senator Jones?

25 SENATOR JONES: Thank you so much, Mr.

1 President. And my last question, I'm actually happy you
2 ended on that. And that is, if we do nothing, if we do
3 nothing at all, knowing the advancing of technology and
4 how things are going, what happens?

5 PRESIDENT SIMPSON: Senator Bradley?

6 SENATOR BRADLEY: Thank you, Mr.

7 President. I think that if nothing happens, as solar
8 continues to grow, our non-solar households continue to
9 shoulder the burden, continue to subsidize their solar
10 neighbors, I think we can look at California. Now, I'm
11 not going to suggest that our energy policy is identical
12 to California, but a net metering is net metering. It's
13 net metering in Florida and it's net metering in
14 California. And California net metering is failing and
15 it creates grid instability. This is an issue we want
16 to get ahead of. We don't want to look up when we have
17 serious issues and we don't have the ability to put in
18 place such a long glide path and really work with the
19 industry.

20 PRESIDENT SIMPSON: Senator Jones has
21 concluded questions. We're in questions. The bill
22 deals with net metering and renewable energy generation.
23 We're taking questions. Senator Bradley is the sponsor.
24 But let's go to the Senator of the 24th, Senator
25 Brandes, you're recognized for a question.

1 SENATOR BRANDES: Thank you. So we've
2 made the determination that no studies have been done on
3 this issue in the state of Florida, correct?

4 PRESIDENT SIMPSON: Senator Bradley?

5 SENATOR BRADLEY: Thank you, Mr.
6 President. There has not been a formal study completed
7 by the PSC.

8 PRESIDENT SIMPSON: Senator Brandes?

9 SENATOR BRANDES: And outside of utility
10 industry insiders, have we spoken to any national
11 experts about this policy?

12 PRESIDENT SIMPSON: Senator Bradley?

13 SENATOR BRADLEY: Thank you, Mr.
14 President. The system that we're talking about, the
15 system that you're looking to be studied, was
16 intentionally set up with a subsidy. The program was
17 set up in 2008 for the express purpose of paying above
18 market full retail for the excess energy. The subsidy
19 is built in quite intentionally. So there is a cost
20 shift and we know it's coming. It exists now. And
21 after we get through the glide path and put and give
22 industry notice and time, that study and that data will
23 be presented to the PSC for them to do what is their
24 province.

25 PRESIDENT SIMPSON: Senator Brandes?

1 SENATOR BRANDES: So outside of utility
2 insiders, have we spoken to any national experts on this
3 topic that have seen multiple states go through this and
4 have made a recommendation? Can we name any of the
5 national experts we've spoken to?

6 PRESIDENT SIMPSON: Senator Bradley?

7 SENATOR BRADLEY: Thank you, Mr.
8 President. We have spoken and I have spoken with so
9 many different solar industry folks and different
10 utilities and the PSC. I can't name for you a specific
11 national trade group. But we've had a lot of discussion
12 about the impact of this bill. Discussion has not been
13 lacking.

14 PRESIDENT SIMPSON: Senator Brandes?

15 SENATOR BRANDES: And what was the
16 scientific method we used to come up with the 75 and 50
17 percent number?

18 PRESIDENT SIMPSON: Senator Bradley?

19 SENATOR BRADLEY: Thank you, Mr.
20 President. The 75 percent was probably one much like
21 was contained in your amendment. And it was a -- it was
22 a thoughtful way to step down with having some minimal
23 impact in order to get to the study at the end, in order
24 to get to the PSC and put industry on notice.

25 PRESIDENT SIMPSON: Senator Brandes?

1 SENATOR BRANDES: So why not do the study
2 first? I mean, if we're concerned about the timeline of
3 this and the growth of this, why not do the study next
4 year and then come back and actually do the bill based
5 on the study? Why wait till the glide path is exhausted
6 or implemented before we do the study?

7 PRESIDENT SIMPSON: Senator Bradley?

8 SENATOR BRADLEY: Thank you, Mr.
9 President. Because the cost shift is here now. It's
10 already affecting Floridians and we are putting industry
11 on notice so that they can start transitioning and
12 working their business model to a no subsidy and it will
13 all be studied at the PSC by each utility.

14 PRESIDENT SIMPSON: Senator Brandes?

15 SENATOR BRANDES: Then why not start the
16 study this year?

17 PRESIDENT SIMPSON: Senator Bradley?

18 SENATOR BRADLEY: Thank you, Mr.
19 President. Because we already know that there's a cost
20 shift and it's time to transition to a no subsidy
21 system.

22 PRESIDENT SIMPSON: Senator Brandes?

23 SENATOR BRANDES: I don't think anybody
24 disagrees that we shouldn't subsidize individuals who
25 are sometimes spending 20- or \$30,000 putting solar on

1 the top of their roof. But I also think that people
2 would expect us to do a study on the front end versus
3 the back end. So why not just do the study now,
4 determine what the correct numbers may be versus the
5 process by we've set up today?

6 PRESIDENT SIMPSON: Senator Bradley?

7 SENATOR BRADLEY: Thank you, Mr.
8 President. And I'm not sure there's another way I can
9 answer. I think that we know that there's a cost shift.
10 We've seen it in other states, we know it's in Florida.
11 And we're going to work immediately to transition and
12 give industry some flexibility. And before any changes,
13 final changes are made, it will all be trued up and
14 studied at the PSC.

15 PRESIDENT SIMPSON: Senator Brandes?
16 Senator Brandes having concluded his questions, are
17 there additional questions? Are there additional
18 questions? Leader Gibson from the 6th, you're
19 recognized for a question.

20 SENATOR GIBSON: Thank you, Mr.
21 President. And I missed some of the questions and I
22 hope I don't repeat. So there is concern about minority
23 communities and costs, I guess, and costs, them picking
24 up the cost for solar users and also whether or not
25 there is an opportunity for all lower income communities

1 to be able to transition, if they wanted to, to solar.
2 How is that addressed -- is that addressed in the bill,
3 and is there something that the PSC can study or collect
4 data on going forward on those particular issues?

5 PRESIDENT SIMPSON: Senator Bradley?

6 SENATOR BRADLEY: Thank you, Mr.
7 President. And thank you, Senator Gibson, for that
8 question. And I think you've come at it in two
9 different ways. To your first point, about whether or
10 not low income communities are bearing a subsidy,
11 bearing a cost shift and a burden for the decisions of
12 their neighbors to have rooftop solar, and the answer
13 is, yes. And that's the goal of the bill. The goal of
14 the bill is to, after a glide path and a study, to get
15 to a point under our Florida's net metering system where
16 there is no subsidy, where there is no cost shift, and
17 that will be the same for all non-solar households. But
18 I do believe that it falls disproportionately on our low
19 income. That cost shift falls disproportionately on our
20 low income communities.

21 To your second point is, I think you were
22 talking about the ability of low income Floridians to be
23 able to adopt solar. And at the end of the glide
24 path -- now, this is -- we've put the study at the end
25 of the glide path. Technology is changing so rapidly

1 and costs are still coming down. At the end of the
2 glide path, that will be a financial decision that low
3 income households are going to have to make. The costs
4 will probably be down for solar. They'll have a new
5 rulemaking. And then at that point, all non-solar
6 Floridians will have a decision to make whether or not
7 they want to adopt solar. And it will -- it will be
8 a -- you know, solar is not cheap. The systems can cost
9 \$30,000. And if someone is only making is making
10 \$50,000, that's a decision that, you know, it's a
11 financial decision for every household.

12 PRESIDENT SIMPSON: Leader Gibson for a
13 question?

14 SENATOR GIBSON: Thank you, Mr.
15 President. Are there any, I guess, utility subsidies or
16 some other type of considerations that can be made for
17 low income communities to not have a burden to carry
18 because of solar usage that they don't have an
19 opportunity to get access because of cost?

20 PRESIDENT SIMPSON: Senator Bradley?

21 SENATOR BRADLEY: Thank you, Mr.
22 President. This bill doesn't contemplate any separate
23 program for low income Floridians. I think that in
24 seven years, we will have a different state of
25 technology. I think that everybody -- I know that I

1 support a solar industry that is vibrant and growing and
2 it's clean energy, but we will --

3 PRESIDENT SIMPSON: Additional questions?

4 That's okay. Leader Gibson, I, too thought -- I didn't
5 know if the answer was done. You're done with that?

6 SENATOR BRADLEY: -- to your question.

7 PRESIDENT SIMPSON: Leader Gibson, for a
8 question, to repeat the one she didn't hear.

9 SENATOR GIBSON: So at the end, I heard,
10 just heard. We will, and then "we will." I wasn't sure
11 what came before that the answer was.

12 PRESIDENT SIMPSON: Senator Bradley,
13 you're recognized.

14 SENATOR BRADLEY: Thank you, Mr.
15 President. I'm sorry I wasn't clear. For the low
16 income, there is nothing designated in this bill. At
17 the end of the glide path, we will study what the rates
18 are. The financial realities will be determined then.

19 PRESIDENT SIMPSON: Leader Gibson?

20 SENATOR GIBSON: Thank you, Mr.
21 President. Is there anything interim, though, that the
22 PSC itself can do without legislation to start to
23 collect data, something?

24 PRESIDENT SIMPSON: Senator Bradley?

25 SENATOR BRADLEY: Thank you, Mr.

1 President. Can you expound on what type of data you're
2 speaking about?

3 PRESIDENT SIMPSON: Leader Gibson?

4 SENATOR GIBSON: The average costs, I
5 guess, that is being paid additionally by lower income
6 communities?

7 PRESIDENT SIMPSON: Senator Bradley?

8 SENATOR BRADLEY: Thank you, Mr.

9 President. And the PSC workshopped this issue in 2020
10 and there is quite a bit of materials that I'm happy to
11 provide to you. Right now, the solar penetration in
12 Florida is about 1 percent. That doesn't create a huge
13 cost shift at this point in time. But as adoption grows
14 and the penetration percentage increases, that will not
15 be the case and we will continue to see a larger cost
16 shift.

17 PRESIDENT SIMPSON: Leader Gibson?

18 SENATOR GIBSON: Thank you, Mr.

19 President. Is there an average cost shift that you know
20 of? Is it \$10, \$5? What's?

21 PRESIDENT SIMPSON: Senator Bradley?

22 SENATOR BRADLEY: Thank you, Mr.

23 President. Right now, at a 1 percent penetration, the
24 cost shift is what we would, I would describe as de
25 minimis. I think it would be less than twenty five

1 cents per customer per month. But as that penetration
2 percentage increases and we get up to 5 percent, 6
3 percent, if we get up to 10 percent, 13 percent, like
4 California, that cost shift becomes much more
5 significant, \$10-15 a month per customer.

6 PRESIDENT SIMPSON: Leader Gibson for a
7 question?

8 SENATOR GIBSON: Thank you, Mr. Chair.
9 Mr. President, sorry. In terms of -- let me say it this
10 way. If I had an energy equity task force bill that
11 made it through here, but not so much in the House for
12 whatever reason. and it dealt pretty much with the
13 Archer situation that you all spoke about earlier, is
14 there any -- can the PSC on its own develop a task force
15 so we can look at the totality of electric cost period,
16 not just including solar, and also the location of solar
17 in communities? Because that's what the task force did.
18 Is there any way, outside of your bill, that the PSC can
19 take that up on its own?

20 PRESIDENT SIMPSON: Senator Bradley?

21 SENATOR BRADLEY: Thank you, Mr.
22 President. I'm really not aware of the policies and
23 procedures of the PSC in terms of engaging a task force.
24 I will say that net metering is one component of solar
25 in Florida and it is not the only consideration. I

1 mean, if there's statewide policy, there's other things
2 we do in solar. This bill is only addressing the net
3 metering for rooftop solar.

4 PRESIDENT SIMPSON: Very good. Before we
5 go to the next senator and questions, Leader Mayfield
6 has an introduction of some special guests in our
7 gallery. Senator of the 17th, Leader Mayfield, you're
8 recognized for a recognition.

9 SENATOR MAYFIELD: Thank you, Mr.
10 President. And I am really excited to announce that in
11 the west gallery, we have from my constituents that are
12 from the Brevard Federated Republican Women Executive
13 Committee that's here at the Capitol and it's led by the
14 President, Jill Gentis. So welcome to the Senate.

15 PRESIDENT SIMPSON: Welcome to the
16 Florida Senate. Senators, when we last left you, we
17 were taking questions. We are on Senator Bradley's
18 renewable energy generation net metering bill and should
19 any other senator wish to question the sponsor? And we
20 go to the Senator of the 34th, Leader Farmer, you're
21 recognized for a question.

22 SENATOR FARMER: Thank you, Mr.
23 President. And Senator Bradley, in response to some
24 questions today and in committee, you've talked about
25 that we know that there is a cost shift in Florida. So

1 how much is it?

2 PRESIDENT SIMPSON: Senator Bradley, to
3 respond?

4 SENATOR BRADLEY: Thank you, Mr.
5 President. It's estimated -- the cost shift is
6 estimated to be about \$100 million per 1 percent
7 penetration.

8 PRESIDENT SIMPSON: Leader Farmer?

9 SENATOR FARMER: Thank you, Mr.
10 President. So if they were able to estimate that, why
11 didn't they include that in their rate filing increase
12 last year?

13 PRESIDENT SIMPSON: Senator Bradley?

14 SENATOR BRADLEY: Thank you, Mr.
15 President. Because a rate case is not the appropriate
16 venue to litigate a net metering policy.

17 PRESIDENT SIMPSON: Leader Farmer?

18 SENATOR FARMER: No, I don't mean
19 litigate the policy question. If these were real fixed
20 costs that they were able to calculate, why didn't they
21 just ask for them as part of their rate base?

22 PRESIDENT SIMPSON: Senator Bradley?

23 SENATOR BRADLEY: Thank you, Mr.
24 President. The revenues and costs were included in the
25 rate base.

1 PRESIDENT SIMPSON: Leader Farmer?

2 SENATOR FARMER: We reviewed that filing
3 and I couldn't find it. Can you tell me where in their
4 rate filing they had that in their papers?

5 PRESIDENT SIMPSON: Senator Bradley?

6 SENATOR BRADLEY: Thank you, Mr.
7 President. I will have to follow up. I can follow up
8 with you later and try to get you some more detailed
9 information.

10 PRESIDENT SIMPSON: Leader Farmer?

11 SENATOR FARMER: Okay. Thank you. I
12 don't mean to be glib and I truly don't mean any
13 disrespect. A lot of times people say, with all due
14 respect, and there's an old joke, it really means
15 there's no respect directed to the person to whom it's
16 directed. I'm not doing that with you. But we're on
17 second reading and it's been through three committees.
18 And, I mean, that's the crux of this whole thing. We
19 should have it in our hands right now. Why don't we
20 have it?

21 PRESIDENT SIMPSON: Senator Bradley?

22 SENATOR BRADLEY: Thank you, Mr.
23 President. I think that the cost subsidy and the shift
24 of payments from our non-solar households to our solar
25 households is the crux of the bill. And I believe that

1 there is a cost shift. And I think that it's something
2 that we need to get ahead of while we're only at 1
3 percent penetration. And we know that it's going to
4 continue. And we're not going to have the flexibility
5 to provide a thoughtful glide path if we continue to
6 wait and go down the road of a California.

7 PRESIDENT SIMPSON: Leader Farmer?

8 SENATOR FARMER: Okay. And then I guess
9 my last question would be, please, have the number for
10 us when we take this up on third hearing. Thank you.

11 PRESIDENT SIMPSON: What do you think
12 about that, because it's a question. Senator Bradley?

13 SENATOR BRADLEY: Thank you, Senator
14 Farmer.

15 PRESIDENT SIMPSON: There you go.
16 Additional questions by senators? Is there further
17 comment by the sponsor? Pursuant to Rule 4.19, the bill
18 is placed on the calendar. The bill is a third reading.
19 Read the next bill.

20 THE CLERK: Committee substitute for
21 committee substitute for Senate Bill 1600, a bill to be
22 entitled an act relating to treatment of defendants
23 adjudicated incompetent to stand trial.

24 PRESIDENT SIMPSON: Don't sit down yet,
25 Senator Bradley, you are recognized on the bill.

1 Senator Bradley 1600.

2 SENATOR BRADLEY: Thank you, Mr.
3 President. I move that CS for HB 1249 be substituted
4 for CS for CS or SB 1600.

5 PRESIDENT SIMPSON: Can you explain the
6 differences, Senator Bradley?

7 SENATOR BRADLEY: They're identical.

8 PRESIDENT SIMPSON: They're identical.
9 Senator Bradley moves an identical House bill to be
10 substituted for the Senate bill. Is there objection?
11 Without objection, motion is adopted. Read the House
12 bill.

13 THE CLERK: Committee substitute for
14 House Bill 1249, a bill to be entitled an act relating
15 to treatment of defendants adjudicated incompetent to
16 stand trial.

17 PRESIDENT SIMPSON: Are there amendments?

18 THE CLERK: None on the desk, Mr.
19 President.

20 PRESIDENT SIMPSON: Are there questions?
21 Senator Bradley moves that the rules be waived and the
22 bill will be read a third time by title. Is there
23 objection? Without objection. There is objection.
24 There is not objection. There is not objection.
25 Without objection, read the bill a third time.

1 THE CLERK: Committee substitute for
2 House Bill 1249, a bill to be entitled an act relating
3 to treatment of defendants adjudicated incompetent to
4 stand trial.

5 PRESIDENT SIMPSON: Is there debate? Is
6 there debate, Senator Bradley? There is debate. Yes,
7 ma'am. You are recognized in debate, Senator Bradley
8 for the close.

9 SENATOR BRADLEY: Mr. President, could we
10 TP the bill for just a moment?

11 PRESIDENT SIMPSON: Without objection,
12 Senator Bradley moves the bill be temporarily postponed.
13 Without objection, the bill is temporarily postponed.
14 Read the next bill.

15 THE CLERK: Senate Bill 1582, a bill to
16 be entitled an act relating to commercial motor vehicle
17 registration. Senator of the 25th, Senator Harrell,
18 you're recognized in debate. Senator Harrell?

19 SENATOR HARRELL: Thank you very much,
20 Mr. President. And this bill deals with apportioned
21 vehicles that travel from state to state. And what it
22 does, it extends the renewal period for an apportioned
23 commercial vehicle license plate from one year to three
24 years. It also maintains the one year cab card and the
25 same fee of \$28 per year.

1 PRESIDENT SIMPSON: Are there amendments?

2 THE CLERK: None on the desk, Mr.

3 President.

4 PRESIDENT SIMPSON: Senator Harrell,
5 there's a companion House bill ready to be substituted
6 should you wish to. Can you explain the differences, if
7 any?

8 SENATOR HARRELL: Thank you very much,
9 Mr. President. There is one difference, in that the
10 Senate bill sunsets the existing law in 2023, whereas
11 this goes to 2024 to allow for a little bit longer glide
12 path to get there.

13 PRESIDENT SIMPSON: Senator Harrell moves
14 that committee substitute for committee substitute for
15 HB 915 be substituted for SB 1582. Is there objection?
16 Without objection, the motion is agreed to. Read the
17 House bill.

18 THE CLERK: Committee substitute for
19 committee substitute for House Bill 915, a bill to be
20 entitled an act relating to commercial motor vehicle
21 registration.

22 PRESIDENT SIMPSON: Are there amendments?

23 THE CLERK: None on the desk, Mr.

24 President.

25 PRESIDENT SIMPSON: Are there questions

1 on the bill? Senator Harrell moves the rules be waived
2 and the bill be read a third time by title. Is there
3 objection? Without objection, read the bill a third
4 time.

5 THE CLERK: Committee substitute for
6 committee substitute for House Bill 915, a bill to be
7 entitled an act relating to commercial motor vehicle
8 registration.

9 PRESIDENT SIMPSON: Senator, is there
10 debate? Is there a debate? Senator Harrell, having
11 waived her close, the question occurs on final passage.
12 Clerk will unlock the board. Senators will proceed to
13 vote. The clerk will lock the board and announce the
14 vote.

15 THE CLERK: 33 yeas, zero nays, Mr.
16 President.

17 PRESIDENT SIMPSON: Show the bill passes.
18 Read the next bill.

19 THE CLERK: Senate Bill 1240, a bill to
20 be entitled an act relating to the mental health of
21 students.

22 PRESIDENT SIMPSON: Senator Harrell,
23 we're right back at the Senator of the 25th District.
24 Senator Harrell, you're recognized to explain the bill.

25 SENATOR HARRELL: Thank you very much,

1 Mr. President. And as you know, members, since the
2 horrific events of February 14, 2018 at the Marjorie
3 Stoneman Douglas High School, the state of Florida has
4 made major, major strides in really providing mental
5 health services to our students in schools. And last
6 year, we did a major update to the statutes dealing with
7 this tragedy. But there were a few things left out.

8 Part of what we did last year was to make
9 sure that all Baker Act reporting went to the Department
10 of Education, and we did not make sure that it also went
11 to the Department of Children and Families. So this
12 bill corrects that.

13 It also makes sure that parents as well
14 as students get the information necessary about mental
15 health services. And in addition to just family
16 members, anyone living in the household needs to have
17 that information. So we want to make sure that there is
18 this that not just in schools, but also in our
19 community, what services are available so that we are
20 sure any child in our public school system who needs
21 these services will have them, and that is the bill.

22 PRESIDENT SIMPSON: Are there amendments?

23 THE CLERK: None on the desk, Mr.

24 President.

25 PRESIDENT SIMPSON: Senator Harrell, the

1 House bill is here. Please explain the differences
2 before you move to substitute.

3 SENATOR HARRELL: Thank you very much,
4 Mr. President. And there are some technical clarifying
5 language in the bill, but the major difference is that
6 the House Bill 899 requires that each district school
7 superintendent designate a mental health coordinator for
8 their district. This is very important so that we have
9 coordination between all services.

10 PRESIDENT SIMPSON: Senator Harrell moves
11 the committee substitute for House Bill 899 be
12 substituted for Senate Bill 1240. Is there objection?
13 Without objection, the motion is agreed to. Read the
14 House bill.

15 THE CLERK: Committee substitute for
16 House bill 899, a bill to be entitled an act relating to
17 mental health of students.

18 PRESIDENT SIMPSON: Are there amendments?

19 THE CLERK: None on the desk, Mr.
20 President.

21 PRESIDENT SIMPSON: Are there questions?
22 Questions on the bill? Senator Harrell moves the rules
23 be waived and the bill be read a third time by title.
24 Is there objection? Without objection, the motion is
25 agreed to. Read the bill a third time.

1 THE CLERK: Committee substitute for
2 House Bill 899, a bill to be entitled an act relating to
3 mental health of students.

4 PRESIDENT SIMPSON: Is there debate? Any
5 debate? Senator Harrell, you're recognized to close on
6 the bill.

7 SENATOR HARRELL: Thank you very much,
8 Mr. President. And this is the ongoing work that this
9 chamber and this state is really committed to, to make
10 sure that we provide and we have those mental health
11 services available. The Marjorie Stoneman Douglas
12 incident was horrific. And we want to make sure we do
13 everything in our power so that something of that sort
14 never happens again. And with that, I would ask for
15 your favorable support.

16 PRESIDENT SIMPSON: Senator Harrell,
17 thank you so much. Senator Harrell, for having closed
18 on the bill. The question occurs for a final passage.
19 The clerk will unlock the board. Senators will proceed
20 to vote. The clerk will lock the board and announce the
21 vote.

22 THE CLERK: 38 yeas, zero nays, Mr.
23 President.

24 PRESIDENT SIMPSON: Show the bill
25 passing. Read the next bill.

1 THE CLERK: Senate Bill 1204, a bill to
2 be entitled an act relating to public records.

3 PRESIDENT SIMPSON: Show that bill
4 temporarily postponed without objection. Read the next
5 bill.

6 THE CLERK: Senate Bill 1054, a bill to
7 be entitled an act relating to financial literacy
8 instruction in public schools.

9 PRESIDENT SIMPSON: Show that bill
10 temporarily postponed without objection. Read the next
11 bill.

12 THE CLERK: Committee substitute for
13 Senate Bill 554, a bill to be entitled an act relating
14 to educational opportunities for disabled veterans.

15 PRESIDENT SIMPSON: The Senator of the
16 18th is Senator Cruz. Senator Broxson, be on standby.
17 I'm coming right back to you. Senator Cruz from the
18 18th, you are recognized to explain the bill.

19 SENATOR CRUZ: Well, thank you, Mr.
20 President. I'm standing here with Representative
21 Morales. We've worked for two years on this, so we're
22 very excited.

23 But this bill will help our service
24 members that have sacrificed so much for our country.
25 Supporting them when they leave active service is

1 crucial in a state like Florida, a home with so many
2 veterans. And this bill is a true citizen bill.

3 A disabled veteran came to me. He told
4 me that, although he was paralyzed and in a wheelchair,
5 and was disabled medically, because of the parameters of
6 the GI bill, he only had 60 percent disability ranking
7 and only would receive 60 percent tuition reimbursement.
8 He wanted to go to school. He wanted to take care of
9 his family.

10 So we've devised this bill that says if
11 you are service disabled and you go to a state
12 university and you're only 60 or 70 percent disabled,
13 then we'll pick up the rest. We, as the taxpayers of
14 Florida, will pick up the other 30 percent or 40 percent
15 or 20 percent or 10 percent so that you can go to school
16 and get your degree. And that is the bill, Mr.
17 President.

18 PRESIDENT SIMPSON: Senator Cruz, having
19 explained the bill, are there amendments?

20 THE CLERK: None on the desk, Mr.
21 President.

22 PRESIDENT SIMPSON: Senator Cruz,
23 Representative Morales' bill is now in the Senate
24 waiting to be substituted. She's here. Can you explain
25 the differences, if any? And we will recognize you to

1 substitute.

2 SENATOR CRUZ: They're identical.

3 SENATOR MORALES: They're identical.

4 PRESIDENT SIMPSON: Senator Cruz moves
5 the identical House bill be substitute for the Senate
6 bill. Is there objection? Without objection, the motion
7 is agreed to. Read the House bill.

8 THE CLERK: Committee substitute for
9 House Bill 45, a bill to be entitled an act relating to
10 educational opportunities for disabled veterans.

11 PRESIDENT SIMPSON: Are there amendments?

12 THE CLERK: None on the desk, Mr.
13 President.

14 PRESIDENT SIMPSON: Are there questions?
15 Senator Cruz further moves the rules be waived and the
16 bill be read by a third time by title. Is there
17 objection? Without objection, the motion is agreed to.
18 Read the bill a third time.

19 THE CLERK: Committee substitute for
20 House Bill 45, a bill to be entitled an act relating to
21 educational opportunities for disabled veterans.

22 PRESIDENT SIMPSON: Is there debate? Is
23 there debate? Senator Cruz, you are recognized to close
24 on the bill.

25 SENATOR CRUZ: Thank you, Mr. President.

1 Florida is open to veterans and we're here to help.

2 PRESIDENT SIMPSON: Senator Cruz, having
3 closed on the bill, the question occurs before you,
4 Senators. The clerk will unlock the board. Senators
5 will proceed to vote.

6 The Clerk will now lock the board and
7 announce the votes.

8 THE CLERK: 38 yeas, zero nays, Mr.
9 President.

10 PRESIDENT SIMPSON: Show the bill passes.
11 Senators, a moment ago, we temporarily postponed Senate
12 Bill 1204 by Senator Broxson. Without objection, we
13 will proceed to the Broxson bill. Read the bill.

14 THE CLERK: Senate Bill 1204, a bill to
15 be entitled act relating to public records.

16 PRESIDENT SIMPSON: Senator Broxson, you
17 are recognized at President Simpson's desk. You're
18 recognized.

19 SENATOR BROXSON: Thank you, Mr.
20 President. This bill ensures that the identities of
21 manufacturers and retailers that supplies legal
22 injection drugs to DOC are exempt from exposure and
23 ensures DOC will be able to obtain the drugs and carry
24 out their constitutional requirements. That is the
25 bill.

1 PRESIDENT SIMPSON: Are there amendments?

2 THE CLERK: None on the desk, Mr.

3 President.

4 PRESIDENT SIMPSON: Are there questions?

5 We are in questions, Senators. Are there questions?

6 Questions? Senator Broxson moves. Senator Broxson, can

7 you explain the differences? The House bill is here and

8 that will tee us up posturally if the Senate concurs.

9 Can you explain the differences, if any, Senator

10 Broxson?

11 SENATOR BROXSON: They are identical.

12 PRESIDENT SIMPSON: Senator Broxson, to

13 tee us up procedurally, Senators, is there any objection

14 to substituting an identical House bill for the Senate

15 Bill? Without objection, the motion is agreed to. Read

16 the House bill.

17 THE CLERK: House Bill 873, a bill to be

18 entitled an act relating to public records.

19 PRESIDENT SIMPSON: Are there amendments?

20 THE CLERK: None on the desk, Mr.

21 President.

22 PRESIDENT SIMPSON: Are there questions?

23 Are there questions? Senator Brandes, you're recognized

24 for a question.

25 SENATOR BRANDES: Thank you. Senator

1 Broxson, you would agree that putting somebody to death
2 is the highest penalty the state offers, correct? I
3 mean, the state imposes.

4 PRESIDENT SIMPSON: Senator Broxson?

5 SENATOR BROXSON: Of course, Senator.
6 It's a very somber act that the state does, but it is
7 something that we constitutionally require.

8 PRESIDENT SIMPSON: Senator Brandes?

9 SENATOR BRANDES: Thank you. And,
10 Senator, you understand that Florida has very broad
11 public records laws and that our public records laws are
12 broad for a reason because we expect people to know what
13 the government is doing at all times. That's our
14 intent. Isn't that correct?

15 SENATOR BROXSON: That is correct.

16 PRESIDENT SIMPSON: Senator Broxson, very
17 good. Senator Brandes?

18 SENATOR BRANDES: So why would we want to
19 hide the drugs by which somebody is being put to death
20 by?

21 PRESIDENT SIMPSON: Senator Broxson.

22 SENATOR BROXSON: Thank you, Mr.
23 President. I'm not saying -- we're not hiding the
24 drugs. If you go on the website, you can see exactly
25 what drugs we use. What we're trying to do is protect

1 the manufacturer from public records so that they're not
2 presented with situations that would cause them not to
3 be able to sell the drugs to a DOC.

4 PRESIDENT SIMPSON: Senator Brandes?

5 SENATOR BRANDES: But most of these drugs
6 that we're using, if we tell people what the drugs are,
7 we know that there's only one or two manufacturers who
8 manufacture those drugs, correct?

9 PRESIDENT SIMPSON: Senator Broxson.

10 SENATOR BROXSON: That is correct.

11 PRESIDENT SIMPSON: Senator Brandes?

12 SENATOR BRANDES: So what are we
13 protecting? We know the drug manufacturers. We know
14 the drugs. Why do we need a public record exemption if
15 there's only one or two manufacturers that are making
16 these drugs? Because we know who they are already.

17 PRESIDENT SIMPSON: Senator Broxson?

18 SENATOR BROXSON: Thank you, Mr.
19 President. Well, we don't buy directly from the
20 manufacturer. We buy from distributors. And they would
21 be protected. And currently, they are not protected in
22 current law.

23 PRESIDENT SIMPSON: Senator Brandes?

24 SENATOR BRANDES: So why do we need to
25 protect the distributors who are distributing these

1 drugs to us?

2 PRESIDENT SIMPSON: Senator Broxson?

3 SENATOR BROXSON: Thank you, Mr.

4 President. Let me read from a federal judge who made an
5 opinion on this in the First Amendment Coalition and
6 Ryan:, "It is apparent that disclosure has the potential
7 to thwart the government's ability to carry out
8 (temporary audio interruption) companies have ceased
9 providing drugs for execution purposes. It also cannot
10 be disputed that the impact upon companies and persons
11 who identifies or are disclosed is significant."

12 So there is evidence in federal court and
13 other courts that if we lose the ability to buy these
14 drugs, then we're going to have to change our method of
15 execution. And that's something that the legislature
16 mandated in 2000, that we would go to lethal injection,
17 and I think it's the thing that we should do.

18 PRESIDENT SIMPSON: Senator Brandes for a
19 question?

20 SENATOR BRANDES: So if we were to choose
21 not to do this, we would have to go back to another
22 execution method; is that correct?

23 SENATOR BROXSON: That is correct, Mr.
24 President. That is correct.

25 PRESIDENT SIMPSON: Senator Brandes?

1 SENATOR BRANDES: And so if somebody who
2 is pro-life and against the death penalty -- because I
3 don't think it's a deterrent, I don't think that it's
4 effective and it's incredibly expensive for the state to
5 administer -- as somebody who holds that position, it
6 would make sense that I would vote against this bill,
7 wouldn't it? I mean, it would make sense if I wanted
8 somebody who wants to stop more executions from
9 occurring because I think they're ineffective or because
10 it's incredibly expensive. This is one step towards
11 stopping executions in the state of Florida, correct?

12 PRESIDENT SIMPSON: Senator Broxson?

13 SENATOR BROXSON: Thank you, Mr.
14 President. Senator, I really don't think this is a
15 debate about the death penalty. It's the debate about
16 the most effective and humane way to do something that
17 we have mandated in law that we must be carried out by
18 DOC.

19 I think when you compare Florida to other
20 states that we're considered the gold standard on the
21 compassionate, caring way that we have to execute the
22 law, and this is the most humane way to do it, and I
23 would hate to see that interruption of drugs to properly
24 do it not be available to Florida.

25 PRESIDENT SIMPSON: Senator Brandes?

1 SENATOR BRANDES: Thank you, Mr.
2 President. So why should we do it out of the sunshine?
3 Why not be completely transparent about the drugs, the
4 manufacturers, the distributors, and those that are
5 engaged in the process of taking a human life?

6 PRESIDENT SIMPSON: Senator Broxson?

7 SENATOR BROXSON: Mr. President, I think
8 I just explained the reason that we're doing that. It's
9 part of their -- if you go to their website, they will
10 walk you through the procedure, the drugs they use. The
11 only thing they want to do is protect the source where
12 they receive those drugs, either through a distributor
13 or through another source.

14 PRESIDENT SIMPSON: Senator Brandes?
15 Senator Brandes has concluded. We are in questions.
16 And Leader Farmer from the 34th, you're recognized for a
17 question.

18 SENATOR FARMER: Thank you, Mr.
19 President. Good afternoon, Senator Broxson. Good to
20 see you over there on the other side of the chamber.

21 A few follow up questions. No
22 manufacturer has requested this exemption. Isn't that
23 correct?

24 PRESIDENT SIMPSON: Senator Broxson?
25 Ladies and gentlemen, while we're waiting on Senator

1 Broxson is clarifying his answer, we've got some very
2 special guests in the gallery. They're wearing red.
3 And Leader Mayfield, you've got some, I've got some.
4 We've already introduced a lot already, but you are
5 recognized for a special recognition.

6 SENATOR MAYFIELD: Thank you, Mr.
7 President. And you're right, we had announced the group
8 from Brevard County earlier. I had no idea that
9 everyone else was going to come in before I did that.
10 But members, if you look into the west gallery and even
11 to the east, I think we have some. We have the
12 Federated Women of Florida are here and it's a sea of
13 red up there. So thank you guys for coming.

14 And we also have -- is Carol Jean still
15 up there? Carol Jean Jordan is part of the club. And
16 as most of you know, she was the past chairman of the
17 Republican Party of Florida. So thank you guys for
18 coming and having a sea of red in our gallery. Thank
19 you.

20 PRESIDENT SIMPSON: Very good. Leader
21 Mayfield and Florida Senate, I've got some special
22 guests, too, that are tucked away in the sea of red.
23 One is the legislative chair of the Florida Federation
24 of Republican Women and the president of the Republican
25 Women's Club of Duval Federated. Please welcome Esther

1 Byrd. Esther, welcome.

2 And the president of the Florida
3 Federation of Republican Women, Maricel Cobitz.
4 Maricel? There she is. Welcome, Republican Women, to
5 the Florida Senate.

6 Leader Farmer, we had just asked a
7 question. Do you wish to restate your question? And
8 then I think Senator Broxson is ready to go. Leader
9 Farmer with your question?

10 SENATOR FARMER: Yes. The question was,
11 isn't it correct that no pharmaceutical company has
12 requested this exemption?

13 PRESIDENT SIMPSON: Senator Broxson.

14 SENATOR BROXSON: Thank you, Mr.
15 President. No, they haven't, because they're already
16 exempted from public record in current law.

17 PRESIDENT SIMPSON: Leader Farmer?

18 SENATOR FARMER: What law is that?

19 PRESIDENT SIMPSON: Senator Broxson?

20 SENATOR BROXSON: That's in statute 945
21 10.1 G. And let me explain that, if I could, Senator
22 Farmer. When the drug comes from a manufacturer, it may
23 not be in the form that can be used for the execution.
24 So there is some compounding. And the legal department
25 of DOC feels like that the compounding process would

1 potentially create a complication that would delete the
2 ability to use that compounded drug. So this is a
3 safety to put into the law to make sure that compounded
4 drugs that we buy through a distributor or manufacturer
5 are exempt from the law.

6 PRESIDENT SIMPSON: Leader Farmer, you're
7 recognized for a question.

8 SENATOR FARMER: Senator Broxson, I'm
9 going to ask you to take another look at that statute
10 because it does not refer to pharmaceutical companies or
11 manufacturers in any way, shape or form. Isn't it true
12 that that statute only protects the identity of the
13 executioner and the prescription written for the
14 execution, but not the drugs or the manufacturer?

15 PRESIDENT SIMPSON: Senator Broxson.

16 SENATOR BROXSON: Thank you, Mr.
17 President. No, I believe, if you look at the statute I
18 just read, it does exempt the manufacturer. What this
19 does, it broadens the law that says when we compound
20 those drugs, they would be exempt also from public
21 record.

22 PRESIDENT SIMPSON: Leader Farmer?

23 SENATOR FARMER: Yeah. Let's read along
24 together then, Senator Broxson. Can you show me where
25 that language is? And it's 945.10?

1 PRESIDENT SIMPSON: Senator Broxson?

2 SENATOR BROXSON: Thank you, Mr.

3 President. That's correct.

4 PRESIDENT SIMPSON: Leader Farmer?

5 SENATOR FARMER: Thank you, Mr.

6 President. Can you point to me please, the language
7 that makes confidential the identity of the manufacturer
8 or the drug?

9 PRESIDENT SIMPSON: Senator Broxson?

10 SENATOR BROXSON: Thank you, Mr.

11 President. Go to (g).

12 PRESIDENT SIMPSON: Leader Farmer?

13 SENATOR FARMER: Okay. G reads,
14 "Information which identifies an executioner or any
15 person prescribing, preparing, compounding, dispensing
16 or administering a lethal injection." It doesn't say
17 that the compounds or the medicines used, just the
18 identity of the person is exempt; isn't that true?

19 PRESIDENT SIMPSON: Senator Broxson?

20 SENATOR BROXSON: Thank you, Mr.

21 President. The department's interpretation is that that
22 covers the manufacturers, but this language would extend
23 that to make sure that it does cover the manufacturers
24 plus the compounded drugs.

25 PRESIDENT SIMPSON: Leader Farmer?

1 SENATOR FARMER: Well, if that's the
2 department's position, we don't need your bill then,
3 right?

4 PRESIDENT SIMPSON: Senator Broxson?

5 SENATOR BROXSON: Thank you, Mr.
6 President. We do need the bill.

7 PRESIDENT SIMPSON: Leader Farmer?

8 SENATOR FARMER: Let's move on to a
9 different topic. Again, going back to my original
10 question, no manufacturer has requested this exemption.
11 We know that. We've already established that. In fact,
12 to do so would violate European law which prohibits any
13 drugs manufactured by a European company or its
14 subsidiary being used in an execution. Isn't that true?

15 PRESIDENT SIMPSON: Senator Broxson?

16 SENATOR BROXSON: Thank you, Mr.
17 President. Senator Farmer, we buy from distributors.
18 Whether they're produced in Europe or the U.S., or any
19 other part of the world, that's something we would not
20 know unless the distributor revealed that to us.

21 PRESIDENT SIMPSON: Leader Farmer for a
22 question?

23 SENATOR FARMER: Senator Broxson, the
24 distributor is bound by the same laws as a manufacturer.
25 You know that, correct?

1 PRESIDENT SIMPSON: Senator Broxson?

2 SENATOR BROXSON: Thank you, Mr.

3 President. Each one of these distributors are approved
4 by the FDA.

5 PRESIDENT SIMPSON: Leader Farmer?

6 SENATOR FARMER: What does that have to
7 do with my question?

8 PRESIDENT SIMPSON: Senator Broxson?

9 SENATOR BROXSON: Thank you, Mr.

10 President. It seems to me that you're inferring that
11 the state is buying something illegally and not through
12 a procedure that's accepted by the FDA.

13 PRESIDENT SIMPSON: Leader Farmer?

14 SENATOR FARMER: I'm not implying that;
15 I'm flat out saying it. In fact, the drug manufacturers
16 contracts specifically state that their drugs cannot be
17 used for lethal injection or execution. Isn't that
18 true?

19 PRESIDENT SIMPSON: Senator Broxson?

20 SENATOR BROXSON: Mr. President, thank
21 you. Senator, I would say that that is practically not
22 true because we use drugs, we used them two and a half
23 years ago in an execution. And to my knowledge, we've
24 never had a substantial legal challenge to our ability
25 to compound drugs and use them for lethal injection.

1 That's the reality of it.

2 Now, whether you're correct, if you're
3 correct, then I would encourage someone to present that
4 to the courts and say Florida is not doing it correctly
5 or illegally.

6 PRESIDENT SIMPSON: Leader Farmer?

7 SENATOR FARMER: So you would have us
8 undertake an illegal act just because no court has yet
9 declared it illegal?

10 PRESIDENT SIMPSON: Senator Broxson?

11 SENATOR BROXSON: It's your narrative,
12 Senator, not mine. I have no problem with what Florida
13 is doing. I think what we've instructed them as the
14 legislature in 2000, that we would allow them to use
15 lethal objection rather than the electric chair for
16 executions. To this point, no one has challenged that
17 effectively that has said you cannot use these drugs for
18 lethal injection.

19 PRESIDENT SIMPSON: Leader Farmer?

20 SENATOR FARMER: So then I take it,
21 you're not aware of letters that have been sent by the
22 manufacturers of these drugs to the state of Florida,
23 advising the state that it's in violation of both its
24 contract with the manufacturer and European law in using
25 these drugs to commit executions?

1 PRESIDENT SIMPSON: Senator Broxson?

2 SENATOR BROXSON: Thank you, Mr.

3 President. I am aware of that. But the department
4 feels like they're on solid ground to use the compound
5 that they're using currently.

6 PRESIDENT SIMPSON: Leader Farmer for a
7 question?

8 SENATOR FARMER: It seems like more
9 quicksand ground here to me because we wouldn't be
10 considering this bill if that were the case. But let's
11 move to a different topic. Well, actually, let me
12 follow up on that.

13 Are you aware of a statement made by
14 Sandoz, one of the manufacturing companies we've been
15 discussing, quote, "Any refusal by the state to disclose
16 the manufacturers of its lethal injection drugs directly
17 undermines the company's interests, impeding their
18 ability to preserve the integrity of their contracts.
19 Are you aware of that statement?

20 PRESIDENT SIMPSON: Senator Broxson to
21 respond?

22 SENATOR BROXSON: Thank you, Mr.
23 President. I am not.

24 PRESIDENT SIMPSON: For a question,
25 Leader Farmer?

1 SENATOR FARMER: Now that you are aware
2 of it, are you not concerned about going forward with
3 this piece of legislation?

4 PRESIDENT SIMPSON: Senator Broxson?

5 SENATOR BROXSON: Thank you, Mr.
6 President. I am not concerned because we've been doing
7 it for 22 years, and if they had a major concern, then
8 they would challenge Florida in the use of these
9 compounds.

10 PRESIDENT SIMPSON: Leader Farmer, you're
11 recognized for a question.

12 SENATOR FARMER: Isn't there a
13 possibility that this legislation could have a negative
14 impact on Florida's health care system? And I say that
15 because, during the pandemic, four drugs used in the
16 execution cocktails, midazolam, vecuronium bromide,
17 rocuronium bromide, and fentanyl were all listed on
18 shortage by the American Society of Health System
19 pharmacists.

20 PRESIDENT SIMPSON: Senator Broxson.

21 SENATOR BROXSON: Thank you, Mr.
22 President. We had an execution two and a half years ago
23 one time. My guess is that will not interrupt the flow
24 of drugs in Florida.

25 PRESIDENT SIMPSON: Leader Farmer, for a

1 question.

2 SENATOR FARMER: Thank you, Mr.
3 President. Wouldn't this piece of legislation
4 effectively cover up unconstitutional incidents of cruel
5 and unusual punishment that occur and can occur during
6 an execution, such as what happened in Oklahoma in 2015
7 when officials ordered and used the wrong drug, causing
8 pain during execution, causing it to last for several
9 hours and the prisoner to declare that his body was on
10 fire?

11 Wouldn't this amendment cover up the
12 public's ability to know incidents like that?

13 PRESIDENT SIMPSON: Senator Broxson?

14 SENATOR BROXSON: Thank you, Mr.
15 President. There is an autopsy done after every
16 execution, so there is no cover up.

17 PRESIDENT SIMPSON: Senator -- Leader
18 Farmer, you're recognized for a question.

19 SENATOR FARMER: Senator Broxson, I'm not
20 aware of an autopsy being able to determine whether
21 somebody experienced pain during their death. Can you
22 explain that to me?

23 PRESIDENT SIMPSON: Senator Broxson?

24 SENATOR BROXSON: Thank you, Mr.
25 President. In all honesty, Senator Farmer, I don't know

1 how you would get testimony from someone that is now
2 deceased.

3 PRESIDENT SIMPSON: We're in questions
4 dealing with the Broxson bill on public information of
5 records of executions. We're in questions. And Leader
6 Farmer, you are recognized for a question.

7 SENATOR FARMER: So for the purposes of
8 the question, I'll clarify my line of questioning here,
9 Senator Broxson. The decedent in Oklahoma, before he
10 died, complained that his body was on fire for several
11 hours. For the purposes of this question, I ask you to
12 accept that as true.

13 Given an incident like that being able to
14 occur here in Florida, wouldn't this legislation cover
15 it up?

16 PRESIDENT SIMPSON: Senator Broxson?

17 SENATOR BROXSON: Thank you, Mr.
18 President. Senator Farmer, I don't know if you've been
19 on death row and you've had the DOC walk you through the
20 procedure, but they go through more than just the
21 objection. There are actually three methods used. They
22 give the prisoner a valium or something to relax them
23 and then they do what they would normally do in surgery.
24 They put them under as far as unconscious to go through
25 this procedure and then they use one other drug that

1 affects the heart. I cannot imagine. I've been in
2 surgery. I was in surgery recently. The drugs that we
3 use now are so effective in allowing people to be
4 unconscious that the possibility of remembering or going
5 through pain is almost impossible.

6 PRESIDENT SIMPSON: Leader Farmer, for a
7 question.

8 SENATOR FARMER: The sedative didn't work
9 in Oklahoma, did it?

10 PRESIDENT SIMPSON: Senator Broxson?

11 SENATOR BROXSON: Thank you, Mr.
12 President. I'm not in Oklahoma. I'm in Florida.

13 PRESIDENT SIMPSON: Leader Farmer?

14 SENATOR FARMER: People make mistakes all
15 the time, don't they?

16 PRESIDENT SIMPSON: Senator Broxson?

17 SENATOR BROXSON: Senator Farmer, I
18 appreciate your line of questions but I'm not sure it's
19 pertinent to what we're trying to do here. We're trying
20 to position state employees, state officials, to be in a
21 position to carry out a legal responsibility that we've
22 mandated through laws that were made here in this
23 chamber.

24 These other things that you relate to,
25 frankly, was not anticipated when I took on this bill.

1 The bill is very simple. It puts us in a better
2 position that can be defended in court if we were sued.
3 And I'm comfortable with the bill.

4 I'm sorry that you're not comfortable
5 with it, but I think it does exactly what we want it to
6 do.

7 PRESIDENT SIMPSON: Additional questions?
8 Leader Farmer, followed by Senator Cruz. Leader Farmer,
9 you're recognized for a question.

10 SENATOR FARMER: Senator Broxson, I
11 appreciate the fact that you're carrying a bill that
12 turned out to be something you didn't really know it was
13 going to be when you agreed to take it. But I, you
14 know, I don't appreciate non-answers to questions.

15 PRESIDENT SIMPSON: And question. What's
16 your question, Leader Farmer?

17 SENATOR FARMER: So my question again is,
18 people make mistakes. And in this case, if they make a
19 mistake with regard to administration of the drugs in
20 executing another human being, don't you think that's
21 something that the people of the state of Florida are
22 entitled to know about?

23 PRESIDENT SIMPSON: Senator Broxson is
24 recognized to respond.

25 SENATOR BROXSON: Yeah. Thank you, Mr.

1 President. Any potential mistakes during an execution
2 can be subpoenaed and there can be a hearing. I don't
3 know what else to say, other than the fact that this is
4 a somber time when we, as a state, go through a
5 procedure that eliminates someone's life. And if you
6 don't believe that's part of what we should be doing, I
7 understand that. But we have a procedure where we go
8 through that's worked for 22 years. It's much better
9 than the electric chair, which we did have some real
10 problems there in 1998. But this has proved to be a
11 very effective, very humane and I think this puts the
12 department in a position where they can continue to do
13 this.

14 PRESIDENT SIMPSON: Additional questions?
15 Leader Farmer for a question.

16 SENATOR FARMER: Thank you, Mr.
17 President. So I just want to confirm that what you just
18 said, that even if this bill were to pass, the
19 information regarding the drugs used for an execution
20 would be available via subpoena or discovery request in
21 any litigation?

22 PRESIDENT SIMPSON: Senator Broxson?

23 SENATOR BROXSON: Thank you, Mr.

24 President. Yes.

25 PRESIDENT SIMPSON: Leader Farmer for a

1 question?

2 SENATOR FARMER: And I think this could
3 be my last question. Senator Broxson, earlier in the
4 discussion, I think it may have been in response to some
5 of Senator Brandes's questions, you talked about the
6 fact that this piece of legislation is necessary in
7 order for us to continue to be able to use lethal
8 injection as opposed to the electric chair. Do you
9 recall that?

10 PRESIDENT SIMPSON: Senator Broxson?

11 SENATOR BROXSON: Thank you, Mr.
12 President. Yes.

13 PRESIDENT SIMPSON: Leader Farmer for a
14 question.

15 SENATOR FARMER: Thank you, Mr.
16 President. Are you aware of Florida Statute 922.105
17 which states that a death sentence shall be executed by
18 lethal injection unless the person sentenced to death
19 affirmatively elects to be executed by electrocution?
20 So given this statute, unless the prisoner agrees to
21 electrocution, there's no danger in the state of Florida
22 with or without your bill that we can't do -- that we
23 would have to be using the electric chair in lieu of
24 lethal injection. Isn't that correct?

25 PRESIDENT SIMPSON: Senator Broxson?

1 SENATOR BROXSON: Thank you, Mr.
2 President. No, that is not correct. According to a
3 federal judge, if states like Florida were not entitled
4 to use the pharmaceuticals to impose the legal
5 injection, then we would have to go to a different form
6 of execution.

7 PRESIDENT SIMPSON: Leader Farmer, for a
8 question.

9 SENATOR FARMER: I don't believe that's a
10 valid interpretation of the federal ruling. Can you
11 read that part of the opinion for me?

12 PRESIDENT SIMPSON: Senator Broxson?

13 SENATOR BROXSON: Thank you, Mr.
14 President. Mr. President, this line of questioning I
15 don't think deals with the fundamental purpose of this
16 bill. And I appreciate Senator Farmer's line of
17 questions, but I would prefer to continue with other
18 questions or move to another bill.

19 PRESIDENT SIMPSON: Do you have an
20 additional question, Leader Farmer, followed by Senator
21 Cruz. Leader Farmer?

22 SENATOR FARMER: I accept Senator
23 Broxson's offer to TP this bill and move to another
24 bill.

25 PRESIDENT SIMPSON: Senator Broxson, you

1 are recognized.

2 SENATOR BROXSON: Thank you, Mr.
3 President. I do not wish to TP the bill.

4 PRESIDENT SIMPSON: Very good. Is there
5 additional questions? Additional questions? Senator
6 Cruz of the 18th, you're recognized for a question.

7 SENATOR CRUZ: Thank you, Mr. President.
8 And Senator Broxson, I am not in favor of the death
9 penalty. That's not a question. I oftentimes wonder if
10 it were one of my kids if my opinion would change, but
11 I'm not. But I have a question for you.

12 If we push drug manufacturers to be
13 afraid to offer these drugs -- and my understanding is
14 that these drugs are not intended to kill people, but a
15 cocktail of these drugs or in the right potency, these
16 drugs can kill someone. Is that correct?

17 PRESIDENT SIMPSON: Senator Broxson?

18 SENATOR BROXSON: Thank you, Mr.
19 President. Yes, it is.

20 PRESIDENT SIMPSON: Senator Cruz?

21 SENATOR CRUZ: Thank you, Mr. President.
22 I'm sorry. So let's say, hypothetically, that we can't
23 use these drugs because there's not a drug manufacturer
24 that will put this drug out because they are afraid.
25 Although their drugs are well intended, they're afraid

1 that they'll make a group of people very angry and make
2 that company or perhaps that company will be seen in a
3 lesser light.

4 So what if we had to go back to the
5 electric chair, if we had to go back to Old Sparky? Has
6 anyone ever asked what electric company feeds the
7 electric chair and what company the wood came from or
8 the wiring?

9 PRESIDENT SIMPSON: Senator Broxson?

10 SENATOR BROXSON: Thank you, Mr.
11 President. Not to my knowledge.

12 PRESIDENT SIMPSON: Senator Cruz?

13 SENATOR CRUZ: Are these drugs made
14 available by drug manufacturers? Is this voluntary? We
15 don't force any company to provide drugs; is that
16 correct?

17 PRESIDENT SIMPSON: Senator Broxson?

18 SENATOR BROXSON: Thank you, Mr.
19 President. We do not.

20 PRESIDENT SIMPSON: Senator Cruz?

21 SENATOR CRUZ: When someone is sentenced
22 to death, are they sentenced to death by a group of
23 their peers, by a judge in their state, or are they
24 sentenced to death by a drug company?

25 PRESIDENT SIMPSON: Senator Broxson?

1 SENATOR BROXSON: Thank you. The process
2 is a legal process. That is an option, considering the
3 severity of the crime, that we, and I think the law is
4 clear, that it has to be a very hideous crime with
5 special circumstances. And that is correct. It would
6 have to be a jury of their peers.

7 PRESIDENT SIMPSON: Senator Cruz for a
8 question?

9 SENATOR CRUZ: So, Chair Broxson,
10 shouldn't we really be ticked off at our state and our
11 legislators, rather than our drug companies that provide
12 drugs?

13 PRESIDENT SIMPSON: Senator Broxson?

14 SENATOR BROXSON: Thank you, Mr.
15 President. You're welcome to be ticked off with our
16 legislators.

17 PRESIDENT SIMPSON: Senator Cruz has
18 concluded and additional Senators wishing to have
19 questions, debate may come tomorrow. Senator of the
20 38th, Senator Pizzo, you're recognized for a question.

21 SENATOR PIZZO: Thank you, Mr. President.
22 I'm going to refer back to what was previously mentioned
23 as Senator Broxson 922.105. As I read subsection one,
24 "A death sentence shall be executed by lethal injection,
25 unless the person sentenced to death affirmatively

1 elects to be executed by electrocution. The sentence
2 shall be executed under the direction of the Secretary
3 of Corrections or the Secretary's designee." Do you
4 interpret that part of 922.105 to mean that the default
5 method of execution is by lethal injection but that
6 electrocution is available if elected by the inmate?

7 PRESIDENT SIMPSON: Senator Broxson?

8 SENATOR BROXSON: Thank you, Mr.
9 President. I know that's true because in 2015 a person
10 who is currently on death row has chosen that once that
11 day comes, he has chosen the electric chair.

12 PRESIDENT SIMPSON: Senator Pizzo?

13 SENATOR PIZZO: I guess the questions
14 that were asked suggest that there's either a gray area
15 or a circumstance where if, through trial, the death
16 penalty phase, and the sentencing as such, that there
17 can create a situation where we have people, excuse me,
18 who are on death row awaiting execution that has been
19 sentenced by lethal injection. And if lethal injection
20 is held up because we won't have anyone participating or
21 DOC believes no one will participate, pharmaceutically
22 or by distribution, if those prior and existing death
23 row inmates have not opted, have not elected to be
24 executed by electrocution, in some states, I think, even
25 by firing squad, aren't they sort of rendered in a non-

1 executable pool of people because we would actually need
2 them to elect to be and I think the procedure calls for
3 a 30-day written notice followed by another review. We
4 can't execute those people by electrocution unless they
5 elect to do so. Is that correct?

6 PRESIDENT SIMPSON: Senator Broxson?

7 SENATOR BROXSON: Thank you, Mr.

8 President. That is correct. We cannot elect for them.

9 PRESIDENT SIMPSON: Senator Pizzo for a
10 question.

11 SENATOR PIZZO: Thank you, Mr. President.
12 So we have those that are placed on -- that are on death
13 row right now who are by default, because that is our
14 proscribed method to be lethal injection. Going
15 forward, though, I go to Section 3 of 922.15, which
16 reads, "If electrocution or lethal injection is held to
17 be unconstitutional by the Florida Supreme Court under
18 the state Constitution, or to be held unconstitutional
19 by the United States Supreme Court under the United
20 States Constitution, or if the United States Supreme
21 Court declines to review any judgment holding a method
22 of execution to be unconstitutional under the U.S.
23 Constitution made by the Florida Supreme Court, or the
24 United States Court of Appeals that has jurisdiction
25 over Florida, all persons sentenced to death for a

1 capital crime shall be executed by any constitutional
2 method of execution." Which I take -- and I'm very
3 curious to know your interpretation -- mine is, if
4 electrocution or lethal injection, either or both, are
5 found to be infirmed either by the Florida Supreme
6 Court, the United States Supreme Court, the U.S.
7 District Court of Appeals, or anyone having purview and
8 jurisdiction to review an appellate case by a lower
9 court, that the State of Florida can still execute
10 inmates by any constitutional method of execution. And
11 my understanding is firing squads in other states have
12 been found to be constitutional.

13 PRESIDENT SIMPSON: Senator Broxson?

14 SENATOR BROXSON: Thank you, Mr.
15 President. It's my understanding that if that should
16 happen, Senator Pizzo, that they would ask the
17 legislature the following year to confirm what their
18 legal responsibility as far as the type of execution
19 they would use.

20 PRESIDENT SIMPSON: Senator Pizzo for a
21 question.

22 SENATOR PIZZO: Thank you, Mr. President.
23 And I so I -- here's sort of my interpreter, which is
24 all those that are on -- I think we have 300 and -- 340?
25 331? Thank you, Lauren Jones. We have 330 plus people

1 on death row. All of those who have been subject to a
2 sentencing of lethal injection for execution, let's
3 agree they're not going to opt and elect some other
4 method voluntarily, those executions of those inmates
5 will basically be held in legal limbo. This bill
6 esquire two thirds vote, because it's a public records
7 exception, which it does not pass and it's not granted,
8 we effectively will not be -- we will not be able to
9 perform those executions for the time being.

10 But going forward, if, Senator Broxson,
11 you were to come back to your next session and file a
12 bill that says we're going to allow A, B, C and D method
13 of execution, you would only need a majority of the
14 people in this chamber and the House to pass that bill
15 to proceed with executions going forward that might be
16 less humane. You agree with that?

17 PRESIDENT SIMPSON: Senator Broxson?

18 SENATOR BROXSON: Thank you, Mr.

19 President. I do agree with that.

20 PRESIDENT SIMPSON: Senator Pizzo has
21 concluded. Does any additional member have a question?
22 Is there additional comments from the sponsor? Pursuant
23 to Rule 4.19, the bill is placed on the calendar of
24 bills on third reading. A moment ago, Senators, we
25 temporarily postponed Senator Hudson's SB 1054 without

1 objection. We will proceed to that bill. Read the
2 bill.

3 THE CLERK: Senate Bill 1054, a bill to
4 be entitled an act relating to financial literacy
5 instruction in public schools.

6 PRESIDENT SIMPSON: Senator Hudson of the
7 7th, you're recognized to explain the bill.

8 SENATOR HUDSON: Thank you, Mr.
9 President. Senate Bill 1054 builds upon the goal of
10 Senator Hugel and is designated as the Dorothy L. Hugel
11 Financial Literacy Act. The bill requires state
12 standards for financial literacy to establish curricular
13 content for personal financial literacy and money
14 management, and requires students to earn one half
15 credit in personal financial literacy and money
16 management in order to receive a standard high school
17 diploma.

18 PRESIDENT SIMPSON: Are there amendments?

19 THE CLERK: On the desk, Mr. President.

20 PRESIDENT SIMPSON: Read the amendment.

21 THE CLERK: Amendment Barcode 391790 by
22 Sandra Hudson, between lines 98 and 99 insert amendment.

23 PRESIDENT SIMPSON: Mr. Clerk, is there a
24 substitute amendment?

25 THE CLERK: On the desk, Mr. President.

1 PRESIDENT SIMPSON: Read the substitute
2 amendment.

3 THE CLERK: Substitute amendment Barcode
4 451514 by Sandra Hudson. Delete lines 49 to 98 and
5 insert amendment.

6 PRESIDENT SIMPSON: Senator Hudson,
7 you're recognized on the Hudson amendment substituted.

8 SENATOR HUDSON: Thank you, Mr.
9 President. This postpones the curriculum until the '23-
10 '24 school year. The requirement for the student
11 entering grades nine to complete that credit that I
12 mentioned and extends the requirement to complete one
13 half credit in financial literacy to career and
14 technical education, graduation pathways and the
15 academically challenging curriculum to enhance learning,
16 the Excel pathway options. That is the amendment.

17 PRESIDENT SIMPSON: Senator Hudson,
18 having explained the Hudson substitute amendment, are
19 there questions? Are there questions? Is there debate?
20 There is for question or debate? You are recognized,
21 Senator of the 38th, Senator Pizzo, for a question.

22 SENATOR PIZZO: Thank you, Mr. President.
23 Senator Hudson, I thank you for taking the time with
24 high school students in my district, even though you
25 yelled at me that the Zoom didn't start, even though you

1 set the Zoom. But on behalf of some very grateful kids
2 who had worked really, really hard to try to install and
3 include some financial literacy for the betterment of
4 other students less fortunate, I thank you for your time
5 and for this bill. And I believe I'm a co-sponsor? I
6 think so.

7 PRESIDENT SIMPSON: Additional members in
8 debate? Additional members in debate? We're on the
9 substitute amendment by Senator Hudson. Is there any
10 objection? Any objection? Without objection, the
11 substitute amendment by Senator Hudson is adopted. Read
12 the next amendment.

13 THE CLERK: None on the desk, Mr.
14 President.

15 PRESIDENT SIMPSON: Senator Hudson moves
16 the rules be waived and the bill be read a third time by
17 title. Is there objection? Without objection, the
18 motion carries. Read the bill a third time.

19 THE CLERK: Senate Bill 1054, a bill to
20 be entitled an act relating to financial literacy
21 instruction in public schools.

22 PRESIDENT SIMPSON: Is there debate? Is
23 there debate? Senator Hudson, you are recognized.

24 SENATOR HUDSON: Thank you, Mr.
25 President. I would just say this, many of us know

1 Senator Hugel. She was a dear friend. Her goal is to
2 make it a permanent class for financial literacy to
3 graduate, to take it before you graduate. We were at
4 optional. This now gets it permanent, fulfilling her
5 legacy, and happy to champion the cause in her honor.

6 PRESIDENT SIMPSON: Amen, Senator Hudson.
7 Senator Hudson, having closed on the bill, the clerk
8 will now open the board and Senators will proceed to
9 vote. Clerk will lock the board. Announce the vote.

10 THE CLERK: 38 yeas, zero nays, Mr.
11 President.

12 PRESIDENT SIMPSON: Show the bill passes.
13 Senators, a moment ago we temporarily postponed Senator
14 Burgess 1892. Senator Burgess, are you prepared to
15 proceed on the bill? Senator Burgess says yes. And has
16 stood and ready to go. So Mr. Clerk, please read the
17 bill.

18 THE CLERK: Committee substitute for
19 Senate Bill 1892, a bill to be entitled an act relating
20 to administration of vaccines.

21 PRESIDENT SIMPSON: Senator of the 20th,
22 Senator Burgess, you're recognized to explain the bill.

23 SENATOR BURGESS: Thank you so much, Mr.
24 President. This bill authorizes registered pharmacy
25 technicians to administer vaccines to adults after being

1 certified to have received appropriate education and
2 training to administer vaccines, and only under the
3 supervision of a certified pharmacist, much the same as
4 a pharmacy intern is currently authorized.

5 The bill maintains current Florida law
6 that a pharmacist and his or her subordinates may
7 administer vaccines only within the framework of an
8 administrative protocol under a supervising physician.

9 We are essentially codifying the Prep
10 Act, Senators, that has been in effect at the federal
11 level since the start of the pandemic and is set to
12 expire. So we're taking our lived experience through an
13 emergency with that guidance and taking a measured
14 approach to balance safety against access as we
15 hopefully get on the other side of this experience.

16 PRESIDENT SIMPSON: Are there amendments?

17 THE CLERK: None on the desk, Mr.
18 President.

19 PRESIDENT SIMPSON: It finally came.
20 We've waited all day, Senator Burgess, and it finally
21 came. It's here. I'm talking about the House bill.
22 The House bill is here. Hooray. Senator Burgess, if
23 you wish to substitute, please explain the differences,
24 if any?

25 SENATOR BURGESS: Mr. President, do we

1 not have an amendment?

2 PRESIDENT SIMPSON: Well, can you explain
3 the differences of the House bill before we proceed? If
4 you're going to amend it to make it identical, you can
5 say that, and I think they might buy it if you say it.

6 SENATOR BURGESS: I got to tell the
7 truth, Mr. President. We have some differences, and so
8 we are going to take up the House bill and then we're
9 going to amend. Thank you for keeping me --

10 PRESIDENT SIMPSON: Amend to make it
11 identical?

12 SENATOR BURGESS: -- thank you for
13 keeping me on track.

14 PRESIDENT SIMPSON: Is that right? No,
15 Senator Burgess. We're going to make it identical after
16 we take it up. So that is major changes.

17 SENATOR BURGESS: We are going to create
18 some new policy after taking it up and then send it
19 back.

20 PRESIDENT SIMPSON: Very good. Senator
21 Burgess has moved that committee substitute for House
22 Bill 1209 be substitute for committee substitute for
23 Senate Bill 1892. Is there objection? Without
24 objection, the motion is adopted. Read the House bill.

25 THE CLERK: Committee substitute for

1 House Bill 1209, a bill to be entitled an act relating
2 to administration of vaccines.

3 PRESIDENT SIMPSON: Are there amendments?

4 THE CLERK: On the desk, Mr. President.

5 PRESIDENT SIMPSON: Read the first
6 amendment.

7 THE CLERK: Amendment Barcode 136796 by
8 Senator Burgess, delete line 71 to 74 and insert
9 amendments.

10 PRESIDENT SIMPSON: Senator Burgess, you
11 are recognized to explain the Burgess amendment.

12 SENATOR BURGESS: Thank you, Mr.
13 President. I jumped the shark. I apologize. So this
14 amendment addresses the number of pharmacy interns and
15 pharmacy technicians that a pharmacist may supervise at
16 one time for the administration of a vaccine.

17 As I stated before, we are looking to
18 codify the amendment and what this bill does, or codify
19 the Prep Act that we've been under federal guidance
20 with. And under current rules, Florida's Board of
21 Pharmacy, a pharmacist is authorized to supervise up to
22 six pharmacy technicians under most circumstances, but
23 there's technicians and then there's interns. So what
24 we're looking to do is have a ratio of 1:5 when it comes
25 to the administration of vaccine and allow for the

1 flexibility for a pharmacist to be able to determine
2 whether or not a technician or an intern would be
3 constituted within that five to afford more flexibility
4 there.

5 And we're also taking the accreditation/
6 certification hours to six, which is the national
7 standard.

8 PRESIDENT SIMPSON: Before I could ask if
9 there are questions, Senator Cruz has already raised her
10 hand. Senator of the 18th, Senator Cruz, you're
11 recognized for a question on the Burgess amendment to
12 the House bill.

13 SENATOR CRUZ: Thank you, Mr. President.
14 And Senator Burgess, on this amendment, it was a 1:1
15 ratio, one pharmacist to one technician, and now we've
16 moved it to one pharmacist overseeing five?

17 PRESIDENT SIMPSON: Senator Burgess?

18 SENATOR BURGESS: Thank you, Mr.
19 President. So that is correct, Senator Cruz. The House
20 position was one that would have defaulted to the board
21 of pharmacy's position, and that's at 1:6. What we've
22 heard from stakeholders, and there's many on this type
23 of issue, as you can imagine, is that you have both
24 interns and technicians. Interns are actually more
25 educated and trained than a technician, which is kind of

1 the converse of what you would expect. And so what we
2 have done is seek to balance sort of the necessity to
3 take what's working, which is obviously this model is
4 working under the Prep Act, and ensure that we're
5 affording that flexibility to be able to continue that
6 as the Prep Act is about to expire. But also ensure
7 that we're having safety measures in place as well. And
8 so we felt that 1:5, a mixture of intern and technician,
9 was the appropriate balance.

10 PRESIDENT SIMPSON: Senator Cruz, for a
11 bonus question, you're recognized.

12 SENATOR CRUZ: I'm assuming that when we
13 say "interns," Senator Burgess, we're speaking in terms
14 of those students that come over from the pharmacy
15 schools that might be working at some of the retail
16 pharmacies or the hospital pharmacies. So there's
17 really no guarantee that we'll have interns and
18 locations. Do they come as non-paid help?

19 PRESIDENT SIMPSON: Senator Burgess to
20 respond.

21 SENATOR BURGESS: Thank you very much,
22 Mr. President. There's oftentimes no more than one
23 intern at a facility at any given time. You're correct
24 about that. They're harder to come by than a technician
25 would be. The technicians obviously have more limited

1 roles. But under the guidance of the Prep Act, we've
2 realized that it's been very effective, safe, and the
3 outcomes have been amazing in terms of going to your
4 local pharmacy and having them administer the CDC
5 schedule of vaccines. In this particular instance, it
6 was obviously the COVID vaccine. Under the Prep Act, it
7 includes guidance with children, but we're actually very
8 narrowly tailoring it and making sure that it's 18 and
9 above. We just kind of want to stick to adults.

10 PRESIDENT SIMPSON: Senator Cruz?

11 SENATOR CRUZ: On this amendment, can you
12 speak to the difference in the training necessary for a
13 tech versus an intern?

14 PRESIDENT SIMPSON: Senator Burgess to
15 respond.

16 SENATOR BURGESS: Thank you very much. I
17 certainly can, Senator Cruz. So we did have ten hours
18 of training within our original bill; the House was at
19 six. What we have come to find out though, is that six
20 is actually the national standard and we are, of course,
21 including two hours of required CLE training annually in
22 addition to that. So we're mirroring what that national
23 standard is and what is expected of them when it comes
24 to training currently.

25 PRESIDENT SIMPSON: Senator Cruz for a

1 question?

2 SENATOR CRUZ: Thank you, Mr. President.
3 Six hours of training, whether you're a tech or an
4 intern?

5 PRESIDENT SIMPSON: Senator Burgess?

6 SENATOR BURGESS: Thank you, Mr.
7 President. I believe the interns have a higher level of
8 training. And off the top of my head, I think it's 20.
9 It is 20. Yes, I was going to guess correctly, 20.

10 PRESIDENT SIMPSON: Senator Cruz for a
11 question?

12 SENATOR CRUZ: And finally, Mr.
13 President, can you make these guys behave over here so I
14 can ask my questions, please?

15 PRESIDENT SIMPSON: Yeah. Don't make me
16 stop this chamber.

17 SENATOR CRUZ: I'm finished, Mr.
18 President.

19 PRESIDENT SIMPSON: Don't make me stop
20 this chamber right here. No. Senator Cruz, you had a
21 question, go right ahead. Senator Cruz has concluded
22 her questions. We are on the Burgess Amendment. Let's
23 go for a question. Senator of the 16th, Senator Hooper,
24 for a question.

25 SENATOR HOOPER: Thank you very much, Mr.

1 President. Senator Burgess, you just articulated the
2 required hours of instruction. For a licensed
3 pharmacist, what are the hours of their required
4 instruction?

5 PRESIDENT SIMPSON: Senator Burgess?

6 SENATOR BURGESS: Thank you, Mr.

7 President. It is 20.

8 PRESIDENT SIMPSON: Senator Hooper for a
9 question?

10 SENATOR HOOPER: Thank you, Mr.

11 President. It seems odd to me that we're requiring a
12 pharmacist who obviously has been through all the
13 training, all the certification, experience, to require
14 20 hours to do those immunizations and vaccines and an
15 18-year-old pharmacy tech needs six hours.

16 PRESIDENT SIMPSON: What do you think
17 about that, Senator Burgess?

18 SENATOR BURGESS: Thank you, Mr.

19 President. Certainly understand the question, Senator
20 Hooper. I think I would default on the fact that what
21 they are doing in their limited roles is -- well, but
22 also in a very important role, is under the direct
23 supervision of a pharmacist with those 20 hours. And of
24 course, under current law that pharmacist is under the
25 direct supervision of a physician at all times.

1 PRESIDENT SIMPSON: Senator Hooper for a
2 question.

3 SENATOR HOOPER: Thank you, Mr.
4 President. Final question. I would accept that analogy
5 if the language was 1:1. Now, there's potential for one
6 pharmacist with 20 hours to authorize five interns or
7 techs to do these with less than a third of the required
8 training. Do you see any chance or potential for an
9 adverse reaction or a nerve hit with a needle that could
10 come about because of that 6 hours of instruction?

11 PRESIDENT SIMPSON: Senator Burgess?

12 SENATOR BURGESS: Thank you, Mr.
13 President. What we're doing is and the reason why we
14 feel comfortable with this is twofold, under current
15 law, the Florida Board of Pharmacy has the ability to
16 set the ratios and the House bill relied on that current
17 process. But in some cases, that ratio would go up to
18 six technicians and that's done through rulemaking. So
19 what we're looking to do is allow for that flexibility
20 of the 1:5, so we're lowering it a little bit, albeit
21 one technician or intern, potentially. But we've seen
22 over the last two years the ability to do this
23 effectively, safely. It's worked. And of course, I
24 believe that by codifying this in statute to go along
25 kind of with your concern, sir, is to ensure that it

1 stays at that and that the Board of Pharmacy doesn't try
2 to up it from there.

3 PRESIDENT SIMPSON: We're in questions on
4 the Burgess amendment. The Burgess amendment. Are
5 there questions? Is there debate? Is there debate?
6 Senator Burgess, you're recognized to close on the
7 Burgess amendment. He waives his close. All those in
8 favor, please signify by saying yea. Opposed, nay? The
9 motion is adopted. Read the next amendment.

10 THE CLERK: None on the desk, Mr.
11 President.

12 PRESIDENT SIMPSON: Is there further
13 questions? Senator Burgess moves the rules be waived
14 and the bill be read a third time by title. Is there
15 objection? Without objection, the motion carries. Read
16 the bill a third time.

17 THE CLERK: Committee substitute for
18 House Bill 1209, a bill to be entitled an act relating
19 to administration of vaccines.

20 PRESIDENT SIMPSON: Is there debate?
21 Senator Burgess having waived his close, the question
22 now occurs for final passage. The clerk will unlock the
23 board. Senators will proceed to vote. Clerk will lock
24 the board and announce the vote.

25 THE CLERK: 35 yeas, zero nays, Mr.

1 President.

2 PRESIDENT SIMPSON: Show the bill passes.

3 We are still picking up bills that we temporarily

4 postponed a moment ago. One of those bills was

5 committee substitute for committee substitute for

6 committee substitute for Senate Bill 644 by Senator

7 Brodeur. Without objection, read the bill.

8 THE CLERK: Committee substitute for

9 committee substitute for committee substitute for Senate

10 Bill 644, a bill to be entitled an act relating to

11 building regulation.

12 PRESIDENT SIMPSON: Senator Brodeur of

13 the 9th, you're recognized.

14 SENATOR BRODEUR: Thank you, Mr.

15 President. This bill attempts to help reduce extensive

16 delays in the building, permitting, and inspection

17 process by allowing private providers to become more

18 involved in the process. They do that by having

19 provisional certificates when those who are under the

20 direct supervision of a building code administrator and

21 the House bill is here.

22 PRESIDENT SIMPSON: Very good. Are there

23 amendments?

24 THE CLERK: None on the desk, Mr.

25 President.

1 PRESIDENT SIMPSON: The House bill is
2 here. Senator Brodeur, you are recognized to explain
3 the differences.

4 SENATOR BRODEUR: The House bill is
5 substantially similar with the exception of three
6 things. The House bill allows a person with a
7 provisional license to review plans, which was kind of
8 the point of the bill in the first place. This just has
9 somebody who's working for one of those provisional
10 license people. It prescribes a process whereby a local
11 government may only request additional information three
12 times instead of unlimited times, which slows down the
13 process. And finally, the House bill provides standing
14 for owners, builders, or associations with valid
15 building permits to bring civil actions. That is the
16 House bill.

17 PRESIDENT SIMPSON: Senator Brodeur moves
18 a very similar House bill be substituted for the Senate
19 Bill. Is there objection? Without objection, the
20 motion is adopted. Read the House bill.

21 THE CLERK: Committee substitute for
22 committee substitute for House Bill 423, a bill to be
23 entitled an act relating to building regulations.

24 PRESIDENT SIMPSON: Are there amendments?

25 THE CLERK: None on the desk, Mr.

1 President?

2 PRESIDENT SIMPSON: Are there questions?
3 Senator Brodeur moves the rules be waived and the bill
4 be read a third time. Is there objection? Without
5 objection, read the bill a third time.

6 THE CLERK: Committee substitute for
7 committee substitute for House Bill 423, a bill to be
8 entitled an act relating to building regulations.

9 PRESIDENT SIMPSON: Senator Brodeur,
10 having waived his close, the question occurs for final
11 passage. The clerk will unlock the board. Senators
12 will proceed to vote. Clerk will lock the board and
13 announce the vote.

14 THE CLERK: 38 yeas, zero nays, Mr.
15 President.

16 PRESIDENT SIMPSON: And the bill passes.
17 Senators, we postponed, temporarily postponed. We had
18 taken up committee substitute for committee substitute
19 for 1600 by Senator Bradley. We had substituted, the
20 body had substituted, committee substitute for House
21 Bill 1249 before it was TP'd. Is there objection to
22 taking up that House bill? Without objection, read the
23 House bill.

24 THE CLERK: Committee substitute for
25 House Bill 1249, a bill to be entitled an act relating

1 to treatment of defendants adjudicated incompetent to
2 stand trial.

3 PRESIDENT SIMPSON: Senator Bradley of
4 the 5th, you are recognized to explain the House bill.

5 SENATOR BRADLEY: Thank you, Mr.
6 President. Both bills amend the definition of a
7 forensic facility to include a mental health facility
8 operated by a community mental health provider which may
9 be co-located in a county jail and deemed appropriate by
10 DCF. The House bill does not contain one clarifying
11 condition -- one clarifying section, but the bills are
12 subsequently identical.

13 PRESIDENT SIMPSON: I got some breaking
14 news up at the front desk. We're on third reading. How
15 about that? I'm living in the second reading zone, but
16 third reading, good for you, Senator Bradley. That
17 means we're in debate. Is there a debate on the bill?
18 Debate? Is there debate?

19 So just to recap, we took up Senator
20 Bradley's bill. We then substituted the House bill, and
21 then we rolled the third, but then we temporarily
22 postponed it, and now we're back in third reading.
23 Senator Bradley has described the bill. There hasn't
24 been questions. Is there a debate?

25 Senator Bradley waives her close. And so

1 the question occurs for final passage. The clerk will
2 unlock the board. Senators will proceed to vote. Have
3 all senators voted? Good catch. The clerk will lock
4 the board and announce the vote.

5 THE CLERK: 39 yeas, zero nays, Mr.
6 President.

7 PRESIDENT SIMPSON: And the bill passes.
8 When we last left Senator Pizzo, he was running, looking
9 for a House bill all over the Capitol. He's back. And
10 so, if without objection, let's go back to the Senator
11 of the 38th to take up committee substitute for
12 committee substitute for committee substitute for Senate
13 Bill 876. Without objection, read that bill.

14 THE CLERK: Committee substitute for
15 committee substitute for committee substitute for Senate
16 Bill 876, a bill to be entitled an act relating to stunt
17 driving on highways.

18 PRESIDENT SIMPSON: Senator Pizzo, you're
19 recognized to explain the bill.

20 SENATOR PIZZO: Thank you, Mr. President.
21 We're going to take up the House bill, I believe.

22 PRESIDENT SIMPSON: So you did find the
23 House bill somewhere?

24 SENATOR PIZZO: I found it.

25 PRESIDENT SIMPSON: Very good. Explain

1 the differences, if any, Senator Pizzo.

2 SENATOR PIZZO: Thank you, Mr. President.

3 On HB 399, the substantive difference is a misdemeanor
4 in the first degree on the use of lights in concert and
5 concurrent with falsely impersonating an officer. Not
6 too different than adding on and building on what
7 Senator Taddeo had a few years ago. We were trying to
8 get rid of some of those markings on police cars, but
9 that's the difference.

10 PRESIDENT SIMPSON: Senator Pizzo moves
11 the House bill be substituted for the Senate Bill. Is
12 there objection? Without objection, the motion is
13 adopted. Read the House bill.

14 THE CLERK: Committee substitute for
15 committee substitute for committee substitute for House
16 Bill 399, a bill to be entitled an act relating to motor
17 vehicle and vessel law enforcement.

18 PRESIDENT SIMPSON: Are there amendments?

19 THE CLERK: None on the desk, Mr.
20 President.

21 PRESIDENT SIMPSON: Are there questions?
22 Senator Pizzo moves the rules be waived and the bill be
23 read a third time by title. Is there objection?
24 Without objection, read the bill a third time.

25 THE CLERK: Committee substitute for

1 committee substitute for committee substitute for House
2 Bill 399, a bill to be entitled an act relating to motor
3 vehicle and vessel law enforcement.

4 PRESIDENT SIMPSON: Is there debates? Is
5 there debate? Senator Pizzo is recognized. Gives me
6 the signal to waive his close. And so the question
7 occurs for final passage. The clerk will now unlock the
8 board. Senators will proceed to vote. Have all
9 senators voted? The clerk will lock the board and
10 announce the vote.

11 THE CLERK: 39 yeas, zero nays, Mr.
12 President.

13 SENATOR B: Zero.

14 PRESIDENT SIMPSON: Show the bill passes.
15 Let's get back to special order action in order. Read
16 the next -- one moment, Mr. Clerk. Senator Jones, for
17 what purpose?

18 SENATOR JONES: For a motion, Mr.
19 President.

20 PRESIDENT SIMPSON: State your motion.

21 SENATOR JONES: Mr. President, I would
22 like to make a motion that we bring back 1054, Senator
23 Hudson's bill, so we could co-sponsor as a body. I
24 think the bill is very -- motion to reconsider. Okay.

25 PRESIDENT SIMPSON: Okay. So Senator

1 Jones, fellow Senators, Senator Jones wishes to open the
2 board just to allow co-sponsorship of the Senator Hudson
3 bill that really, Senators, is a tribute to Senator
4 Hugel. For freshman members, you didn't know Senator
5 Hugel the way that we knew her coming in, and she was a
6 special lady. So the motion is very much in order.
7 Without objection, the board will be open. Senators
8 will indicate their co-sponsorship. Thank you, Senator
9 Jones. The clerk will lock the board and announce co
10 sponsorships.

11 THE CLERK: 39 co-sponsorships, Mr.
12 President.

13 PRESIDENT SIMPSON: Thank you, Florida
14 Senate. And thank you, Senator Hudson. Thank you,
15 Senator Jones. Read the next bill.

16 THE CLERK: Committee substitute for
17 Senate Bill 552, a bill to be entitled an act relating
18 to clerks of the circuit court.

19 PRESIDENT SIMPSON: The Senator of the
20 21st is Senator Boyd, and he is recognized to explain
21 the bill.

22 SENATOR BOYD: Thank you, Mr. President.
23 I'm so excited to get this chance. Senators, this bill
24 provides additional improvements to the clerk's
25 statewide budget process. It establishes a

1 reimbursement process for mental health and substance
2 abuse cases that have no filing fee and further
3 standardizes monthly payment plans to help more timely
4 payments and reduce driver's license suspensions. That
5 is the bill, Mr. President.

6 PRESIDENT SIMPSON: Are there amendments?

7 THE CLERK: On the desk, Mr. President.

8 PRESIDENT SIMPSON: Read the first
9 amendment.

10 THE CLERK: Late filed amendment, Barcode
11 918938 by Senator Polsky, between lines 214 and 215,
12 insert amendment.

13 PRESIDENT SIMPSON: The Senator of the
14 29th, Senator Polsky, you're recognized on the Polsky
15 amendment.

16 SENATOR POLSKY: Thank you, Mr.
17 President. I believe that amendment is withdrawn and I
18 have another amendment to the House version.

19 PRESIDENT SIMPSON: Without objection,
20 the Polsky amendment is withdrawn. Senator Boyd, the
21 House bill is here. Should you wish to substitute,
22 please explain the differences, if any.

23 SENATOR BOYD: Thank you. Mr. President,
24 the House bill is here. Thank you so much. And the
25 bills are substantially the same with minor drafting,

1 stylistic differences.

2 PRESIDENT SIMPSON: Senator Boyd moves a
3 very similar with stylistic differences House bill be
4 substitute for the Senate Bill. Is there objection?
5 Without objection, the motion is adopted. Read the
6 House bill.

7 THE CLERK: Committee substitute for
8 House Bill 397, a bill to be entitled an act related to
9 court fiscal administration.

10 PRESIDENT SIMPSON: Are there amendments?

11 THE CLERK: On the desk, Mr. President.

12 PRESIDENT SIMPSON: Read the amendment.

13 THE CLERK: Amendment Barcode 146078 by
14 Senator Polsky, between lines 154 and 155, insert
15 amendment.

16 PRESIDENT SIMPSON: Senator Polsky of the
17 29th, you're recognized on the Polsky amendment.

18 SENATOR POLSKY: Thank you, Mr.
19 President. When the target of a grand jury
20 investigation is deceased, the compelling need for
21 privacy and confidentiality may no longer exist. And
22 the public, through the clerks of the circuit court,
23 should be permitted to review the records upon order of
24 the court having jurisdiction over the matter.

25 In 2006, there was such a grand jury

1 hearing in Palm Beach County involving what has now
2 become one of the most notorious sexual offender cases
3 in the world. It involved the now deceased Jeffrey
4 Epstein. After more than a dozen underage girls told
5 authorities he molested them, the outcome of this grand
6 jury did not lead to serious charges for Epstein.
7 Instead, a secret non-prosecution agreement and plea
8 deal was reached and federal prosecutors agreed not to
9 pursue him on charges that could have sent him to prison
10 for years.

11 He served 13 months of an 18 month
12 sentence in a county stockade and was allowed to leave
13 for 12 hours a day, six days a week. For as much as we
14 now know about him, there is still a lot that we don't
15 know on why it took years before he was held accountable
16 for the many allegations. The grand jury transcripts of
17 this case in 2006 could help the public understand why.
18 The public and the victims deserve to know if
19 prosecutors steered the jury away from indicting Epstein
20 on more severe charges.

21 There is also compelling public need to
22 know if the system worked or failed. This amendment
23 would allow a judge involved in the grand jury to
24 release the transcript at their discretion, as long as
25 the subject of the grand jury inquiry is deceased and

1 the testimony was previously disclosed to law
2 enforcement. And this amendment is to help our friend,
3 former Senator Joseph Abruzzo, currently the clerk of
4 the court in palm beach county, and that is the
5 amendment.

6 PRESIDENT SIMPSON: Are there questions
7 of Senator Polsky on the Polsky amendment? The senator
8 of the 25th, Senator Harrell, you're recognized for a
9 question.

10 SENATOR HARRELL: Thank you very much.
11 And I've been asked by my local clerk of the court to
12 verify that both the state attorneys and law enforcement
13 associations are in accord with this.

14 PRESIDENT SIMPSON: Senator Polsky to
15 respond.

16 SENATOR POLKSY: To be honest, Senator,
17 this is kind of a preliminary look into this issue and
18 we intend to look into this further as time goes on. We
19 know that this is a controversial issue, but we thought
20 it was important to bring up the subject now and we'll
21 continue to work on it as we go further.

22 PRESIDENT SIMPSON: Senator Harrell?
23 Senator Harrell has concluded. Additional questions of
24 Senator Polsky on the Polsky amendment? Additional
25 questions? Debate? Is there debate? Senator Pizzo,

1 you are on the border. You could go question or debate.
2 Your call.

3 SENATOR PIZZO: I'm going to do a debate
4 and I want to respect Senator Harrell, that was an
5 excellent question and I think Senator Polsky
6 immediately said, who's the nearest ex-prosecutor I
7 have. And I called the state attorney's office and
8 engaged in this discussion.

9 Folks, the integrity of a grand jury
10 investigation is to protect the secrecy. And the
11 validity and integrity of such grand jury investigations
12 is, on its face, seemingly compromised if all of a
13 sudden we're going to make exceptions and then let
14 information leak out.

15 But as I was explaining to Senator
16 Rodrigues with an S yesterday, the most helpful thing
17 that a court can do is tell or convey, telegraph either
18 verbatim or by suggestion, of what the remedy could be.
19 And if you'll indulge me for a second on this particular
20 issue. The Court, in the ruling here, said "In
21 interpreting a statute, the Court must respect the role
22 of the legislature and the legislative process and the
23 language of the statute." And went on to say, "It is
24 our Court's duty to interpret the law as given to us by
25 the people in the Constitution or by the legislature,

1 and we are not permitted to substitute judicial
2 consideration or for law that which we think we should
3 be and commanded that it be enforced." And here's my
4 favorite line, which is what courts are very helpful in
5 preventing, I mean, in promoting. "Nonetheless, under
6 fundamental principles of separation of powers, courts
7 cannot judicially, after the wording of statutes, where
8 the legislature clearly has not done." And finally,
9 "Perhaps the circumstances presented above will induce
10 the legislature to amend Section 905.27, to grant the
11 courts additional authority or leeway in ruling on
12 unique cases such as this one."

13 So here's my position. The amendment as
14 it stands is a fantastic idea that requires a lot of
15 discussion and a lot of interpretation and to be very
16 deliberate, and I don't think Senator Polsky was in any
17 way being disingenuous by thinking this would pass and
18 be fine and no one would have questions about it.

19 But there is the overriding sort of
20 principle or concern, obviously from law enforcement and
21 from prosecutorial bodies, that we can't get kids and
22 vulnerable victims and witnesses in violent crimes and
23 fraud and all that stuff to come forward because they
24 want to be protected. And they should be. And those
25 offices take it very seriously.

1 However, when there's, like, manifest
2 injustice, when there's testimony of individuals who now
3 believe they may not have any recourse, that's something
4 to really consider. Also, maybe something to consider
5 in the future is those that have provided testimony are
6 willing to provide a waiver against that confidentiality
7 it might be a consideration.

8 So it's a wonderful idea to explore and
9 discuss, but I absolutely agree with you. 905.27 is
10 about the integrity of that process and it should remain
11 private and confidential, unless there's an
12 extraordinary, extraordinary circumstance. You could
13 argue that a creepy predator who has left lives ruined
14 that have never been able to have recourse or redress of
15 those victimizations might be one of those. But I think
16 it needs more time, obviously, to talk through.

17 PRESIDENT SIMPSON: Thank you. Senator
18 Harrell, you're recognized.

19 SENATOR HARRELL: Thank you very much,
20 Mr. President. And I totally share your concerns and I
21 think this is a topic that needs much more conversation
22 than as an amendment to a bill that's about to be
23 passed. So I have a difficult time at this time. It's
24 certainly, I'm sure, well intended, but this needs a
25 major conversation and should be the subject of a bill

1 coming forward, perhaps next year.

2 PRESIDENT SIMPSON: Is there any
3 additional debate on the amendment? Any additional
4 debate? Senator Book, you're recognized in debate.

5 SENATOR BOOK: Thank you, Mr. President.
6 And while I agree about the debate that we have going on
7 right here, Senator Polsky, you have my word that we can
8 continue to work on this next session because it's one
9 that we know that these victims deserve justice and we
10 need to make sure that these atrocities never happen
11 again.

12 PRESIDENT SIMPSON: Senator Farmer,
13 you're recognized in debate.

14 SENATOR FARMER: Thank you, Mr.
15 President. And I understand the concerns raised by
16 Senator Pizzo and Senator Harrell, but my law firm
17 represented over a dozen victims of Jeffrey Epstein. My
18 partner, Brad Edwards, fought a one-person battle to
19 undo that non-prosecution agreement, which was perhaps
20 the greatest miscarriage of justice we've ever seen when
21 it comes to child sexual abuse. Not only was Epstein
22 given immunity from the charges at hand, he was given
23 purported immunity for any other charges to be
24 discovered.

25 This was a gross miscarriage of justice.

1 And this man was as serial a predator as we have ever
2 seen. We were able to get through his butler the
3 notebook and flight logs showing a worldwide network of
4 madams and pimps and young girls to be trafficked for
5 him and his associates. In fact, this scheme was so
6 widespread, it's believed that he was never a trader or
7 a securities trader, he was simply blackmailing people
8 to whom he had set up with underage girls.

9 And if it wasn't for the courage of one
10 of our clients who was actually sent to Taiwan to help
11 pick up her replacement because she had grown too old
12 for Jeffrey Epstein and she escaped in Australia while
13 en route, this may have never been uncovered.

14 So while I can understand the concerns,
15 sometimes state attorneys and law enforcements don't do
16 the right thing. Sometimes they do really, really bad
17 things. And this amendment has language in it that
18 talks about that if the subject of the grand jury is
19 deceased, we believe that to be the case with Jeffrey
20 Epstein, although there are some who believe he staged
21 his own death in prison. But as things stand right now,
22 I think this is a good amendment and I don't think it's
23 something we need to wait on. And we do amendments
24 around here all the time that materially change a bill
25 or go way farther than the underlying bill originally

1 went. And you're talking about extreme circumstances
2 here. So I support this amendment and I think we should
3 put it on today.

4 PRESIDENT SIMPSON: Senator Polsky,
5 you're recognized.

6 SENATOR POLSKY: Thank you, Mr.
7 President. I certainly appreciate the comments and I
8 really did bring this up to start the discussion. I
9 know this is a little premature, but it was brought to
10 me after too late for a new bill and we thought it was
11 important to talk about it because we'd like to tee it
12 up for next year.

13 Clerk Abruzzo is unable to release the
14 records because it is not allowed under law. But the
15 judge, as Senator Pizzo said, hinted that if we were to
16 change the law, that this was the right vehicle to
17 release grand jury records in an incredibly narrow
18 manner with a deceased criminal. And also there had
19 already been some release of the records to the
20 Department of Justice. So it really would be narrowed
21 just to this case. So when I come back to you next
22 year, God willing, whoever's here, then we can talk
23 about it. But I respectfully withdraw the amendment.
24 And thank you, Senator Boyd.

25 PRESIDENT SIMPSON: Without objection,

1 show that amendment withdrawn. Read the next amendment.

2 THE CLERK: None the desk, Mr. President.

3 PRESIDENT SIMPSON: Are there questions
4 on the bill? Questions on the bill? By agreement of
5 Democrat and Republican leaders, Senator Boyd moves the
6 bill be read a third time. Without objection, show that
7 motion adopted. Read the bill.

8 THE CLERK: Committee substitute for
9 House Bill 397, a bill to be entitled an act relating to
10 court fiscal administration.

11 PRESIDENT SIMPSON: Is there a debate on
12 the bill? Senator Boyd, you're recognized to close on
13 your bill.

14 SENATOR BOYD: Thank you, Mr. President.
15 And I would also commit, Senator Polsky, Senator Pizzo,
16 Senator Book to work with you on that effort next year.
17 It was a horrible situation there that we all know about
18 and read about and studied. And whatever I can do to
19 help you in that regard, I'd be happy to, and would
20 appreciate your support on this bill today, Senators.

21 PRESIDENT SIMPSON: Thank you. The
22 Secretary will unlock the board and Senators will
23 proceed to vote. Lock the board and record the vote.

24 THE CLERK: 38 yeas, zero nays, Mr.
25 President.

1 PRESIDENT SIMPSON: Show the bill passes.
2 And I believe now we're going back to CS for Senate Bill
3 1452, is that right? Read that bill.

4 THE CLERK: Committee substitute for
5 Senate Bill 1452, a bill to be entitled an act relating
6 to funding for sheriffs providing child protective
7 investigative services.

8 PRESIDENT SIMPSON: Leader Book, you're
9 recognized to explain your bill.

10 SENATOR BOOK: Thank you, Mr. President.
11 I believe the House bill is here. If it's possible,
12 could we please take up the House bill? And there's an
13 amendment to that bill.

14 PRESIDENT SIMPSON: Yes. Senator --
15 Leader Book moves that CS for CS for House Bill 963 be
16 substituted for CS for Senate Bill 1452. Without
17 objection, show that motion adopted. Read the House
18 bill.

19 THE CLERK: Committee substitute for
20 committee substitute for House Bill 963, a bill to be
21 entitled an act relating to funding for sheriffs.

22 PRESIDENT SIMPSON: Are there amendments?

23 THE CLERK: On the desk, Mr. President.

24 PRESIDENT SIMPSON: Read the first
25 amendment.

1 THE CLERK: Amendment Barcode 430624 by
2 Senator Book. Delete everything after the enacting
3 clause and insert amendment.

4 PRESIDENT SIMPSON: Senator Book, you're
5 recognized on your amendment.

6 SENATOR BOOK: Thank you so much, Mr.
7 President. We are amending the House bill to take it
8 back to the Senate's position, which would close an
9 accounting error in how sheriff's offices are authorized
10 to roll over spending for child protective
11 investigators. The bottom line is clear. This bill
12 will ensure that our children are being protected by the
13 brave men and women in our sheriff's offices. That is
14 the bill and the amendment with the Senate's position,
15 Mr. President.

16 PRESIDENT SIMPSON: Are there questions?
17 Is there any debate on the amendment? Without
18 objection, show that amendment adopted. Read the next
19 amendment.

20 THE CLERK: None on the desk, Mr.
21 President.

22 PRESIDENT SIMPSON: Are there questions
23 on the bill? Senator Rouson, you're recognized for a
24 question.

25 SENATOR ROUSON: Thank you very much, Mr.

1 President. Senator Book, we talked earlier about the
2 poisoned pill. Did your amendment take care of that
3 issue?

4 PRESIDENT SIMPSON: Senator Book, you're
5 recognized.

6 SENATOR BOOK: Thank you, Mr. President.
7 Yes, Senator Rouson, it did. It took out the House's
8 language and put the Senate language back on, which was
9 very clean, a clean bill that started that way and they
10 were sending it back over that way.

11 PRESIDENT SIMPSON: Are there any
12 additional questions? Oh, I'm sorry. We're beyond
13 that. Any additional questions on the bill? By
14 agreement of the Democrat and Republican leaders, Leader
15 Book moves the bill be read a third time. Without
16 objection, show that motion adopted. Read the bill.

17 THE CLERK: Committee substitute for
18 committee substitute for House Bill 963, a bill to be
19 entitled an act relating to funding for sheriffs.

20 PRESIDENT SIMPSON: Is there any debate
21 on the bill? Any debate? Senator Book, you're
22 recognized to close.

23 SENATOR BOOK: I just want to assure
24 everybody this is the very clean bill that went through
25 all of its stops and every committee stop with no, no

1 votes, very clean, making sure that the sheriff's
2 offices that do child protective investigators have the
3 budgeting authority to roll over their money. That is
4 the bill, and Mr. President.

5 PRESIDENT SIMPSON: Thank you. The
6 Secretary will unlock the board and Senators will
7 proceed to vote. Lock the board and record the vote.

8 THE CLERK: 38 yeas, zero nays, Mr.
9 President.

10 PRESIDENT SIMPSON: Show the bill passes.
11 Read the next bill.

12 THE CLERK: Committee substitute for
13 Senate Bill 538, a bill to be entitled an act relating
14 to private instructional personnel providing applied
15 behavioral analysis services.

16 PRESIDENT SIMPSON: Senator of the 16th,
17 Senator Hooper, you are recognized to explain the bill.

18 SENATOR HOOPER: Thank you, Mr.
19 President. The bill expands the list of approved
20 private instructional providers who provide services to
21 students with disabilities to include registered
22 behavioral technicians.

23 PRESIDENT SIMPSON: Are there amendments?

24 THE CLERK: None on the desk, Mr.
25 President.

1 PRESIDENT SIMPSON: Senator Hooper, it's
2 here. Of course, it's here. Please explain the
3 differences on the companion bill before us.

4 SENATOR HOOPER: They are identical.

5 PRESIDENT SIMPSON: They are identical.
6 Senator Hooper moves an identical House bill be
7 substituted for the Senate Bill. Is there objection?
8 Without objection, the motion is adopted. Read the
9 House bill.

10 THE CLERK: Committee substitute for
11 House bill 255, a bill to be entitled an act relating to
12 Private Instructional Personnel providing Applied
13 Behavioral Analysis Services.

14 PRESIDENT SIMPSON: Are there amendments?

15 THE CLERK: None on the desk, Mr.
16 President.

17 PRESIDENT SIMPSON: Are there questions?
18 Senator Hooper moves the rules to be waived and the bill
19 will be read a third time by title. Without objection,
20 it's adopted. Read the bill a third time.

21 THE CLERK: Committee substitute for
22 House Bill 255, a bill to be entitled an act relating to
23 Private Instructional Personnel providing Applied
24 behavioral analysis services.

25 PRESIDENT SIMPSON: Is there debate?

1 Senator Hooper, having waived his close, the question
2 now occurs for final passage. The clerk will unlock the
3 Board. Senators will proceed to vote. Lock the board
4 and announce the votes.

5 THE CLERK: 37 yeas, zero nays, Mr.
6 President.

7 PRESIDENT SIMPSON: Show the bill passes.
8 Read the next bill.

9 THE CLERK: Committee substitute for
10 committee substitute for Senate Bill 1874, a bill to be
11 entitled an act relating to the Department of Financial
12 Services.

13 PRESIDENT SIMPSON: Senator of the 21st,
14 Senator Boyd, what say you to explain the bill?

15 SENATOR BOYD: Thank you, Mr. President.
16 This is the Department of Financial Services package.
17 It is aimed to improve the division of workman's comp,
18 one-size-fits-all approach. It also requires insurance
19 companies to notify customers and companies prior to
20 closing their business. It repeals the Patient's
21 Compensation Fund. Also improves local government
22 reporting process. That is the bill, Mr. President.

23 PRESIDENT SIMPSON: Are there amendments?

24 THE CLERK: None on the desk, Mr.
25 President.

1 PRESIDENT SIMPSON: We've waited all day,
2 and Senator Boyd, it's here, too. How about that?
3 There's a companion bill. Can you please explain the
4 differences should you wish to substitute.

5 SENATOR BOYD: Thank you, Mr. President.
6 I would like to substitute and the House bill contains a
7 provision that authorizes a state fire marshal to impose
8 fines and prescribe by rule guidances and factors for
9 imposing those penalties for unlicensed fire protection
10 contracting activity. That is the difference.

11 PRESIDENT SIMPSON: Senator Boyd moves
12 the House bill be substituted for the Senate Bill. Is
13 there objection? Any senator wishing to object?
14 Without objection, the motion is approved. Read the
15 House bill.

16 THE CLERK: Committee substitute for
17 committee substitute for committee substitute for House
18 Bill 959, a bill to be entitled an act relating to
19 Department of Financial Services.

20 PRESIDENT SIMPSON: Are there amendments?

21 THE CLERK: None on the desk, Mr.
22 President.

23 PRESIDENT SIMPSON: Are there questions
24 on the bill? Senator Boyd moves the House bill be read
25 a third time. Is there objection? Without objection,

1 the motion is adopted. Read the bill a third time.

2 THE CLERK: Committee substitute for
3 committee substitute for committee substitute for House
4 Bill 959, a bill to be entitled an act relating to
5 Department of Financial Services.

6 PRESIDENT SIMPSON: Is there debate? Is
7 there debate? Any Senator wishing to debate? Senator
8 Boyd waives his close and so the question occurs on
9 final passage. The clerk will unlock the board.
10 Senators will proceed to vote. The clerk will lock the
11 board and announce the vote.

12 THE CLERK: 39 yeas, zero nays, Mr.
13 President.

14 PRESIDENT SIMPSON: Show the bill passes.
15 Read the next bill.

16 THE CLERK: Committee substitute for
17 committee substitute for Senate Bill 1664, a bill to be
18 entitled an act relating to residential picketing.

19 PRESIDENT SIMPSON: The Senator of the
20 8th is Senator Perry. He's recognized to explain the
21 bill.

22 SENATOR PERRY: Thank you, Mr. President.
23 HB 1571 recognizes the right to privacy, safety, and
24 peace that we all deserve in our own home. This bill
25 creates a new criminal offense for picketing or

1 protesting outside a person's home with the intent to
2 harass or disturb. And that is the bill.

3 PRESIDENT SIMPSON: Are there amendments?

4 THE CLERK: None the desk, Mr. President.

5 PRESIDENT SIMPSON: There is a companion
6 bill that is before us. Senator Perry, you're
7 recognized to explain the differences.

8 SENATOR PERRY: They are identical.

9 PRESIDENT SIMPSON: Senator Perry moves
10 an identical House bill be substituted for the Senate
11 Bill. Is there any objection? Without objection the
12 motion is adopted. Read the House bill.

13 THE CLERK: Committee substitute for
14 House bill 1571, a bill to be entitled an act relating
15 to residential picketing.

16 PRESIDENT SIMPSON: Are there amendments?

17 THE CLERK: None on the desk, Mr.
18 President.

19 PRESIDENT SIMPSON: Are there questions?
20 There are questions. Senator Pizzo of the 38th, you're
21 recognized for a question.

22 SENATOR PIZZO: Thank you, Mr. President.
23 Senator Perry, this language looks exactly the same
24 verbatim as an amendment I had to a bill last year that
25 got voted down. Can you tell me what changed?

1 PRESIDENT SIMPSON: Senator Perry?

2 SENATOR PERRY: The bill sponsor.

3 PRESIDENT SIMPSON: Senator Pizzo, you're
4 recognized for a question. Senator Pizzo has concluded
5 questions. Additional questions? Senator Brandes of
6 the 24th?

7 SENATOR BRANDES: Thank you. Could one
8 person be a protester?

9 PRESIDENT SIMPSON: Senator Perry?

10 SENATOR PERRY: That would be
11 potentially, I think, that would be a little difficult
12 but they could if they were harassing maybe with
13 bullhorns or some of the other things that some of these
14 groups or individuals are using.

15 PRESIDENT SIMPSON: Senator Brandes?

16 SENATOR BRANDES: No, I'm good.

17 PRESIDENT SIMPSON: Any other Senator
18 wishing to question? Any questions of Senator Perry?

19 Are there any additional comments from the sponsor?

20 Pursuant to Rule 4.19, the bill is placed on the
21 calendar of bills of third reading. Read the next bill.

22 THE CLERK: Committee substitute for
23 committee substitute for House Bill 921, a bill to be
24 entitled an act relating to campaign financing.

25 PRESIDENT SIMPSON: Senator Brodeur moves

1 this bill be temporarily postponed. Without objection,
2 read the next bill.

3 THE CLERK: Committee substitute for
4 committee substitute for Senate Bill 1426, a bill to be
5 entitled an act relating to environmental management.

6 PRESIDENT SIMPSON: Senator of the 20th
7 now making his way to the Senate floor to present the
8 bill and you are recognized Senator Burgess.

9 SENATOR BURGESS: Thank you so much, Mr.
10 President, for the opportunity to present 1426. This
11 bill, in 2020, the legislature passed the Clean
12 Waterways Act. The act required DEP to update the
13 state's stormwater rules and to convene a Technical
14 Advisory Committee. Recommendation of the Technical
15 Advisory Committee was to create water quality
16 enhancement areas, which is exactly what this bill does.

17 PRESIDENT SIMPSON: Are there amendments?

18 THE CLERK: None on the desk, Mr.
19 President.

20 PRESIDENT SIMPSON: Senator Burgess, it's
21 here again, the House bill, the companion bill. Please
22 explain the differences should you wish to substitute.

23 SENATOR BURGESS: Thank you, Mr.
24 President. I do wish to substitute and they are
25 substantively identical. Senator Burgess moves a

1 substantively identical House bill be substituted for
2 the Senate bill. Is there any objection? Without
3 objection, the motion is adopted and agreed to. Read
4 the House bill.

5 THE CLERK: Committee substitute for
6 committee substitute for committee substitute for House
7 Bill 965, a bill to be entitled an act relating to
8 environmental management.

9 PRESIDENT SIMPSON: Are there amendments?

10 THE CLERK: None on the desk, Mr.
11 President.

12 PRESIDENT SIMPSON: Are there questions?
13 Senator Burgess moves the rules be waived and the bill
14 be read a third time by title. Is there objection?
15 Without objection, the motion is agreed to. Read the
16 bill a third time.

17 THE CLERK: Committee substitute for
18 committee substitute for committee substitute for House
19 Bill 965, a bill to be entitled an act relating to
20 environmental management.

21 PRESIDENT SIMPSON: Senator, is there a
22 debate? Is there a debate? Senator Burgess, you're
23 recognized to waive his close and so the question occurs
24 for final passage. The clerk will unlock the board and
25 Senators will proceed to vote. Clerk will lock the

1 board and announce the vote.

2 THE CLERK: 39 yeas, zero nays, Mr.
3 President.

4 PRESIDENT SIMPSON: Show the bill passes.
5 Read the next bill.

6 THE CLERK: Committee substitute for
7 committee substitute for Senate Bill 804, a bill to be
8 entitled an act relating to nursing homes.

9 PRESIDENT SIMPSON: Senator of the 26th,
10 what's your pleasure? Senator of the 26th, Senator
11 Albritton, you're recognized.

12 SENATOR ALBRITTON: Thank you, Mr.
13 President. I'd like to take up the House bill, please.

14 PRESIDENT SIMPSON: Can you explain the
15 differences for the body before we proceed on the House
16 bill?

17 SENATOR ALBRITTON: I am certainly happy
18 to do that. What the bill does, and they're
19 substantively, whatever the terminology was, they do the
20 same thing. What the bill does is it lowers the CNA
21 portion of the direct care hours from 2 1/2 hours to 2
22 hours on one side of the ledger. On the other side of
23 the ledger, we increase some accountability with the
24 nursing homes with evidentiary standards and put
25 something in place to slow down and hopefully stop the

1 shell game that happens for businesses that can run from
2 judgments.

3 PRESIDENT SIMPSON: Senator Albritton,
4 having explained the differences, moves to substitute
5 the House bill for the Senate Bill. Is there objection?
6 Without objection, the motion is agreed to. Read the
7 House bill.

8 THE CLERK: Committee substitute for
9 committee substitute for House Bill 1239, a bill to be
10 entitled an act relating to nursing homes.

11 PRESIDENT SIMPSON: Are there amendments?

12 THE CLERK: On the desk, Mr. President.

13 PRESIDENT SIMPSON: Read the first
14 amendment.

15 THE CLERK: Amendment Barcode 754062 by
16 Senator Gibson. Delete lines 76 to 137 and insert
17 amendment.

18 PRESIDENT SIMPSON: Leader Gibson, you're
19 recognized for the Gibson Amendment, from the 6th.

20 SENATOR GIBSON: Thank you, Mr.
21 President. Florida's percentage of the senior
22 population over 65 is the second highest in the country,
23 and many may end up in nursing homes. The amendment
24 will ensure communication between a resident's personal
25 physician, whom they have the right to keep even when

1 they enter a nursing home as a resident. The
2 communication between that resident's personal
3 physician, also communication between the resident's
4 power of attorney and the medical director of the
5 nursing home facility, requiring that the director
6 consult with the resident's personal physician, as well
7 as the resident's power of attorney, which many times is
8 their family. The director should consult with the
9 resident's personal physician and power of attorney
10 before prescribing medication that is in conflict to
11 that of ordered by the resident's personal physician.

12 The bill also requires lab work ordered
13 by the resident's personal physician to be sent to the
14 resident's personal physician. That is, that the
15 medical director should not remove the physician's name,
16 the ordering physician's name, from the lab work and
17 reroute that lab work only to that medical director.
18 And the personal physician has no idea what came back on
19 that lab report that needs to be taken care of for that
20 resident.

21 The bill ensures safety and important
22 health outcomes for residents who cannot speak for
23 themselves. It also includes at least a quarterly
24 report, or quarterly a physician or a registered nurse
25 or nurse practitioner will review the care plan for the

1 residents needs as they do change over time.

2 PRESIDENT SIMPSON: Are there questions
3 of Leader Gibson on the Gibson amendment? Are there
4 questions? Questions? Debates? We're in debates. Is
5 there debate on the Gibson amendment? Debate?

6 SENATOR GIBSON: Mr. President?

7 PRESIDENT SIMPSON: Yes, Leader Gibson?

8 SENATOR GIBSON: I wanted just to explain
9 the amendment and certainly hope that next year Senator
10 Albritton will look at some of the components of the
11 amendment that was a bill for the safety and care of
12 those in nursing homes whose the average lifespan is
13 four months when they enter. And I know you want to go
14 very quickly, but this is very personal to me.

15 PRESIDENT SIMPSON: Leader Gibson, the
16 floor is yours. I want you to explain and feel
17 comfortable and --

18 SENATOR GIBSON: Thank you, Mr.
19 President. It's very personal to me. And so when I
20 talk about things here that have happened in my family,
21 I know that it's multiplied over and over and over in
22 the state. I'm sorry. I just want to make sure that
23 these kind of things, what happens, doesn't happen to
24 other people.

25 And it's very important the residents can

1 keep their doctor. And it's very important, the
2 communication between the medical director and that
3 medical director's assistant to communicate with family,
4 especially when you have a power of attorney and they
5 must return the phone calls. This bill makes sure that
6 that happens, so that the quality of life of that -- all
7 of those in nursing homes is what it should be, and they
8 don't suffer unnecessarily. Thank you, Mr. President.
9 With that, I withdraw amendment.

10 PRESIDENT SIMPSON: Well done, Leader
11 Gibson. Without objection, show the Gibson amendment
12 withdrawn. But it sounds like you've planted seeds for
13 the future to make sure that's the track of this
14 legislature in the future.

15 Read the next amendment.

16 THE CLERK: None on the desk, Mr.
17 President.

18 PRESIDENT SIMPSON: Are there questions
19 of the sponsor? Are there questions, Leader -- Senator
20 of the 3rd District, Senator Ausley, you're recognized
21 for a question.

22 SENATOR AUSLEY: Thank you, Mr.
23 President. So I haven't had this in any committees and
24 this is an issue that I'm somewhat familiar with because
25 we had a similar conversation dialogue back when I

1 started in the early 2000s. Can you tell me what the
2 current staffing ratio is and how this is going to
3 change that?

4 PRESIDENT SIMPSON: Senator Albritton?

5 SENATOR ALBRITTON: Yes, ma'am, I'm happy
6 to do that. So today there's 3.6 hours of direct care
7 that's required for each resident. We didn't mess with
8 that. We didn't mess with any of the ratios as it
9 relates to how many patients the registered nurse or the
10 CNAs can have underneath their care. The only thing
11 that we're doing here, and this is all in response to a
12 significant staffing shortage, what we did is we took
13 the CNA portion of the direct care hours of the 3.6,
14 which that CNA portion today is 2.5 hours, and we
15 reduced that to 2 hours.

16 Now, the other thing to remember is that
17 the federal standards also allow some other types of
18 therapies and other types of services that the nursing
19 home residents receive to count as direct care. It
20 doesn't work that way here. So what we did do is we are
21 allowing those to count here in Florida. So
22 essentially, the change is the CNA hours.

23 PRESIDENT SIMPSON: Senator Ausley?

24 SENATOR AUSLEY: Thank you, Mr.
25 President. So are you aware that when we went through

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1 this crisis before, in the early 2000s, there was a long
2 drawn out comprehensive task force that came up with a
3 compromise? Do you know what the hours of care for the
4 CNAs was back then as a result of Senate Bill 1202?

5 PRESIDENT SIMPSON: Senator AlBritton?

6 SENATOR ALBRITTON: Thank you, Mr.
7 President. It was 2.9, I believe.

8 PRESIDENT SIMPSON: Senator Ausley?

9 SENATOR AUSLEY: Thank you, Mr.
10 President. Do you know when that changed from 2.9 to
11 2.5?

12 PRESIDENT SIMPSON: Senator Albritton?

13 SENATOR ALBRITTON: Thank you, Mr.
14 President. No, ma'am, I don't know specifically, but I
15 think it was maybe eight years ago, ten years ago,
16 somewhere in that range.

17 PRESIDENT SIMPSON: Senator Ausley?

18 SENATOR AUSLEY: Thank you, Mr.
19 President. So it's my understanding now that the we're
20 moving, we've gone, we start at 2.9. We've moved to
21 2.5. We're talking about 2.0. And this is -- this is
22 direct care. So what type of services does the CNA
23 provide?

24 PRESIDENT SIMPSON: Senator Albritton?

25 SENATOR ALBRITTON: Thank you, Mr.

1 President. So they would do things like turning the
2 patient or personal hygiene, those types of things. The
3 resident, I should say. I'm sorry, that was the wrong
4 terminology. It's a resident, not a patient. It's not
5 a hospital. Sorry.

6 PRESIDENT SIMPSON: Senator Ausley?

7 SENATOR AUSLEY: Thank you, Mr.

8 President. And do we have any sort of research or
9 expertise that tells us that moving back from 2.5 hours
10 a day to 2 hours a day in these kind of really important
11 quality of life services, that this is not going to have
12 an impact on patient quality of care?

13 PRESIDENT SIMPSON: Senator Albritton?

14 SENATOR ALBRITTON: Thank you, Mr.

15 President. There's a couple of things that I'd share
16 with you. I'm not aware of any of that that you're
17 asking. But I will say this. It's significant that
18 those other therapies, if you will, will be allowed as
19 part of the direct care hour. I understand the concern
20 and quite frankly, don't blame the folks that are
21 opposing the bill for the change in the CNA. I don't
22 blame them at all. I don't. Again, this is in response
23 to a staffing challenge that we've had. And the last
24 thing I'd leave you with is, if I really, really
25 believed that this is going to reduce, if this was going

1 to injure a resident, my name would not be on the bill.

2 PRESIDENT SIMPSON: Senator Ausley?

3 SENATOR AUSLEY: Thank you, Mr.

4 President. I have no doubt of that, Senator Albritton,
5 Chair Albritton. I've just had multiple conversations
6 with those who do this type of work and changing bed
7 pans and getting people out of bed and taking them to
8 the back and forth to the restroom. And what we're
9 doing is replacing some of those hours with physical
10 therapists and other specialists. Do they have the
11 training and will they be asked to do these types of
12 services or are we just limiting the hours in which
13 those services are going to be available for these
14 patients?

15 PRESIDENT SIMPSON: Senator Albritton?

16 SENATOR ALBRITTON: Thank you, Mr.

17 President. So I can't speak to the specificity, if you
18 will, about the training a physical therapist or a
19 feeding assistant or some of those folks might have
20 relative to what CNAs have. I do not know the answer to
21 that question. I'll openly state that.

22 However, I do have every expectation that
23 they -- look, the challenge is, can the folks that are
24 interacting with the resident identify a problem,
25 identify a challenge, and make sure that the challenge

1 is effectively cared for, right, or remedied? I would
2 have every expectation, regardless of the training, that
3 anybody that is performing these therapies or these
4 services to the residents, if they recognize that there
5 was a problem with that resident at that time, it would
6 be largely unethical, if not immoral, for them to not
7 alert somebody in the home that there is a challenge
8 that needs to be remedied.

9 PRESIDENT SIMPSON: Senator Ausley?

10 SENATOR AUSLEY: Thank you, Mr.

11 President. And Senator Albritton, again, I know that
12 you're trying to really address an issue and looking at
13 both sides and coming up with the right. But what I do
14 know is that when we were facing a challenge of this --
15 a crisis of this proportion 22 years ago, we put
16 together a group of experts that looked at it and they
17 looked at the staffing crisis. There was an issue with
18 litigation and came up with the right number for
19 staffing ratio and some litigation reform was a
20 compromise with both sides.

21 Given the fact that we are really trying
22 to address the staffing crisis and make sure that we're
23 not impacting quality of care, why wouldn't we do the
24 same thing and have a task force of experts that could
25 help us determine exactly what the right number of

1 staffing ratio that could get us to where we need to go
2 and could help us address the staffing crisis?

3 PRESIDENT SIMPSON: Senator Albritton?

4 SENATOR ALBRITTON: Thank you, Mr.
5 President. So there was a process that went into play
6 through this. There was an original bill that was
7 filed. And then what I did is pulled in the group of
8 stakeholders, the voices, and that included not for
9 profit homes, it included for profit homes, it included
10 the Florida Justice Association, it included advocates.
11 And we had discussions about this. We worked through
12 some things.

13 I would suggest to you that the amount of
14 work and negotiation from especially the two parties,
15 and again, I don't blame the advocacy groups for their
16 position on this, hold them no harm at all. But to be
17 able to take the FJA and be able to take the nursing
18 home operators and sit in a room, these are essentially
19 experts in the field. And to have a task force or
20 something that would be pulled together, those same
21 people would largely be sitting in the room together.

22 So I feel as though we've slain a giant
23 with this and the folks brought valid input and Senator
24 Farmer made a comment in committee that we pulled
25 together cats and dogs to make this work. And the truth

1 is, I feel as though the work product is the result of
2 the kind of thing you're talking about.

3 PRESIDENT SIMPSON: Senator Ausley?

4 SENATOR AUSLEY: Thank you, Mr.

5 President. So the last question I'll ask is, if we're
6 really trying to address a staffing crisis, it seems to
7 me we are -- is the best way to address a staffing
8 crisis to provide to the people who are trying to keep,
9 retain and recruit to the industry, giving them more
10 work, is that the best way to address the staffing
11 crisis?

12 PRESIDENT SIMPSON: Senator Albritton?

13 SENATOR ALBRITTON: Thank you, Mr.

14 President. Senator Ausley I don't know if it's the best
15 way or not. I know this is the way we're trying to do
16 it, with balance and accountability. So I guess there's
17 probably multiple ways it could be solved. This is just
18 how we're trying to do it in this moment.

19 PRESIDENT SIMPSON: We are in questions.
20 The Senator of the 25th, Senator Harrell, you're
21 recognized for a question.

22 SENATOR HARRELL: Thank you very much,
23 Mr. President. And Senator Albritton, has technology
24 come quite a long way in the 20 years since we addressed
25 this problem? And do we not have currently much more

1 ability to handle those everyday tasks with things like
2 lift chairs, with things like monitors and a variety of
3 instruments that allow us to do much more in a much more
4 efficient way that would allow us to perhaps really look
5 at those nursing CNA standards?

6 And we've also -- have we not also
7 allowed for additional personnel, such as feeding
8 assistants, and things like that, that really make it
9 much more reasonable to be able to look at those hours a
10 little bit more carefully?

11 PRESIDENT SIMPSON: Senator Albritton?

12 SENATOR ALBRITTON: Thank you, Mr.

13 President. I believe that is absolutely true. And the
14 other suggestion I would make to Senators would be that
15 you remember last year Senator Beam passed a personal
16 care attendant bill which also provides some backfilling
17 to accomplish these tasks that you're suggesting.

18 So I guess in a long answer would have
19 been yes, or short answer would have been, yes, ma'am.

20 PRESIDENT SIMPSON: Additional questions?

21 We're on the Albritton Bill. We're on the Albritton
22 Bill and we're in questions. Senator of the 40th,
23 Senator Taddeo, you're recognized for a question.

24 SENATOR TADDEO: Take all my wrapping in
25 the meat market we're in. It's so cold in here. Thank

1 you, Mr. President.

2 Senator, why are you still proposing a
3 staffing ratio adjustment when we just in our budget
4 added funding to be able to pay more to those workers in
5 nursing homes?

6 PRESIDENT SIMPSON: Senator Albritton?

7 SENATOR ALBRITTON: Thank you, Mr.
8 President. Because I believe that a comprehensive
9 approach is what's necessary. It's going to take -- the
10 crisis is very real and it's significant. There are
11 large scale moratoriums for accepting new residents that
12 are in place today, and the goal is to get the nursing
13 homes moving in the correct direction, if you will, to
14 make sure that care is maintained the way that it needs
15 to be maintained, accountability is actually increased,
16 and the funding should hopefully go a long way to making
17 sure that we're building out that comprehensive
18 solution.

19 PRESIDENT SIMPSON: Senator Taddeo?

20 SENATOR TADDEO: Would you say that the
21 current shortage that we have has affected quality of
22 care?

23 PRESIDENT SIMPSON: Senator Albritton?

24 SENATOR ALBRITTON: Thank you. No,
25 ma'am, I would not. Because if you fall below the

1 staffing threshold, that's when the moratorium that I
2 just mentioned kicks in. So I would say no, ma'am.

3 PRESIDENT SIMPSON: Senator Taddeo?

4 SENATOR TADDEO: What led to the decision
5 to remove the Nursing Home Sustainability Task Force
6 from the bill?

7 PRESIDENT SIMPSON: Senator Albritton?

8 SENATOR ALBRITTON: Thank you, Mr.
9 President. Florida House.

10 PRESIDENT SIMPSON: Senator Taddeo?

11 SENATOR TADDEO: Sorry. I didn't mean to
12 have a physical response. Are you not concerned that
13 we're already one of the lowest states with the number
14 of hours that we're now going from 2.5 to 2.0?

15 PRESIDENT SIMPSON: Senator Albritton?

16 SENATOR ALBRITTON: Thank you, Mr.
17 President. No, ma'am. I believe that there's
18 sufficient accountability in the bill. Brand new
19 measures. These evidentiary standards are going to make
20 a big difference for consistently or perpetually bad
21 behaviors anyhow, and that's not what this bill is
22 about. And that 2.0 hours from the 2.5, that's not what
23 this is about, right?

24 At the end of the day, I'll answer that
25 the same way that I answered it to the very good line of

1 questions from Senator Ausley. If I really believe that
2 would happen, my name would not be on this bill.

3 PRESIDENT SIMPSON: Senator Taddeo has
4 concluded her questions. Are there additional
5 questions? The bill is not being rolled. So are there
6 additional questions? Is there any further comment from
7 the sponsor? The sponsor has concluded as well.

8 Pursuant to Rule 4.19, the bill is placed
9 on third reading. Senators, we passed a couple of bills
10 we're picking up that have had action in the last little
11 bit. And one of the bills we temporarily postponed was
12 Bill 921 by Senator Brodeur. It was committee
13 substitute for committee substitute for House Bill 921.
14 Madam Secretary, is that correct? Is that correct? We
15 are proceeding to 921 by Brodeur? Is that correct?
16 Without objection, read the bill.

17 THE CLERK: Committee substitute for
18 committee substitute for House Bill 921, a bill to be
19 entitled an act relating to campaign financing.

20 PRESIDENT SIMPSON: Senator of the 9th
21 Senator Brodeur, you're recognized on the bill.

22 SENATOR BRODEUR: Thank you very much,
23 Mr. President. This is the bill we talked about and
24 amended at length yesterday, prohibiting any foreign
25 national from making or offering to make, directly or

1 indirectly, any contribution or expenditure in
2 connection with an election held in the state, and that
3 includes ballot initiatives.

4 PRESIDENT SIMPSON: Are there amendments?

5 THE CLERK: On the desk, Mr. President.

6 PRESIDENT SIMPSON: Read the first
7 amendment.

8 THE CLERK: Amendment Barcode 892588 by
9 Senator Farmer. Delete lines 26 to 35 and insert
10 amendment.

11 PRESIDENT SIMPSON: Here he comes, Leader
12 Farmer, just in time. Leader Farmer, we are on the
13 Brodeur bill, and we are now taking up your amendment,
14 so you are recognized on the Farmer Amendment.

15 SENATOR FARMER: Thank you, Mr.
16 President. When we discussed this bill, I think it was
17 yesterday, these days are all blending together. We
18 were concerned about the fact that the amendment had
19 language in it that would allow for funding for
20 proponents of an amendment, but not for those who
21 oppose. And I want to thank Senator Brodeur for hearing
22 our concerns on this. I want to thank Senator Rodrigues
23 as well. He worked with us on this.

24 This is the kind of good, collaborative
25 stuff that happens in the Florida Senate. And I

1 appreciate both you working with us on this and ask you
2 all to support this amendment.

3 PRESIDENT SIMPSON: Are there questions
4 on the Farmer amendment? Are there questions? Is there
5 debates? Is there debate? Debate? Senator of the
6 27th, Senator Rodrigues, you're recognized in debate on
7 the Farmer Amendment.

8 SENATOR RODRIGUES: Thank you, Mr.
9 President. And if you'll recall, this was a section of
10 the bill that was amended onto Senator Brodeur's bill to
11 bring us in line with the House version. I was asked
12 during Q and A why we had accepted language that put a
13 cap on supporters, but not on those who were opposing.
14 And I pointed out that the answer we'd received from the
15 House sponsor was because that's where money is spent is
16 during the initiative process by supporters, but there's
17 not money spent on the opposition in that.

18 When we went to a temporary recess, I
19 want to credit my colleagues from the 5th District,
20 Senator Bradley, and from the 38th District, Senator
21 Pizzo, who came over and pointed out to me that
22 litigation has not been kind to legislation that applies
23 caps on one side of an issue, but not on the other. And
24 last year, when we passed this in a standalone bill, we
25 equally applied those caps to both sides, opposing and

1 in opposition. So I want to thank you both for bringing
2 that to my attention.

3 And then the other thing I would point
4 out is, I do admit when I'm wrong. Senator Berman and
5 the author of the amendment pointed out that there was
6 money that had been spent by a political committee
7 opposing a constitutional amendment this very year. And
8 so that illustrated not only the need for this, but that
9 you guys are right from a legal standpoint as well.

10 So with that, I want to thank my
11 colleagues and support this amendment.

12 PRESIDENT SIMPSON: Senator Brodeur, what
13 say you to the amendment. You're recognized in debate.

14 SENATOR BRODEUR: Me too. Thank you very
15 much, Mr. President.

16 PRESIDENT SIMPSON: Leader Farmer, you're
17 looking good right now. Do you wish to push it by
18 debating on your amendment?

19 SENATOR FARMER: I'm not going to steal
20 defeat from the jaws of victory, Mr. President. I will
21 waive close.

22 PRESIDENT SIMPSON: Leader Farmer, the
23 question occurs. All those in favor of the Leader
24 Farmer amendment, please signify saying yea. Opposed,
25 say nay. The motion is agreed to. The Farmer amendment

1 is adopted. Read the next amendment.

2 THE CLERK: Amendment Barcode 889914 by
3 Senator Rodrigues. Between lines 77 and 78, insert
4 amendment.

5 PRESIDENT SIMPSON: Is there a substitute
6 amendment?

7 THE CLERK: On the desk, Mr. President.

8 PRESIDENT SIMPSON: Read the substitute
9 amendment.

10 THE CLERK: Substitute amendment, Barcode
11 477848 by Senator Rodrigues. Between lines 77 and 78,
12 insert amendment.

13 PRESIDENT SIMPSON: Senator Rodrigues of
14 the 27th, you're recognized on the Rodrigues substitute
15 amendment.

16 SENATOR RODRIGUES: Thank you, Mr.
17 President. What this amendment does is it addresses
18 spending by public agencies, which are local
19 governments, county school districts, municipalities,
20 and special districts, on issues that are on the ballot.
21 And it prohibits taxpayer money, taxpayer dollars, the
22 public treasury, from being used for communications that
23 go from government, that is initiated by government, and
24 goes to the electors. That is the amendment.

25 PRESIDENT SIMPSON: Are there amendments

1 to the substitute amendment?

2 THE CLERK: On the desk, Mr. President.

3 PRESIDENT SIMPSON: Read the first
4 amendment to the substitute amendment.

5 THE CLERK: Substitute Amendment Barcode
6 137756 by Senator Rodrigues. Delete lines 24 to 25 and
7 insert amendment.

8 PRESIDENT SIMPSON: Senator Rodrigues of
9 the 27th, you're recognized on the amendment to the
10 substitute amendment.

11 SENATOR RODRIGUES: Thank you, Mr.
12 President. I worked with the Florida League of Cities,
13 members of the Florida Association of Counties, and the
14 Florida Association of Counties to address concerns that
15 they have. And this amendment addresses those concerns
16 that will allow them to continue to communicate to
17 voters that contact them for information and not
18 preclude them from doing that. That is the substitute
19 amendment.

20 PRESIDENT SIMPSON: Is there questions on
21 the Rodrigues amendment to the substitute amendment?
22 Senator Harrell, you have a question, you're recognized.

23 SENATOR HARRELL: Thank you very much,
24 Mr. President. And pursuant to our conversation
25 earlier, does this amendment address the concerns I

1 mentioned to you? For instance, could a city or a
2 county at least communicate the exact language of some
3 kind of provision that they are going to put on the
4 ballot?

5 PRESIDENT SIMPSON: Senator Rodrigues to
6 respond.

7 SENATOR RODRIGUES: Thank you, Mr.
8 President. And yes, they can.

9 PRESIDENT SIMPSON: Senator Harrell for a
10 question?

11 SENATOR HARRELL: And they would be able
12 to mail the exact language, not -- it would be an
13 outgoing communication, not an incoming answer to a
14 question. It would be an outgoing communication?

15 PRESIDENT SIMPSON: Senator Rodrigues.

16 SENATOR RODRIGUES: Thank you, Mr.
17 President. Yes, we have a provision in here that says
18 that they are able to provide information as allowed by
19 current law. When government places something on the
20 ballot, they are authorized under statute to communicate
21 that to the voters.

22 PRESIDENT SIMPSON: Additional questions?
23 Senator Harrell?

24 SENATOR HARRELL: And following up on
25 that, for instance, if a homeowners association

1 requested a speaker to come and discuss whatever the
2 issue is before that homeowners association, would a
3 city or county employee be able to do that under your
4 amendment?

5 PRESIDENT SIMPSON: Senator Rodrigues?

6 SENATOR RODRIGUES: Thank you, Mr.
7 President. Yes, because they would not be initiating
8 that. They would have been contacted by the electors
9 and asked to provide information. And they're allowed
10 to do that under the amendment.

11 PRESIDENT SIMPSON: Senator Harrell?

12 SENATOR HARRELL: And for instance, would
13 they be able to communicate via e-mail and send out an
14 e-mail to people that would again address explanations
15 of the issue?

16 PRESIDENT SIMPSON: Senator Rodrigues?

17 SENATOR RODRIGUES: Thank you, Mr.
18 President. I can speak to like my county has an e-mail
19 list. You initiate that yourself by asking to be placed
20 on that list. If you are on that list, you can receive
21 anything from the county.

22 They would not be allowed to go and spam
23 you if you've not requested any information because then
24 the county would be initiating contact or information
25 that is on the ballot and that would be opposed.

1 PRESIDENT SIMPSON: Leader Harrell --
2 Senator Harrell has concluded her questions. There's
3 additional questions. Senator Pizzo of the 38th, you're
4 recognized. Senator Pizzo?

5 SENATOR PIZZO: Thank you, Mr. President.
6 Senator Rodrigues, if you would, and I don't wish to
7 complicate matters, but this is an amendment to the
8 prior amendment on 477848, correct?

9 PRESIDENT SIMPSON: Correct. That is
10 correct.

11 SENATOR PIZZO: Would the body indulge by
12 showing page 2 of that two page amendment?

13 PRESIDENT SIMPSON: You can put it up on
14 your screen. We're able to change there, but Senator
15 Pizzo, you're recognized for a question.

16 SENATOR PIZZO: Thank you, Mr. President.
17 How does the 137756 address a concern that was raised
18 most recently to me? And I've reached out for
19 clarification as what the application of this amendment
20 is. But going back to 477848, it effectively prohibits
21 local governments from spending funds on any
22 communication.

23 PRESIDENT SIMPSON: Senator Rodrigues?

24 SENATOR RODRIGUES: Thank you, Mr.
25 President. They're not prohibited from spending on any

1 communication. They're prohibited from initiating
2 communications on items that have been placed --

3 (End of recording.)

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C E R T I F I C A T I O N

I, DIANE OTTO, do hereby certify that I have carefully transcribed from and compared the foregoing pages with the original digital audio recording from said proceeding and that this transcript is true and correct to the best of my ability.

Dated this day March 8, 2023.



(Electronically signed)

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EXHIBIT 8

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

TRANSCRIPTION OF VIDEO FILE
 HOUSE REDISTRICTING COMMITTEE
 FEBRUARY 25, 2022

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

1 FEBRUARY 25, 2022

2 CHAIRMAN LEEK: The Redistricting

3 Committee will come to order. DJ, please call

4 the roll.

5 THE SECRETARY: Chair Leek.

6 CHAIRMAN LEEK: Here.

7 THE SECRETARY: Vice Chair Fine.

8 VICE-CHAIR FINE: Here.

9 THE SECRETARY: Ranking Member Geller.

10 REPRESENTATIVE GELLER: Here.

11 THE SECRETARY: Representative Andrade.

12 REPRESENTATIVE ANDRADE: Here.

13 THE SECRETARY: Bush.

14 REPRESENTATIVE BUSH: Here.

15 THE SECRETARY: Byrd

16 REPRESENTATIVE BYRD: Here.

17 THE SECRETARY: Clemons.

18 REPRESENTATIVE CLEMONS: Here.

19 THE SECRETARY: Drake.

20 REPRESENTATIVE DRAKE: Here.

21 THE SECRETARY: Driskell.

22 REPRESENTATIVE DRISKELL: Here.

23 THE SECRETARY: Goff-Marcil.

24 REPRESENTATIVE GOFF-MARCIL: Here.

25 THE SECRETARY: Grall.

1 REPRESENTATIVE GRALL: Here.

2 THE SECRETARY: Grant.

3 REPRESENTATIVE GRANT: Here.

4 THE SECRETARY: Jenne has been excused.

5 Latvala.

6 REPRESENTATIVE LATVALA: Here.

7 THE SECRETARY: Mariano.

8 REPRESENTATIVE MARIANO: Here.

9 THE SECRETARY: McClain.

10 REPRESENTATIVE MCCLAIN: Here.

11 THE SECRETARY: Omphroy.

12 Omphroy.

13 REPRESENTATIVE OMPHROY: (No audible

14 response).

15 THE SECRETARY: Payne.

16 REPRESENTATIVE PAYNE: Here.

17 THE SECRETARY: Robinson.

18 REPRESENTATIVE ROBINSON: Here.

19 THE SECRETARY: Rommel.

20 REPRESENTATIVE ROMMEL: Here.

21 THE SECRETARY: Sirois.

22 REPRESENTATIVE SIROIS: Here.

23 THE SECRETARY: Slosber-King.

24 REPRESENTATIVE SLOSBER-KING: Here.

25 THE SECRETARY: Thompson.

1 REPRESENTATIVE THOMPSON: Here.

2 THE SECRETARY: Tuck.

3 REPRESENTATIVE TUCK: Here.

4 THE SECRETARY: Ex Officio Skidmore.

5 REPRESENTATIVE SKIDMORE: Here.

6 THE SECRETARY: Quorum is present, Mr.
7 Chair.

8 CHAIRMAN LEEK: Thank you, DJ.

9 Members, a few reminders before we
10 begin. Please silence all electronic devices.
11 And if you're here today to give public
12 testimony, please take time now to fill out an
13 appearance form and turn it into the sergeant
14 staff.

15 Also, as a reminder, for our members and
16 speakers, please ensure that you turn your
17 microphone on when you are speaking and off when
18 you are finished.

19 Members, I'm going to kick off today's
20 meeting a little differently than I had planned
21 at the beginning of the week, such has been this
22 week. We had a pause in our congressional
23 redistricting process. We paused our process
24 when the governor voiced an opinion over the
25 legal standards of our maps and requested an

1 advisory opinion from the Supreme Court regarding
2 CD5, in which we joined.

3 Once the Court chose not to opine on
4 that request, we immediately resumed our process.
5 We have a lot of work ahead of us today; and
6 before regular session concludes, I want to make
7 sure we are focused.

8 We received a letter from Ranking Member
9 Geller. I think another letter. One of several.
10 All along, I have encouraged the members to
11 provide feedback and ask questions as we move
12 maps throughout this process. Myself, Chair
13 Sirois, and staff have met with dozens of members
14 from both sides of the aisles, who have brought
15 forth legitimate feedback and questions.

16 Despite all the fluidity that this
17 process has encountered, I was feeling optimistic
18 and like we had partners who wanted to work
19 collaboratively with us in this process for a
20 landing. This letter shakes my confidence in
21 that.

22 On Monday, I received a letter from the
23 Ranking Member requesting items that have been
24 discussed ad nauseam on the record. This letter
25 didn't espouse the same genuine concerns that

1 many of you have provided to us, rather it
2 reiterated questions that have already been
3 before us many, many times, with many, many
4 answers.

5 I want to stop here, and I want to thank
6 those of you who have engaged in the process.
7 Those of you who have come to us, those of you
8 who have brought your suggestions forth, many of
9 which we have been able to accommodate.

10 Specifically, I'd like to thank
11 Representative Brown. I would like to thank
12 Representative Woodson. And actually, I'd like
13 to thank the entire black caucus who took the
14 time to meet with us the other day. We have been
15 able to accommodate many, many of your requests,
16 and I appreciate you bringing those genuine
17 concerns to us.

18 So here's the deal. We're going to
19 knock this out right now. I'm going to directly
20 address this letter because we have a significant
21 amount of work ahead of us today, and I don't
22 want to spend any more time on things that don't
23 bring us closer to the finish line.

24 Point one of the Geller letter. Your
25 first point asked for functional analysis data.

1 That's the same data that has been before you,
2 available to you the entire time. You already
3 have it. Check your meeting packet. It's on the
4 desk in front of you, posted to our website,
5 emailed to you last night, and it's also
6 available in our software.

7 You also asked for us to run a
8 functional analysis on every single district in
9 the map. This question at this point has been
10 raised from the very first Committee meeting. I
11 will tell you again that the partisan analysis of
12 these maps that are not protected districts will
13 lead us down a road to disaster. Stop injecting
14 the partisan nature into this process. Let us do
15 our work.

16 Let me be clear, the Committee will
17 absolutely not run a functional analysis on every
18 single district in the map. What you're asking
19 us to do sets this Committee and this process up
20 for failure. This has never been done by the
21 House for any map drawn under the Fair District
22 amendments. It would compromise our process, and
23 I repeat, this Committee will not do it.

24 The second point of the letter. We have
25 hired outside counsel to advise us in this

1 process because we want the House to be
2 successful, because we want our maps to be
3 upheld, just like it looks like the House map is
4 going to be because we do not want to spend years
5 in litigation. But the reality is we all know
6 the chances of litigation are real.

7 The House is committed to a legal
8 process, but there are entities that want to see
9 us fail for their own selfish partisan benefit.
10 Our counsel advises us on the legalities of our
11 maps, period. The items you're seeking are not
12 public records retained by the House.

13 And I want to step back for a second
14 because, as I go through this and I see this come
15 up again, there's something called a consulting
16 expert, something called a testifying expert that
17 many of us lawyers would know. I was standing in
18 my office when I got a call from a reporter. I
19 think it was August.

20 And the reporter was asking me to
21 comment on the fact that the Fair Districts
22 Coalition had announced that they had planned to
23 file suit on redistricting. We didn't have
24 numbers. We didn't have census data yet. We
25 hadn't drawn the first line, and someone is

1 declaring that they're going to sue us over maps
2 that have yet to be drawn.

3 I want to go back to one of the things
4 that Ranking Member Geller has said in this
5 Committee. We all know where we're headed. We
6 all know that this will end up in litigation.
7 That is why it's necessary for the House to
8 retain its work product privilege. So you may not
9 like my answer, but that is the answer. The House
10 has conducted and analyzed the congressional map
11 exactly the same way as the House map, which has
12 gone unchallenged after receiving heavy
13 criticism.

14 Finally, as it relates to your request
15 for all alternate configurations of the maps,
16 again, a question that I've addressed countless
17 number of times, we have provided to the
18 Committee, the districts that we believe are the
19 best. All members have the exact same ability to
20 draw districts and produce maps. All members
21 have the same ability to come to staff with
22 alternate ideas. And many of you have. Thank
23 you for engaging.

24 This is not the same as changing a
25 "shall" to "may" in a bill text. Every single

1 time you move a line means a ripple effect across
2 multiple districts. Besides my amendment today,
3 there has not been a single alternative district
4 configuration produced for consideration during
5 the Committee process, House or congressional,
6 for the last five months.

7 I want to commend the members that have
8 spent time to understand the maps and to ask
9 questions. That is what this process is all
10 about. So let's stop the political theater.
11 Let's stop focusing on moving pieces across the
12 litigation chessboard, and let's just do our
13 work. With that, I'm moving on to the important
14 business that we have before us today.

15 I'm not done. I'll call you. I'll call
16 on you at the appropriate time.

17 You may have noticed the lengthy bill
18 and amendment text for the congressional map and
19 was once again not included in the meeting
20 materials for today's meeting. The bill text
21 reflects the technical census block, block group,
22 and track numbers that comprise each district.
23 These are the exact same districts that are
24 depicted in the printed maps before you. DJ has
25 the printed copy of the bill text, about 300

1 pages for the Committee's viewing right here at
2 the desk.

3 To kick things off, I'm going to hand
4 the gavel over to Vice Chair Fine in a second.

5 Ranking Member Geller, we'll get to you
6 in just a minute in the appropriate order.
7 You'll have all the time that you need to ask
8 questions or debate and respond in any way you'd
9 like. But we're going to make sure we get the
10 work that we actually have to get done today over
11 with first.

12 So now I'm going to hand the gavel over
13 to Vice Chair Fine.

14 VICE-CHAIR FINE: Thank you,
15 Mr. Chairman.

16 Members, up for consideration today we
17 have one bill, it is HB 7503, Establishing the
18 Congressional Districts of the State. And I
19 would again remind everyone, we have a fair
20 amount of time to do this. So everyone should
21 have adequate time to have their questions,
22 answers, and have whatever debate.

23 I think we did this well the last time
24 when we did state redistricting. Hopefully, we
25 can do this again here.

1 And with that said,
2 Representative Sirois, you are recognized to
3 present the bill.

4 REPRESENTATIVE SIROIS: Thank you,
5 Mr. Chairman.

6 House Bill 7503 contains the
7 congressional map that passed out of
8 Congressional Redistricting Subcommittee last
9 Friday. Chair Leek has offered an amendment to
10 this bill, and I request that we take up the
11 amendment to ensure we're discussing the most
12 updated congressional map, as there have been
13 updates made to it.

14 VICE-CHAIR FINE: Okay.
15 Representative Sirois has addressed the
16 Committee, are there questions on the bill?
17 Members, we are in questions, and I'm sure you
18 have a lot of questions. I would prefer,
19 although you have the right, I'd prefer that we
20 take up the strike-all amendment so we can get
21 into the proper posture on the correct map. But
22 I will recognize folks if they have questions for
23 Rep. Sirois on the map that we're hoping to amend
24 in a strike-all.

25 Ranking Member Geller, you are

1 recognized for a question on the existing map
2 that we're planning to amend.

3 REPRESENTATIVE GELLER: Has the counsel
4 retained by the House performed any analysis on
5 that map or on the maps that are being offered as
6 an amendment?

7 VICE-CHAIR FINE: You can ask questions
8 relating to the other maps. I would note that it
9 is my understanding that the amendment, which has
10 two maps effectively, the second map is very
11 similar to Representative Sirois's existing bill.
12 But if you want to ask about the existing bill,
13 I'll allow him to answer that question but not
14 about the amendment until we get to the
15 amendment.

16 Representative Sirois, would you like to
17 answer that question?

18 REPRESENTATIVE SIROIS: Mr. Chairman,
19 could you repeat the question, please?

20 VICE-CHAIR FINE: I'm not going to try
21 that. I'm going to let Ranking Member Geller do
22 that, within the confines of the map that is
23 before us, which again, I think
24 Representative Sirois and Chair Leek intend to
25 amend away anyway.

1 You're recognized.

2 REPRESENTATIVE GELLER: My question is
3 whether or not counsel retained by the House has
4 performed any analysis or retained an expert to
5 look at that particular version of the map.

6 VICE-CHAIR FINE: Chair Leek, I'm going
7 to recognize you to answer that question.

8 CHAIRMAN LEEK: Yeah. That same
9 question was asked and answered in the prior
10 Committee stop. And because we're now wasting
11 time on a map that's going to be amended out of
12 this bill, I would recommend that we move on.
13 But that question has certainly been asked and
14 answered, and I know you know the answer to it.

15 REPRESENTATIVE GELLER: Well --

16 VICE-CHAIR FINE: Would you like a
17 follow-up, Ranking Member Geller?

18 REPRESENTATIVE GELLER: If can respond
19 to that, since I was addressed directly. With
20 all deference, I was not in the prior Committee,
21 the congressional subcommittee. I'm not a member
22 of that committee. I didn't attend it, so saying
23 that some other committee talked about it does
24 not really go to my question.

25 But my question does go to the

1 statements that you made earlier. And I guess
2 what I'm really trying to find out, first of all,
3 was did counsel analyze it? I'll ask the same
4 question about the amended maps when they're in
5 front of us. But as to the existing one, did
6 counsel analyze it? Did they retain an expert?
7 Did the expert provide an opinion?

8 VICE-CHAIR FINE: Rep. Geller, I'm going
9 to let you ask one question at a time. So if you
10 want to ask --

11 REPRESENTATIVE GELLER: We'll stop with
12 that on. That's fine.

13 VICE-CHAIR FINE: That was three. I'm
14 relatively good at math.

15 REPRESENTATIVE GELLER: Okay. Then let
16 me --

17 VICE-CHAIR FINE: So you can ask one
18 question.

19 REPRESENTATIVE GELLER: I'll be happy to
20 rephrase it.

21 VICE-CHAIR FINE: And then you can ask a
22 follow-up. You're recognized.

23 REPRESENTATIVE GELLER: The question is:
24 Did counsel analyze it --

25 VICE-CHAIR FINE: Okay. You've asked a

1 question.

2 REPRESENTATIVE GELLER: No. I'm not
3 done with that question, sir.

4 VICE-CHAIR FINE: Nope. There was a
5 question mark after that.

6 REPRESENTATIVE GELLER: Did counsel
7 analyze it --

8 VICE-CHAIR FINE: I'm going to move.

9 REPRESENTATIVE GELLER: -- retain an
10 expert --

11 VICE-CHAIR FINE: Okay. I'm going to
12 move on. We're going to be done with this. You
13 can ask one question that ends with a question
14 mark. I will recognize someone to answer it. If
15 you're going to ask three or four again, we're
16 going to be done and we're just going to move on
17 to the amendment.

18 Would you like to ask one question?
19 I'll ask more, but we're not going to do a
20 three-minute soliloquy with 47 questions for
21 Chair Leek. If you have a question, you can ask
22 it. You're recognized to ask a question. Last
23 chance --

24 REPRESENTATIVE GELLER: I promise it
25 will not be a three-minute soliloquy --

1 VICE-CHAIR FINE: All right.

2 REPRESENTATIVE GELLER: -- with 47
3 questions. My question is: Did counsel analyze
4 it or --

5 VICE-CHAIR FINE: That's a --

6 REPRESENTATIVE GELLER: -- or retain an
7 expert who performed an analysis?

8 VICE-CHAIR FINE: Okay. Chair Leek,
9 you're recognized to answer the question.

10 CHAIRMAN LEEK: The question is moot,
11 Vice Chair, as this map's about to be amended
12 away.

13 REPRESENTATIVE GELLER: I'm sorry, sir,
14 but this map is still -- my understanding is --

15 VICE-CHAIR FINE: Ranking Member Geller,
16 you don't have --

17 REPRESENTATIVE GELLER: No. Excuse me,
18 sir, point of order.

19 VICE-CHAIR FINE: Yep.

20 REPRESENTATIVE GELLER: Point of order.

21 VICE-CHAIR FINE: What's your point?

22 REPRESENTATIVE GELLER: I cannot be told
23 that I can't ask about the maps that are about to
24 be introduced because they're not in front of us
25 yet and simultaneously be told I can't ask about

1 the map that is in front of us because the
2 amendment hasn't occurred yet. One or the other,
3 sir.

4 VICE-CHAIR FINE: Rep. Geller, what I
5 would say is you've asked a question about the
6 map. Chair Leek has answered the question. I
7 don't think you find his answer satisfactory, and
8 that is your right. But he has asked a question
9 about the map in front of you. And to --

10 REPRESENTATIVE GELLER: No, sir. The
11 question --

12 VICE-CHAIR FINE: No. You don't like
13 his answer. I'll recognize you for another
14 follow-up on the map that is before us now. I
15 would again note, it's Friday afternoon, many of
16 us want to go home, and we're asking questions
17 about -- I'm missing my son's first track meet.
18 To lighten the mood, I can't understand why my
19 son wants to be in a track meet, since he's my
20 son. But you know, despite that, if you want to
21 ask questions about a map that I believe the
22 sponsor is hoping is amended, you can do that.
23 So I'm going to recognize you for a question on
24 this exact map.

25 REPRESENTATIVE GELLER: Thank you,

1 Mr. Chair.

2 And let me say that since we were to
3 meet yesterday and it was postponed not because
4 of me or anyone else, that to say, oh, now it's
5 Friday, is not really appropriate. Now is when
6 the Committee has decided to call the meeting.

7 My question is: Did counsel perform an
8 analysis of the map that is before us or retain
9 an expert to perform such an analysis?

10 VICE-CHAIR FINE: Okay. That question
11 has been asked and answered. You don't like
12 Chair Leek's answer. I understand that, but he's
13 asked that question. So since you're asking the
14 same question again and again, you all will
15 remember, I had a three-word answer to this
16 question before on the floor last year, I don't
17 want to say it again in this room. We're going
18 to move on.

19 REPRESENTATIVE GELLER: Sir, if I might?

20 VICE-CHAIR FINE: Yes.

21 REPRESENTATIVE GELLER: Being told my
22 question is moot and will not receive an answer
23 is not asked an answer.

24 VICE-CHAIR FINE: I did not say it --
25 well, okay. That wasn't what I said.

1 REPRESENTATIVE GELLER: No. So you said
2 I got an asked and answered. "The question is
3 moot" is not an answer.

4 VICE-CHAIR FINE: I think --

5 REPRESENTATIVE GELLER: It's a punch
6 line from a TV show.

7 VICE-CHAIR FINE: Chair Leek is entitled
8 to answer the question however he sees fit and
9 that's how he chose to answer the question.
10 Okay. We're going to move on.

11 All right. We are going to take up our
12 first amendment. It's amendment barcode 258203
13 by Chair Leek. This is going to take a little
14 bit of time.

15 As a reminder, we are holding questions
16 until the end of the amendment presentation to
17 ensure we have time to get through an explanation
18 of the entire state and no one region is rushed.

19 So Chair Leek, you are recognized to
20 explain the amendment.

21 CHAIRMAN LEEK: Thank you, members.
22 We're going to focus on the substantive work in
23 front of us now. And I'm going to go through
24 some high-level items first, and we'll then
25 explain the structure of the amendment and the

1 changes that were filed last night. Again, this
2 is a strike-all, so this will replace everything
3 that was before you initially.

4 Representative Sirois will also be
5 helping me to explain those changes throughout
6 the map. The Florida Legislature is directed to
7 redistrict every ten years following the
8 decennial census to account for growing and
9 shifting population across Florida. A decade
10 ago, the Florida House's process and methodology
11 for drawing maps was allotted by the Florida
12 Supreme Court. And I'd like to read a quote from
13 the 2012 ruling.

14 "A review of the House plan in the
15 record reveals that the House engaged in a
16 consistent and reasoned approach, balancing the
17 two-tier standards by endeavoring to make
18 districts compact and as nearly equal in
19 population as possible and utilizing political
20 and geographical boundaries were feasible by
21 endeavoring to keep counties and cities together
22 where possible. In addition, the House
23 approached the minority voting protection
24 provision by properly undertaking a functional
25 analysis of voting strength in minority

1 districts."

2 As I mentioned earlier, this Committee
3 has undertaken several months of education in
4 order to understand the redistricting process and
5 uphold the high bar that was set for this chamber
6 last decade. Last week, the Congressional
7 Redistricting Subcommittee passed map H000C8011,
8 what is now HB 7503, which proposes congressional
9 districts that will be used on election cycle
10 starting in 2022. Today, we will walk through an
11 amendment to HB 7503 that has two maps. And I'll
12 explain that further here in a few minutes.

13 As I mentioned earlier, this map has
14 been drafted exclusively by Committee staff with
15 the advice of legal counsel based on the data
16 from the 2020 census and to be in alignment with
17 the Florida Constitution, state and federal law,
18 as well as court precedent.

19 Members, I want to make sure each of you
20 has a map packet in front of you. This contains
21 a printout of the proposed map itself, the
22 statewide snapshot of statistics, the functional
23 analysis data for our six protected minority
24 districts, a list of county shares of population,
25 a list of city splits, and finally, the boundary

1 analysis report. These items will be referenced
2 throughout the presentation today, so please feel
3 free to refer to your packet as needed. This
4 packet is also available on our subcommittees
5 webpage on myfloridahouse.gov.

6 Now, let's talk about the structure of
7 the amendment before we segue into its specific
8 contents. This is new, and I want to take time
9 to explain. This amendment contains a primary
10 map, H000C8017, that addresses concerns about the
11 shape of Congressional District 5 by creating a
12 more compact North Florida district that will
13 enable minority voters to elect the candidates of
14 their choice. We believe this solution creates a
15 singular exception to the diminishment standard.

16 The amendment also contains a secondary
17 map, H000C8015. The legislature knows it's
18 legally compliant under the current law and keeps
19 the previously proposed configuration of District
20 5. Outside of the districts impacted by the
21 change to District 5, the structure of both maps
22 is exactly the same throughout the rest of the
23 state.

24 The amendment also includes other
25 adjustments that have been made, the same in both

1 maps, to bring us more in alignment with our
2 Senate partner so we can bring this process in
3 for landing prior to the conclusion of the
4 regular session. I want to emphasize that.
5 Prior to the conclusion of the regular session.

6 So why two maps and one amendment, you
7 may be asking. The primary map was put forward
8 as a way to address the novel legal theory raised
9 by the governor, while still protecting a black
10 minority seat in North Florida. If this
11 configuration of CD5 and the primary map is
12 struck down by a court, the secondary map is
13 postured to take immediate effect and contains a
14 district configuration similar to the benchmark
15 district.

16 I know this has a lot to take in. I
17 acknowledge these maps look visually different,
18 even having two maps is a unique setup. However,
19 we are faced with a unique situation, and this is
20 the House attempt at continuing to protect the
21 minority group's ability to elect a candidate of
22 their choice, addressing compactness concerns,
23 and working to make sure we bring this process in
24 for a landing during the regular session.

25 And perhaps most importantly, we want to

1 make sure all Floridians have clarity and
2 finality, going into our upcoming election cycle
3 with where our map stands. Now let's dive into
4 the details of the primary map, and we'll walk
5 through the secondary map after that.

6 Here's an overview of the primary map.
7 Let's first look at the map as a whole. When
8 compared to the benchmark congressional map, the
9 new map of new proposed congressional districts
10 has several points of improvement throughout tier
11 2 standards. When looking at a statewide average
12 of each district's compactness scores, we have
13 been able to recreate compact districts that
14 improve on our benchmark metrics even after the
15 addition of the new congressional district.

16 The proposed map statewide average
17 compactness scores are a Reock score of 0.48, a
18 Convex-hull score of 0.82, an Polsby-Popper score
19 of 0.42. Where feasible, we also worked to
20 improve visual compactness of districts or the
21 eyeball test, such as being able to keep Polk
22 County wholly within a single congressional
23 district. When looking at the number of counties
24 splits, we've kept similar to the benchmark map
25 with 18 counties split last decade and only 18

1 counties split this decade.

2 The ideal population for this decade's
3 congressional districts after adding the 28th
4 district is 769,211 people. The overall
5 deviation range is the same as it was last
6 decade, with 27 districts being the exact ideal
7 population and one district having a single
8 person less than the ideal population. We also
9 are proudly able to improve the number of cities
10 split in our proposed map. In the benchmark map
11 there were 39 cities split. In the PCB that
12 passed last week, there were 27 cities split.

13 In today's amendment we've been able to
14 decrease that to just 17 cities split. This
15 proposed congressional map also allows a district
16 to be placed wholly within each of Florida's top
17 six largest counties, Miami-Dade, Broward, Palm
18 Beach, Hillsborough, Orange, and Duval
19 respectively. The proposed map is inclusive of
20 three protected black districts and three
21 protected Hispanic districts. This is the same
22 number of protected districts as found in the
23 benchmark map.

24 All six of these protected minority
25 districts have had an individual functional

1 analysis conducted. And in performing this
2 analysis, we can confirm each district will be a
3 solidly performing district as under the
4 benchmark map. And we will continue to provide
5 minority voters with the ability to elect
6 candidates of their choice and the equal
7 opportunity to participate in the political
8 process.

9 These districts are also drawn in a
10 consistent manner, with respect to the Florida
11 Supreme Court precedent, to maintain existing
12 majority-minority districts. As we move
13 throughout the map, I will highlight these
14 districts as well. All of our districts consist
15 of contiguous territory. And as I'm sure you're
16 aware, the Committee has also implemented
17 safeguards in order to ensure that we do not draw
18 districts with the intent to favor or disfavor a
19 political party or an incumbent.

20 Now that we've looked at the statewide
21 overview, let's begin to review each region of
22 the state. I'm going to hand it over to
23 Representative Sirois to walk through each
24 region.

25 VICE-CHAIR FINE: Representative Sirois,

1 you're recognized.

2 REPRESENTATIVE SIROIS: Thank you very
3 much, Mr. Chairman. Thank you, Chair Leek. Good
4 afternoon, members. Let's start with
5 Congressional Districts 1 through 5.

6 Starting in the Panhandle, Congressional
7 District 1 has the entirety of Escambia, Santa
8 Rosa, and Okaloosa County. Walton County is then
9 split as Congressional District 1 achieves the
10 equal population threshold here.

11 Again, members, for congressional maps
12 equal population for each district is plus or
13 minus one person. And for the purpose of the
14 boundary between District 1 and 2 primarily uses
15 State Road 83 for the majority of its length,
16 except where it deviates to ensure that the
17 municipalities of Freeport and DeFuniak Springs
18 are kept whole, with Freeport within
19 Congressional District 1 and DeFuniak Springs in
20 Congressional District 2.

21 Congressional District 2 and three 3 two
22 of the districts that are affected by the changes
23 we've made to Congressional District 5. Both
24 Congressional District 2 and Congressional
25 District 3 are compact districts that are made up

1 almost entirely whole counties, except where both
2 districts need to add the necessary population to
3 achieve equal population. Those districts that
4 are split for this purpose are Lafayette and
5 Marion Counties. However, Congressional District
6 3 contains the entire city of Ocala in Marion
7 County.

8 These two districts alone contain 25
9 whole counties throughout the Panhandle and the
10 Big Bend regions. Congressional District 4
11 contains all of Nassau and Clay County, along
12 with the remaining part of Duval County that is
13 not included in Congressional District 5, which
14 I'll talk about more shortly. This leaves the
15 district approximately 234,000 people short of
16 the population needed for a congressional
17 district.

18 So the district includes part of
19 St. Johns County for population equality and to
20 create a more compact district shape in the
21 region. The part of the district in St. Johns
22 County keeps all of St. Augustine and
23 St. Augustine Beach within the district, and all
24 the other municipalities in St. Johns County
25 remain whole. The most striking visual

1 difference in this new configuration of the map
2 is Congressional District 5, which is now wholly
3 within Duval County.

4 Duval County itself is too large for a
5 single congressional district and, therefore, has
6 to be split. This district faithfully adheres to
7 all tier 2 principles. This new district
8 configuration creates a very compact district
9 that utilizes the Duval County line for much of
10 its boundary as well as I-295 and many other
11 major roadways, while keeping this district
12 within Duval County.

13 It also has compactness scores above the
14 statewide averages for compactness, a Reock score
15 of 0.51, a Convex-hull score of 0.91, and a
16 Polsby-Popper score of 0.49.

17 The configuration of this district,
18 although very visually different than the
19 benchmark district, is still a protected
20 black-performing district. There is a reduction
21 in voting-age population; however, our functional
22 analysis concludes that this is a reliable
23 performing district.

24 We believe this configuration balances
25 the feedback we've been perceived dealing with

1 the compactness of current Congressional District
2 5 and still protects the minority voting group of
3 this district and helps to ensure the citizens of
4 Florida have an enforceable congressional map
5 before the fast approaching 2022 election cycle.

6 Congressional District 6 through 11 and
7 16. Moving south, Congressional District 6 is
8 created in a circular compact shape that is tied
9 for the highest Reock score of any district in
10 the map at 0.71. It does this by keeping Flagler
11 and Putnam County wholly within it, while
12 including the southern part of St. Johns County,
13 as well as parts of Volusia, Lake, and Marion
14 Counties.

15 The oddly shaped flags of Lake and
16 Volusia Counties are absorbed by this compact
17 district, while also keeping every municipality
18 and these counties whole, with the exception of
19 Port Orange and Volusia County, which is split
20 between District 6 and 7 to achieve equal
21 population.

22 Because Congressional District 6 was
23 created with such a compact shape, it left about
24 212,000 people in Volusia County without a
25 district. So that population is included in

1 Congressional District 7, which also includes the
2 entirety of Seminole County. Within Volusia
3 County, Congressional District 7 primarily uses
4 municipal lines keeping DeBary, Deltona, Orange
5 City, and Lake Helen whole.

6 District 7 is then left approximately
7 85,000 short of the ideal district population,
8 and it continues south into Orange County to get
9 this remaining population. Congressional
10 District 8 includes all of Brevard and Indian
11 River Counties, which leaves the district about
12 2,800 people short of the population needed for a
13 district. In order to achieve the population
14 equality required for congressional districts,
15 the remaining population is added to
16 Congressional District 8 by going north into
17 Volusia County along I-95 and then including the
18 entire municipality of Oak Hill and it's 1,986
19 people keeping it whole.

20 Congressional District 9 contains the
21 entirety of Osceola County, which was the
22 fastest-growing county in the state this past
23 decade. The district includes part of Orange
24 County following almost entirely primary roadways
25 such as State Road 50, known as Colonial Drive;

1 State Route 436, known as Boulevard; and
2 U.S. 441, known as Orange Blossom Trail; as well
3 as others before using the Orange County line as
4 well.

5 This compact tier 2 compliant district
6 also happens to be a new majority-minority
7 Hispanic district reflective of the Hispanic
8 growth in this region.

9 Congressional District 10 is kept wholly
10 within Orange County, similar to the benchmark
11 map where a district is kept wholly within the
12 county. After receiving feedback on this
13 district, adjustments were made to align it
14 closer to the district that exists in the
15 benchmark map, as well as to -- excuse me. Let
16 me go back, members, to clarify. I want to
17 restate that.

18 After receiving feedback on this
19 district, adjustments were made to align it
20 closer to the district that exists in the
21 benchmark map as well as to the proposal by our
22 Senate partners. We accomplished this by
23 bringing its western border all the way to the
24 Orange County line, which enabled us to keep the
25 municipalities of Edgewood, Belle Isle,

1 Eatonville, Maitland, Winter Park, Ocoee, Winter
2 Garden, and Oakland whole within the district,
3 while at the same time improving to have three
4 mathematical compactness measures for the
5 district bringing the Reock score to 0.50, up
6 from 0.35 in the previous version of the
7 district; and the Polsby-Popper score to 0.39, up
8 from 0.35.

9 Congressional District 11 has the
10 remaining population in Orange County, which is
11 about 194,000 people, and goes west to include
12 the majority of Lake County, all of Sumter
13 County, and part of Marion and Citrus County
14 where it achieves equal population.

15 Congressional District 16 keeps Polk
16 County hole in this map. This is an improvement
17 from the benchmark map where Polk County was
18 divided in between three districts. Population
19 growth this decade made this possible and is
20 approximately 44,000 people shy of the ideal
21 population of a congressional district. Pairing
22 Polk County with a small part of Eastern
23 Hillsborough County achieves the necessary
24 population needed for the population of a
25 congressional district while creating a very

1 compactly shaped district.

2 Moving on to Congressional Districts 12
3 through 15. Now looking at Congressional
4 District 13 in the Tampa Bay area, which is kept
5 wholly within Pinellas County. Its northern
6 boundary follows the municipal lines of the
7 cities of Dunedin, Clearwater, and Safety Harbor
8 to enable every city within Pinellas County to
9 remain whole. Because Pinellas County has more
10 people than can fit into a single congressional
11 district, this configuration of Congressional
12 District 13 enables connecting the remaining
13 portion of the county overlay into another county
14 rather than over water.

15 Congressional District 12 is the
16 entirety of Hernando County, the remainder of
17 Citrus County, part of Pasco County, which is
18 divided primarily along U.S. Highway 41, State
19 Road 54, and the Suncoast Parkway, as well as the
20 portion of Northern Pinellas County, not already
21 included in Congressional District 13.

22 Congressional District 14 is located
23 wholly within Hillsborough County. Its boundary
24 follows primary roads Hillsborough Avenue, Busch
25 Boulevard and I-4 for its northern border, State

1 and County Road 39 on the east side, and County
2 Road 672, Balm Road and Big Bend Road on the
3 southern side.

4 Finishing out the Tampa Bay area,
5 Congressional District 15 then connects the
6 remaining part of Pasco County with the
7 appropriate amount of population from
8 Hillsborough County to complete the district's
9 population.

10 Moving on to Congressional Districts 17
11 through 19. Congressional District 17 is the
12 last of the four districts that have part of
13 Hillsboro County. This district actually has the
14 exact amount of people in Hillsborough County,
15 112,723 people, so that exactly 12 districts make
16 up all the remaining population in the counties
17 to the south of the Polk, Osceola, and Indian
18 River County line. This ensures that no other
19 district has to cross these county lines and
20 keeps the counties to the east whole.

21 Congressional District 17 then
22 incorporates all of Manatee County and
23 approximately 250,000 people in Sarasota County
24 to complete its population. Every city in
25 Sarasota County is kept whole with Congressional

1 District 17 utilizing the Venice municipal line
2 for part of its southern border.

3 The remaining part of Sarasota County,
4 along with six entire counties, Hardee, DeSoto,
5 Charlotte, Highlands, Okeechobee, and Glades
6 County, make up the majority of Congressional
7 District 18. This leaves the district about
8 192,000 short of the ideal population, allowing
9 it to cross into Lee County to acquire this
10 remaining population using primarily the
11 Caloosahatchee River, State Road 82, the Fort
12 Myers municipal line, and other roadways.

13 Congressional District 19 connects the
14 rest of Lee County with Collier County using
15 primarily I-75, U.S. 41, and Collier Boulevard,
16 creating a very recognizable boundary with the
17 county, except where it deviates to achieve equal
18 population.

19 Moving on to Congressional Districts 20
20 through 23 and 25. Congressional District 20 is
21 a performing majority-minority black district
22 that was recreated similar to the benchmark
23 district that connects population in Palm Beach
24 County to population in Broward County. As noted
25 before, the functional analysis on this district

1 conducted by staff ensures the minorities'
2 ability to elect does not diminish.

3 This decade, we were able to create this
4 district in such a way that respects more major
5 roadways in the area, such as U.S. 441, I-95, and
6 the Florida Turnpike, and keeps more cities
7 whole, keeping the cities of Lake Park, Margate,
8 Tamarac, and others wholly within it, which were
9 split a decade ago.

10 Congressional District 21 includes all
11 of St. Lucie and Martin counties and includes
12 just over 280,000 people in Palm Beach County in
13 order to achieve equal population for this
14 district. The district boundary follows a
15 railway in the northern Palm Beach County to
16 Okeechobee Boulevard, where it borders
17 Congressional District 20 before going out to the
18 coast, using the Palm Beach inlet to complete its
19 southern border.

20 Congressional District 22 is kept wholly
21 within Palm Beach County. Its boundary extends
22 north through the Palm Beach inlet to meet
23 Congressional District 21, before heading west to
24 include the entire city of Wellington, creating
25 the rounded point of the western side of the

1 districts.

2 It then uses the Loxahatchee National
3 Wildlife Refuge to continue south until it gets
4 the population necessary for a district without
5 splitting any other city in Palm Beach County.

6 It uses the Boca Raton and Highland Beach City
7 municipal line for much of its boundary in this
8 area.

9 This leaves approximately 200,000 people
10 in southeast Palm Beach County that is then
11 included in Congressional District 23. This
12 district then connects this population with
13 Broward County utilizing many municipal lines in
14 this area for the boundary line, keeping the city
15 of Coral Springs, Coconut Creek, and many others
16 whole within Broward County.

17 Congressional District 25 is kept wholly
18 in Broward County, giving Broward County a
19 congressional district wholly within the county
20 for the first time since the 1980 redistricting
21 cycle. The district utilizes as many major
22 roadways as possible, such as I-75, the Sawgrass
23 Expressway, the Florida Turnpike, I-95, Davie
24 Boulevard, Sunrise Boulevard, among others.

25 It also uses municipal lines of Weston,

1 Southwest Ranches, Pembroke Pines, Miramar, and
2 Hallandale Beach, as well as the
3 Broward/Miami-Dade County line on the southern
4 side of the district.

5 Within these five districts, several
6 adjustments were made to improve visual
7 compactness, improve the boundary analysis
8 scores, as well as keep more municipalities
9 whole. One specific example of those changes is
10 shown here. In the previous version of the map,
11 the city of Royal Palm Beach was split between
12 three districts. In this new map, an adjustment
13 was made so that is now wholly within
14 Congressional District 20.

15 Members, Congressional District 24 is a
16 performing black district. As noted earlier, the
17 functional analysis on this district conducted by
18 staff ensures the minority group's ability to
19 elect is not diminished. This is the only
20 district that crosses the Miami-Dade/Broward
21 County Line, which is an improvement over the
22 benchmark map that had two such districts.

23 This district also includes many whole
24 cities within Miami-Dade County, including
25 Aventura, North Miami, Biscayne Park, Miami

1 Shores, Miami Gardens, Opa-locka, and others, and
2 uses many other major recognizable roadways in
3 the area as possible. This is another district
4 that we heard some great feedback on by members
5 regarding Miami Gardens and Opa-locka. Similar
6 to our Senate partners, we have now been able to
7 keep these two municipalities whole within
8 Congressional District 24.

9 Moving on to Congressional Districts 26
10 through 28. Congressional Districts 26, 27, and
11 28, are all performing majority-minority Hispanic
12 districts where the functional analysis on each
13 district individually was conducted by staff,
14 ensures the minority group's ability to elect is
15 not diminished.

16 Congressional District 26, similar in
17 shape to the benchmark map, connects part of
18 Collier County, not including in Congressional
19 District 19, with population in Hendry County, as
20 well as Miami-Dade County using the Collier,
21 Broward, and Miami-Dade County lines, as well as
22 I-75, U.S. 41, the Tamiami Trail, and the Dolphin
23 Expressway. It additionally shares a boundary
24 line with the Congressional District 24 line in
25 the eastern side of the district.

1 This district includes the
2 municipalities of Hialeah, Hialeah Gardens,
3 Medley, Doral, and Miami Lakes in their entirety.

4 Representative Latvala, did I pronounce
5 that correctly?

6 REPRESENTATIVE LATVALA: (No audible
7 response).

8 REPRESENTATIVE SIROIS: Our adjustments
9 to Congressional Districts 27 and 28 mirror those
10 of the districts that were in the map approved
11 off the Senate floor. We were able to include
12 these districts in this way as we try to bring
13 this process in for a landing as soon as
14 possible.

15 Congressional District 27 uses the
16 Dolphin Expressway and the Florida Turnpike for
17 the vast majority of its boundary line on its
18 northern and western sides, while using the
19 Cutler Bay municipal boundary along its southern
20 border, creating a very compact district wholly
21 within Miami-Dade County with a very high Reock
22 score of 0.71.

23 Congressional District 28 includes all
24 of Monroe County and then connects with the
25 remaining population in southern Miami-Dade

1 County using U.S. 41 and the Florida Turnpike as
2 its primary boundary lines in Miami-Dade County.
3 The municipalities of Sweetwater, Florida City,
4 and Homestead are whole within the district.

5 And I'd like to highlight a couple of
6 technical changes. Along with the changes we've
7 already highlighted, staff made other technical
8 changes in the map by adjusting lines to improve
9 the visual shape of the districts, clean up
10 roadblocks, or make small adjustments to improve
11 the mathematical compactness of districts.

12 Two examples are included here. Now
13 using I-75 as the major roadway between Districts
14 17 and 18, on the left and following the cleaner
15 railway as a boundary line between Districts 12
16 and 15 on the right.

17 VICE-CHAIR FINE: Chair Leek, you're
18 recognized.

19 CHAIRMAN LEEK: Thank you.

20 Members, I want to pause for a second
21 and refocus before we move on to our secondary
22 map. What we just heard described by
23 Representative Sirois, was a description of the
24 primary map that is part of this amendment. As I
25 mentioned before, the secondary map that we are

1 about to segue into would only take effect should
2 CD5 and the primary map be struck down by a
3 court.

4 The secondary map is labeled H000C8015.
5 The structure of this map is exactly the same as
6 the primary map except for six districts that are
7 impacted by the changes to CD5. The other 22
8 congressional districts are identical to the
9 districts in the primary map. For everyone's
10 sanity, in this next presentation, we are only
11 going to walk through those districts that are
12 different than the primary map.

13 All right. Let's begin. Overall, this
14 map splits 20 counties, which is the same as the
15 map that passed our subcommittee last week. It
16 now only splits 18 cities, an improvement of nine
17 cities when compared to the previous version of
18 this map. There were also improvements made in
19 the overall mathematical compactness score and in
20 the boundary analysis. The mathematical
21 compactness scores are now Reock, 0.45; Convex-
22 hull, 0.80; and Polsby-Popper at 0.40.

23 So even though this is our secondary
24 map, it is still an improvement over the map that
25 passed through the subcommittee with the same

1 methodology being applied for the improvements.
2 And similarly, this map still maintains three
3 protected black districts and three protected
4 Hispanic districts.

5 I'd now like to hand it back over to
6 Representative Sirois to take us through the
7 differences in the secondary map from the primary
8 map.

9 VICE-CHAIR FINE: Rep. Sirois, you're
10 recognized to explain the secondary map.

11 REPRESENTATIVE SIROIS: Thank you.
12 Thank you, Chair Leek.

13 The changes to Congressional District 5
14 impact an additional five districts, Districts 2,
15 3, 4, 6, and 11. Let's start with Congressional
16 District 5. The configuration of this district
17 is very similar to the map passed out of the
18 subcommittee and has had slight changes made to
19 bring it more in alignment with our Senate
20 partners and improve our boundary analysis
21 metrics.

22 It still of course remains a protected
23 black district as well. Additionally, we have
24 been able to equalize our population in Leon
25 County, which prevents Congressional District two

1 from having to split Marion County to find the
2 remainder of its population. This is a
3 combination of both the House and Senate
4 configurations of this district with the
5 additional benefit of not splitting Lake City in
6 Columbia County.

7 Segueing back to Congressional District
8 2. This district is made up mostly whole of
9 whole counties. It contains 15 whole counties
10 along with the remaining portion of Walton County
11 not contained within Congressional District 1 and
12 the parts of Leon, Jefferson, and Columbia County
13 that are not in Congressional District 3. Its
14 eastern boundary is the county lines of Levy,
15 Gilchrist, and Columbia Counties.

16 Congressional District 3 is made up of
17 five whole counties: Alachua, Bradford, Union,
18 Clay, and Putnam Counties. It then splits Marion
19 County for its remaining population, while
20 keeping the city of Ocala wholly within it,
21 creating a very compactly shaped district,
22 similar to the current Congressional District 3.

23 Congressional District 4 has all of
24 Nassau County along with the remaining part of
25 Duval County that is not included in

1 Congressional District 3. This leaves the
2 district approximately 213,000 people short of
3 the population needed for a congressional
4 district. So the district must continue south
5 into St. Johns County for population equality.

6 In doing so, it is able to keep all of
7 St. Augustine within the district, and all of the
8 other municipalities in St. Johns County remain
9 whole. This district configuration is similar to
10 the current district.

11 In an effort to impact as few districts
12 as possible with regard to the primary map,
13 Congressional District 6 uses the same boundary
14 line with Congressional District 7 in Volusia
15 County, while including all of Flagler County and
16 a part of St. Johns, Lake, and finally, Marion
17 County. This district helps absorb the uniquely
18 shaped parts of Lake and Volusia Counties to
19 create a compact district for this area.

20 Congressional District 11 is very
21 similar to the district in the primary map as it
22 adds the remaining population in Orange County,
23 which is about 194,000 people, and goes west to
24 include the majority of Lake County, all of
25 Sumter County, and part of Marion and Citrus

1 County, where it achieves equal population.

2 The final slide shows all the remaining
3 districts throughout the state that are unchanged
4 between the two maps. The gray area represents
5 the area of the six districts impacted by the
6 changes to Congressional District 5, where the
7 changes occurred.

8 And that, Mr. Chair, are both maps in
9 the amendment.

10 VICE-CHAIR FINE: Thank you for the
11 presentation of the amendment.

12 Members, are there any questions on the
13 amendment? Are there any questions?

14 Mr. Representative Driskell, you're
15 recognized for a question.

16 REPRESENTATIVE DRISKELL: Thank you, Mr.
17 Chair. I have a lot of questions, actually.

18 VICE-CHAIR FINE: Well, you're welcome
19 to ask them, but one at a time.

20 REPRESENTATIVE DRISKELL: Okay. Thank
21 you. So I know, as we've been going through this
22 process, we talk a lot about the methodology that
23 we've used and that we have to make sure that
24 they're compliant with tier 1 and tier 2 criteria
25 in the Constitution. So looking at the primary

1 map, could you identify the districts where those
2 criteria were in tension with one another?

3 VICE-CHAIR FINE: I'm sorry, can you
4 identify those criteria where what? I just
5 didn't hear the end of the question.

6 REPRESENTATIVE DRISKELL: Yep. Sure.
7 So we've got methodology that we have to follow,
8 tier 1 and tier 2. We have to look at those
9 criteria. And when they're in tension with one
10 another, you have to --

11 VICE-CHAIR FINE: Oh, "in tension."
12 Okay.

13 REPRESENTATIVE DRISKELL: Yes.

14 VICE-CHAIR FINE: Or in conflict, I
15 understand.

16 REPRESENTATIVE DRISKELL: Sorry.
17 Probably did not articulate that, enunciate it
18 clearly enough. And when they're in tension with
19 one another, you have to reconcile or harmonize
20 or prioritize them. And so, in trying to make
21 sure that we did that, I just want to identify
22 like were there any districts --

23 VICE-CHAIR FINE: I understand.

24 REPRESENTATIVE DRISKELL: -- where those
25 criteria were in tension, and if so, can we

1 identify them?

2 VICE-CHAIR FINE: Two words, in tension
3 as opposed to an intention. So I understand.

4 REPRESENTATIVE DRISKELL: In tension.
5 Yes.

6 VICE-CHAIR FINE: Chair Leek, you're
7 recognized to answer the question.

8 CHAIRMAN LEEK: Thank you. I'll do the
9 best I can with it.

10 And Representative Driskell, I want to
11 thank you again for all of your work on this and
12 engaging in the process.

13 So as I think we know, there's tier 1
14 and tier 2. Each of the pieces of tier 1 are in
15 tension with the other pieces of tier 1, so one
16 doesn't get priority over the other.

17 REPRESENTATIVE DRISKELL: Right.

18 CHAIRMAN LEEK: Same thing with tier 2.
19 So there is no tension between tier 1 and tier 2.
20 There is tension between each of the categories
21 within each tier, and that tension happens in
22 every district.

23 VICE-CHAIR FINE: Okay. You're
24 recognized.

25 REPRESENTATIVE DRISKELL: Thank you, Mr.

1 Chair.

2 So then how did the Committee staff --
3 I'm presuming Committee staff -- resolve the
4 times where they had tension? What policy
5 decisions were made to resolve the tension in the
6 districts set out in the primary map?

7 VICE-CHAIR FINE: Chair Leek, you're
8 recognized.

9 CHAIRMAN LEEK: Thank you.

10 I don't think there's any way to answer
11 that question as asked. If you look at the maps
12 in front of you, you can see where a railway was
13 chosen over a road, or you can see where a
14 waterway was chosen over a county line. That's
15 the best I'm going to be able to do with that
16 question as it's asked.

17 REPRESENTATIVE DRISKELL: Okay.

18 VICE-CHAIR FINE: You're recognized.

19 REPRESENTATIVE DRISKELL: And was the
20 same methodology used throughout both maps, both
21 the primary and the secondary map?

22 VICE-CHAIR FINE: Chair Leek, you're
23 recognized.

24 CHAIRMAN LEEK: Yes.

25 REPRESENTATIVE DRISKELL: Okay.

1 VICE-CHAIR FINE: And by the way, I'll
2 do this the same way I did the state
3 redistricting map. So if people want to ask a
4 few questions, take another bite at the apple, it
5 won't get held against you if you want to round
6 robin. And so you don't have to know all your
7 questions right now. So feel free to keep going,
8 but this isn't your only shot. So you're
9 recognized for another question.

10 REPRESENTATIVE DRISKELL: Thank you, Mr.
11 Chair.

12 So I know in dealing with the state
13 House maps, it seemed like we relied primarily on
14 census data. But for purposes of the
15 congressional maps, did we use more than census
16 data?

17 VICE-CHAIR FINE: You're recognized.

18 CHAIRMAN LEEK: We relied primarily on
19 census data again.

20 REPRESENTATIVE DRISKELL: Okay.

21 VICE-CHAIR FINE: You're recognized.

22 REPRESENTATIVE DRISKELL: So no
23 secondary data was used?

24 VICE-CHAIR FINE: Chair Leek, you're
25 recognized.

1 CHAIRMAN LEEK: The process that we use
2 in the congressional maps is the exact same
3 process that we used in the state maps.

4 REPRESENTATIVE DRISKELL: So to be very
5 clear --

6 VICE-CHAIR FINE: You're recognized.

7 REPRESENTATIVE DRISKELL: I probably
8 didn't ask that clear enough. So was only census
9 data used in preparing the primary and secondary
10 congressional maps?

11 VICE-CHAIR FINE: Chair Leek, you're
12 recognized.

13 CHAIRMAN LEEK: There's a lot more that
14 goes into that. So what I'm having trouble with
15 is confining it to "only census data," because we
16 used a lot of member input as well. There's also
17 elections data and performing a functional
18 analysis. So to state that it's "only census
19 data," I think would be inaccurate.

20 REPRESENTATIVE DRISKELL: Okay.

21 VICE-CHAIR FINE: Rep. Driskell, you're
22 recognized if you want to couple more, or do you
23 want to take a break?

24 REPRESENTATIVE DRISKELL: No. I want to
25 I want to follow up on that thread to just make

1 sure that we get absolute clarity.

2 Was there anything other than census
3 data, member input, I think you said political
4 data, that was used?

5 VICE-CHAIR FINE: You recognized.

6 CHAIRMAN LEEK: I said elections data.

7 REPRESENTATIVE DRISKELL: Oh, elections
8 data. I apologize.

9 CHAIRMAN LEEK: You know, the only data
10 used was the data that we are permitted to use.
11 Now, I don't want to get in a situation where
12 we're quibbling whether this was member input or
13 communities of interest or those types of things
14 because sometimes member input crosses over into
15 arguments about communities of interest or, you
16 know, whether tier 2 standards are being met. Is
17 it appropriate to use this road, is it
18 appropriate to use this highway, et cetera.

19 So I'm having trouble confining it to a
20 single set of lists, which I know we, as lawyers,
21 like to get a single set of list. I can't do
22 that for you. But the only information that was
23 used was information that is appropriate in
24 drawing maps.

25 REPRESENTATIVE DRISKELL: Okay.

1 VICE-CHAIR FINE: You're recognized.

2 REPRESENTATIVE DRISKELL: Yes. So let's
3 talk about those six districts where we receive
4 the performance data for. And I know we've gone
5 through this with the House maps too. Could you
6 talk about the process for the congressional maps
7 for how we selected those six districts that were
8 identified as protected districts?

9 VICE-CHAIR FINE: You're recognized,
10 Chair Leek.

11 CHAIRMAN LEEK: It was the exact same
12 process that we use for the state maps.

13 VICE-CHAIR FINE: Follow up?

14 REPRESENTATIVE DRISKELL: Yes.
15 So just to get clarity because it's been
16 a couple of weeks since we had that meeting. So
17 that means that we looked at the BVAP scores, and
18 I believe that was the primary metric that we use
19 for purposes of the House maps? Oh, and HVAP.
20 Sorry. Yes.

21 CHAIRMAN LEEK: Yeah, thank you. No.
22 That would be inaccurate. So you have to look at
23 the process as a whole. You take the benchmark
24 maps. You layer on top of it the 2020 census
25 data. You'd look at the benchmark. Then you

1 perform a functional analysis, and it could be
2 BVAP, HVAP. Could also be election data. It
3 could be a number of different things that go
4 into a functional analysis.

5 VICE-CHAIR FINE: You're recognized.

6 REPRESENTATIVE DRISKELL: I had another
7 question about Tampa Bay, in the area where I
8 represent. So the old Congressional District 15,
9 actually, the way that is in the benchmark map
10 actually is designed to be -- I know we don't
11 identify it as protected, but it is thought of,
12 at least back home, as like a black district or a
13 district where there are a lot of black voters
14 who could elect the candidate of their choice,
15 even though their candidate of their choice
16 happens to be non-black.

17 I guess my question is: Did the
18 Committee staff take a look at that district and
19 make a decision about it, that, no, it doesn't
20 look like it could be a black district, and is it
21 possible to take another look at that one?

22 VICE-CHAIR FINE: Representative Sirois,
23 you're recognized to answer that question.

24 REPRESENTATIVE SIROIS: Thank you,
25 Mr. Chairman.

1 Congressional District 15 in the
2 benchmark map is not presently a protected
3 district.

4 REPRESENTATIVE DRISKELL: To follow up,
5 my question was: Can we take another look at
6 that one?

7 VICE-CHAIR FINE: Representative Sirois,
8 you're recognized.

9 REPRESENTATIVE SIROIS: Thank you,
10 Mr. Chairman.

11 No. The functional analysis process
12 that occurs on the benchmark map is to make sure
13 that protected districts have been properly
14 identified in the benchmark map.

15 VICE-CHAIR FINE: I'm going to recognize
16 our staff director, Ms. Kelly --

17 REPRESENTATIVE DRISKELL: Okay.

18 VICE-CHAIR FINE: -- to add a little
19 more color on that.

20 STAFF DIRECTOR KELLY: Thank you,
21 Mr. Chair.

22 And I'll just piggyback off what Rep.
23 Sirois had said. So if you'd like to stop by,
24 you know, we can take a look at that. And I will
25 piggyback off of what Chair Leek had said

1 originally as well.

2 Going into additional functional
3 analysis on districts that aren't protected may
4 lead us down a path of having information that
5 would potentially lead to improper intent behind
6 the decisions we're making. So we would not
7 analyze that district normally because it was not
8 a performing district in the benchmark map. So
9 again, I know that was kind of a combination of
10 what they said, but just to help clarify. Thank
11 you.

12 VICE-CHAIR FINE: You're recognized.

13 REPRESENTATIVE DRISKELL: Thank you,
14 Leda. So that actually is really helpful. So it
15 sounds like, on the benchmark map -- by the end
16 of this, we're all going to be redistricting
17 experts, I hope. On the benchmark map, the
18 functional analysis was performed on all
19 districts to identify which might be protected
20 and CD15 did not rise to that threshold.

21 VICE-CHAIR FINE: I know the answer to
22 that's no. But Chair Leek, you're recognized to
23 answer the question.

24 CHAIRMAN LEEK: No. Functional analysis
25 is only performed on the protected districts.

1 REPRESENTATIVE DRISKELL: Okay.

2 VICE-CHAIR FINE: Yeah. I'll come back.

3 REPRESENTATIVE DRISKELL: Okay.

4 VICE-CHAIR FINE: So Ranking Member
5 Geller, you're recognized.

6 REPRESENTATIVE GELLER: Thank you,
7 Mr. Chair.

8 If I'm not mistaken, I believe,
9 Chair Leek, that you used the phrase "singular
10 exception" when you were discussing, I think it's
11 the primary map, and I think it was the proposed
12 District 5. Would you explain what you mean by
13 "singular exception" and why there is this
14 singular exception? What does that mean?

15 VICE-CHAIR FINE: Chair Leek, you're
16 recognized.

17 CHAIRMAN LEEK: Thank you. CD5 in the
18 primary map has a reduction in the BVAP, and
19 that's the only place that that reduction has
20 been more than immaterial. That is the singular
21 exception of it. CD5, however, still is a
22 performing district.

23 VICE-CHAIR FINE: Follow up?

24 REPRESENTATIVE GELLER: What is the
25 reduction in BVAP in that particular map, that

1 district?

2 VICE-CHAIR FINE: Chair Leek, you're
3 recognized.

4 CHAIRMAN LEEK: It goes from about 43 to
5 about 35 and a half percent BVAP.

6 REPRESENTATIVE GELLER: Follow up.

7 VICE-CHAIR FINE: Yep. You're
8 recognized.

9 REPRESENTATIVE GELLER: What is the
10 effect of that reduction in the functional
11 analysis of the ability of the minority voter
12 population to elect representatives of their
13 choice?

14 VICE-CHAIR FINE: Chair Leek, you're
15 recognized.

16 CHAIRMAN LEEK: Well, the district still
17 performs, so the answer is none.

18 VICE-CHAIR FINE: Yep. Follow up.

19 REPRESENTATIVE GELLER: Okay. Thank
20 you, Mr. Chair. My ears play tricks on me. Did
21 you say the districts still perform so the answer
22 is there is no effect of that reduction?

23 VICE-CHAIR FINE: Chair Leek, you're
24 recognized.

25 CHAIRMAN LEEK: Yeah. The question that

1 you asked was: What affect would it have on the
2 functional analysis? Functional analysis is a
3 combination of several factors to determine
4 whether something performs. This district, CD5,
5 as drawn even in the primary map, still performs.
6 So there was no effect on the functional analysis
7 for CD5.

8 VICE-CHAIR FINE: You're recognized.

9 REPRESENTATIVE GELLER: Thank you,
10 Mr. Chair.

11 Under the non-dilution standards that
12 apply to drawing constitutionally compliant maps,
13 isn't weakening of the performance of
14 historically performing districts considered
15 dilution?

16 VICE-CHAIR FINE: You're recognized.

17 CHAIRMAN LEEK: No. Remember we're
18 talking about overall performance, right. So a
19 change, a variation, in any of the factors that
20 go into that performance analysis, that doesn't
21 impact performance. It's not a weakening, and
22 you know, ultimately, a court is going to have to
23 decide what diminishment means, which is, I
24 think, what you're getting after. Ultimately, a
25 court's going to have to decide that, but this

1 district drawn in the primary map still performs.

2 VICE-CHAIR FINE: You're recognized.

3 REPRESENTATIVE GELLER: Thank you,
4 Mr. Chair.

5 The House filed a brief for the Florida
6 Supreme Court in the state legislative
7 reapportionment case, apparently with the
8 assistance of Andy Bardos of GrayRobinson. And I
9 think it said that, in a prior case called
10 Apportionment I, new districts may not weaken
11 historically performing districts and that that
12 constituted diminishment. And then further said,
13 reducing a safe district to a competitive
14 district is a downward shift and that differences
15 are at the margins where many elections are
16 decided. And I'm quoting from the position that
17 the House itself just took in court.

18 VICE-CHAIR FINE: Is there a question?

19 REPRESENTATIVE GELLER: I'm getting
20 there, Chair Fine. Called a predicate.

21 Doesn't that contradict this statement
22 that moving from 43 to 35, which is considered to
23 be in that questionable margin, does not
24 constitute dilution or weakening?

25 VICE-CHAIR FINE: Chair Leek, you're

1 recognized.

2 CHAIRMAN LEEK: You know, again, the
3 ultimate question of diminishment is going to
4 have to be one determined by a court. But I can
5 tell you looking at all of the factors, this
6 district still performs. So what we know is we
7 don't have to stay strictly where it was before,
8 right. The courts have been out saying you can
9 move, in this case, BVAP up and down, right, as
10 long as the district still performs.

11 Ultimately, I think a court is going to
12 decide whether that constitutes diminishment or
13 not. But in our analysis, the functional
14 analysis, that district still performs.

15 VICE-CHAIR FINE: You're recognized.

16 REPRESENTATIVE GELLER: Thank you,
17 Mr. Chair.

18 Isn't it so that, in the analysis that's
19 actually released to us, that very limited
20 analysis that we've gotten to look at, that
21 instead of performing in 14 out of 14 test
22 elections under the old configuration, under the
23 new configuration, approximately one-third of
24 those same test elections, it does not perform to
25 allow minorities to elect the candidate of their

1 choice?

2 VICE-CHAIR FINE: I'm going to recognize
3 Staff Director Kelly to answer that question.

4 STAFF DIRECTOR KELLY: Thank you,
5 Mr. Chair.

6 And thank you, Representative, for that
7 question. I think this is a really good point to
8 drive home why a full functional analysis is
9 needed, right.

10 So we have primary and general elections
11 for every statewide election throughout the
12 entire decade. So what you're referencing, the
13 portions where that district would not perform
14 for a candidate of choice, we're in the earlier
15 parts of the decade. So as we look at the trends
16 of how that portion of the state performs and how
17 it's moved over the decade, the portions that you
18 said where it does perform are actually the more
19 recent elections, which again, is why
20 wholistically, not only election results, but
21 looking at voter registration turnout is also
22 important.

23 I think it's also important to
24 acknowledge, you know, the primary maps
25 configuration of CD5 does have a slightly

1 different electorate than the secondary map or
2 the maps that we've previously put before the
3 Committee as well.

4 So again, with having a different
5 electorate, that could change voting patterns as
6 well. Hopefully that provides some context.

7 Thank you.

8 VICE-CHAIR FINE: Ranking Member Geller,
9 you're recognized.

10 REPRESENTATIVE GELLER: Thank you.

11 Thank you for that answer. Does that
12 answer mean that it doesn't perform as well based
13 on the analysis but there is some suppositions
14 that are being made about possible trends and how
15 much weakening still allows it to, as the Chair
16 calls it, "perform"?

17 VICE-CHAIR FINE: Chair Leek, you're
18 recognized.

19 CHAIRMAN LEEK: Okay. You know, first
20 of all, performance is not an air quote thing.
21 It's an actual part of the law. So the district
22 itself --

23 REPRESENTATIVE GELLER: It's all air
24 quote stuff, Chair. It's all air quotes in here.

25 CHAIRMAN LEEK: The district still

1 performs. You know, when you redraw districts
2 necessarily, they're going to change. I mean,
3 that happens with every redistricting, so
4 necessarily going to change. They're not
5 suppositions. The trends are what the trends
6 are. This district that we have that is now in
7 this primary map, CD5, would still perform.

8 VICE-CHAIR FINE: You're recognized.

9 REPRESENTATIVE GELLER: Thank you,
10 Chair.

11 Chairman, I hear you. I think I
12 understand the word. When you say "perform," you
13 don't mean -- and go ahead and correct me, I'm
14 sure you will -- you don't mean it will have the
15 same result; you mean that based on assumptions
16 about things like trends, you think it's likely
17 that it would get to the same place when you say
18 "perform" but statistically, it is less likely to
19 get there. But you think it'll get there anyway.
20 Is that basically what you're saying?

21 VICE-CHAIR FINE: Chair Leek, you're
22 recognized?

23 CHAIRMAN LEEK: Thank you.

24 The ultimate measure is performance.
25 And every time you move a line and you put this

1 neighborhood in that district now, the
2 performance of that district may change. But the
3 ultimate measure is whether the district that is
4 drawn before you performs. This district under a
5 functional analysis still performs.

6 VICE-CHAIR FINE: Ranking Member Geller,
7 you're recognized,

8 REPRESENTATIVE GELLER: Thank you,
9 Mr. Chair.

10 And I hear you, Chair. But every time
11 you move a line, it changes, but you can move
12 those lines in a way that makes it more likely
13 that it will perform or less likely that it will
14 perform. And we're moving those lines in a way
15 that makes it less likely that it will perform,
16 right?

17 VICE-CHAIR FINE: You're recognized.

18 CHAIRMAN LEEK: Thank you.

19 That happens in every map drawing every,
20 changes in every map drawing. And what I can
21 tell you is after the functional analysis of CD5,
22 is still performs. Is it less likely to perform?
23 Honestly, I don't know. Is it more likely to
24 perform? But what I want you to understand is
25 you can't take and pull BVAP out alone and draw

1 the conclusion that it's less likely to perform.
2 So it's important that you look at all of the
3 factors and then come up with the performance
4 scale. This one performs.

5 VICE-CHAIR FINE: I'm going to ask a
6 question real quick, if that's okay. Just to
7 maybe help move this long.

8 Chair Leek, would it be fair to say,
9 just since we can talk about performance, it's
10 not a guess, it's not a trend, it's an actual
11 data thing, would it be fair to say, looking at
12 the 2020 performance in this district, that the
13 district outperformed by 13 points? So it wasn't
14 close in 2020 in terms of the performance of the
15 district based on how we do the functional
16 analysis, a 13-point overperformance?

17 REPRESENTATIVE GELLER: Can I object to
18 the leading question?

19 VICE-CHAIR FINE: No. You can and
20 you're denied. So I'm asking a question.

21 Chair Leek.

22 CHAIRMAN LEEK: Thank you. And you
23 raise an excellent point. So it's relative
24 performance, right. And so that's the trends,
25 right. When you look at the trends, that

1 district performs stronger and stronger in each
2 election cycle. So it's relative. The district
3 still performs. It is not a diminishment unless
4 the district does not perform.

5 VICE-CHAIR FINE: But one follow-up by
6 me, but 13 percent's not close, right?

7 CHAIRMAN LEEK: I would agree with you.

8 VICE-CHAIR FINE: Okay. Great. Ranking
9 Member Geller, we'll come back to you now.

10 REPRESENTATIVE GELLER: Thank you,
11 Mr. Chair.

12 Was outside counsel retained to analyze
13 that congressional district or to hire an expert
14 to analyze that congressional district?

15 VICE-CHAIR FINE: Chair Leek, you're
16 recognized.

17 CHAIRMAN LEEK: Okay. I'm going to
18 answer this one more time again, right, because I
19 know you know the answer to this question.

20 Outside counsel has been retained. They've
21 spoken to you. Outside counsel has performed all
22 of the required analyses for each protected
23 district.

24 VICE-CHAIR FINE: Ranking Member Geller,
25 you're recognized.

1 REPRESENTATIVE GELLER: Thank you,
2 Mr. Chair.

3 Who is their client?

4 VICE-CHAIR FINE: Chair Leek, you're
5 recognized.

6 CHAIRMAN LEEK: Ultimately, the House is
7 by and through the Speaker. And I want to
8 correct something I just said. Remember staff
9 performs functional analysis. So I said outside
10 counsel, but staff performs the functional
11 analysis.

12 VICE-CHAIR FINE: Ranking Member Geller,
13 you're recognized.

14 REPRESENTATIVE GELLER: Well, thank you,
15 Mr. Chair.

16 Let's clarify that. Was an expert
17 retained by counsel to review and opine on the
18 functional analysis or performance of that
19 district? Let's get that clear.

20 VICE-CHAIR FINE: Chair Leek, you're
21 recognized.

22 CHAIRMAN LEEK: Staff performs the
23 functional analysis, and our counsel advises the
24 staff and Committee through the staff.

25 REPRESENTATIVE GELLER: And the expert?

1 VICE-CHAIR FINE: I'm sorry. You're
2 recognized, Ranking Member Geller. Is there an
3 expert, I guess, was the question.

4 Chair Leek, you're recognized.

5 CHAIRMAN LEEK: Thank you.

6 Our expert is not retained for
7 functional analysis, but experts advise staff.

8 VICE-CHAIR FINE: I'm going to -- sort
9 of go into round robin, so if you --

10 REPRESENTATIVE GELLER: Let me just --

11 VICE-CHAIR FINE: If you want to bring
12 this kind of question in for a landing --

13 REPRESENTATIVE GELLER: Just this one
14 point. Let me --

15 VICE-CHAIR FINE: -- you'll get a second
16 bite at the apple to collect your thoughts.

17 REPRESENTATIVE GELLER: Let me just
18 close this one point, Mr. Chairman.

19 VICE-CHAIR FINE: Yep. Ranking Member
20 Geller, you're recognized.

21 REPRESENTATIVE GELLER: Is my
22 understanding of your other answer that the
23 client is the House? Is that correct?

24 VICE-CHAIR FINE: He answered that, but
25 yes, so --

1 REPRESENTATIVE GELLER: Okay. So if the
2 client is the House, and last time I looked, I'm
3 still a member of it, why is it not available to
4 every member of the House to see what the outside
5 counsel's opinions were and what the expert they
6 retained included, recommended, studied, advised,
7 or whatever it is that the expert did?

8 VICE-CHAIR FINE: Chair Leek, you're
9 recognized.

10 CHAIRMAN LEEK: Thank you.

11 It seems we're going to go down the path
12 here of consulting expert versus testifying
13 expert. But the short answer, and probably the
14 one that you want to hear, is you, along with
15 many folks out there, have gone on record saying
16 you're going to sue the House. So if you take
17 your analogy to its end, you would be suing
18 yourself under that analogy and not accepting the
19 decision as of the whole.

20 So because we are in anticipation of
21 litigation, as previously announced by you, and
22 because the House moves through the Speaker, we
23 are retaining the consulting expert work product
24 privilege.

25 VICE-CHAIR FINE: Still on this?

1 REPRESENTATIVE GELLER: Oh, yeah.

2 VICE-CHAIR FINE: Okay. Ranking Member
3 Geller.

4 REPRESENTATIVE GELLER: Mr. Chair, and I
5 say this with the greatest respect for you
6 personally, but with all deference, you totally
7 have misstated what I said. And since I said it,
8 I think I have a pretty good idea of what I've
9 said. I assure you I never said I was going to
10 sue the House, possibly for some of the reasons
11 you just mentioned but others as well.

12 When I said, undoubtedly, there will be
13 litigation, it was a comment on the process and
14 results that we have followed. But I never said
15 I was going to sue the House. And by the way, I
16 don't think any of my colleagues on my side of
17 the aisle have ever said they were going to sue
18 the House. Predicting that there will be
19 litigation is not the same as saying that we
20 would, or I would, be the author of it.

21 If that's the only reason why some
22 decision apparently has been made, that I, as a
23 member of the House, are not entitled to see what
24 our counsel has done or the experts --

25 VICE-CHAIR FINE: If you'd bring it in

1 for a question.

2 REPRESENTATIVE GELLER: -- to that
3 counsel, I would say, respectfully, that I'd like
4 that information today because I at present --

5 VICE-CHAIR FINE: I'm going to ask you
6 for a question.

7 REPRESENTATIVE GELLER: -- have no
8 intention --

9 VICE-CHAIR FINE: What's your question?

10 REPRESENTATIVE GELLER: -- of suing the
11 House.

12 VICE-CHAIR FINE: Okay. So all right.
13 I let you talk there for a while. Is there a
14 question? I'm not recognizing Chair Leek. You
15 didn't ask a question.

16 REPRESENTATIVE GELLER: Yes. There is
17 ask a question.

18 There is a question.

19 VICE-CHAIR FINE: Let's ask a question
20 quickly.

21 REPRESENTATIVE GELLER: Okay. Thank
22 you.

23 The question that I would follow that
24 with is: Will that information be released to
25 any House member who verifies they have no

1 present intention of suing the House?

2 VICE-CHAIR FINE: Chair Leek, you're
3 recognized.

4 CHAIRMAN LEEK: No.

5 VICE-CHAIR FINE: All right.

6 REPRESENTATIVE GELLER: Why? I'd just
7 like to ask why that is.

8 VICE-CHAIR FINE: You're recognized,
9 Chair Leek.

10 CHAIRMAN LEEK: Work product doctrine
11 privilege.

12 VICE-CHAIR FINE: Okay. We're going to
13 move on. And again, you'll get another bite at
14 the apple. I know Representative Skidmore has
15 been waiting to ask a --

16 You had questions, correct? Yeah.

17 So you're the only other hand I've seen.
18 So if other people -- okay. All right. I'll
19 come to you guys.

20 So your next, Rep. Skidmore. Go ahead,
21 you're recognized for a question.

22 REPRESENTATIVE SKIDMORE: Thank you,
23 Mr. Chair.

24 And I think we kind of were touching on
25 this, but I'm still a little confused about a

1 CD5. And this may be a question for either Chair
2 Leek or staff or Chair Sirois.

3 But when I'm looking at the primary map
4 and we are talking about performance, in more
5 than one-third of the time that districts did not
6 elect the candidate of its choice. But in the
7 secondary map, 100 percent of the time they did.
8 So can you explain, again, for me how that's not
9 diminishment under the definition, as I
10 understand it?

11 VICE-CHAIR FINE: Chair Leek, you're
12 recognized.

13 REPRESENTATIVE SKIDMORE: And I hope I
14 asked that the right way.

15 CHAIRMAN LEEK: You did. I appreciate
16 the question. The answer is going to be the
17 same. Ultimately a court is going to have to
18 determine what diminishment means. Diminishment
19 is a legal conclusion. We have determined that
20 that district still performs.

21 VICE-CHAIR FINE: Follow up?

22 REPRESENTATIVE SKIDMORE: Thank you,
23 Mr. Chair.

24 And when you say that "it still
25 performs," the rest of that sentence is for the

1 candidate of choice for that district?

2 VICE-CHAIR FINE: You're recognized.

3 CHAIRMAN LEEK: Correct. Yeah. Under
4 the legal standards. I'm sorry. I'm trying to
5 move the meeting along. When I say "performs," I
6 mean the functional analysis still demonstrates
7 to the candidate that they're able to choose or
8 elect a candidate of their choice.

9 REPRESENTATIVE SKIDMORE: Okay. Follow
10 up, Mr. Chair?

11 VICE-CHAIR FINE: Yes, you're
12 recognized.

13 REPRESENTATIVE SKIDMORE: Thank you.
14 I'm sorry I have so many papers. I lost one of
15 my questions. But it ultimately has to do with
16 the 30-day statute of limitations for filing
17 against the maps. And is there any precedent for
18 that? Have we done that before in this type of a
19 situation, and does federal law not supersede
20 that at some level?

21 VICE-CHAIR FINE: You're recognized,
22 Chair Leek.

23 CHAIRMAN LEEK: Thank you.

24 And listen, I think that is a very, very
25 fair question. Of course, throughout law, there

1 are statute of limitations. In this particular
2 instance, we have qualifying in what, four
3 months? I think we have an election, let's call
4 it nine months. So the statute of limitation is
5 designed to move the process along and get to an
6 end so people know what districts they're running
7 in.

8 VICE-CHAIR FINE: Follow up?

9 REPRESENTATIVE SKIDMORE: Thank you,
10 Mr. Chair.

11 Thank you for that answer. That filing
12 of the lawsuit, however, doesn't end,
13 necessarily, the lawsuit in time for that. So
14 how does that really jive with us being able to
15 know what districts we're going to run in or any
16 candidate know what districts they're going to
17 run in?

18 VICE-CHAIR FINE: Chair Leek, you're
19 recognized.

20 CHAIRMAN LEEK: The filing of the
21 lawsuit is the initial step that gets us to that
22 answer. And the Court can then accelerate the
23 process such that you can get an answer prior to
24 June, but this is the part of it that we can
25 control is when the lawsuit, when it must be

1 initiated.

2 VICE-CHAIR FINE: You're recognized.

3 REPRESENTATIVE SKIDMORE: Thank you,
4 Mr. Chair.

5 And the second part of that is does
6 federal law, VRA, you know, I think there's a
7 six-year statute of limitations on that level,
8 does that now in conflict with the 30 days?

9 VICE-CHAIR FINE: Chair Leek, you're
10 recognized.

11 CHAIRMAN LEEK: Potentially it could
12 conflict if it has a longer statute of
13 limitations and if the person -- but potentially
14 it may not. So if the challenge is solely within
15 federal court on federal law, then I would say
16 the federal statute of limitations would likely
17 prevail. Ultimately, a court's going to have to
18 decide this. I'm just giving you my opinion as I
19 sit here today. But if it's going to be filed in
20 state courts, it's a 30-day statute of
21 limitations.

22 VICE-CHAIR FINE: Rep. Skidmore, do you
23 have another question?

24 REPRESENTATIVE SKIDMORE: I'm good for
25 now. Thank you, Mr. Chair.

1 VICE-CHAIR FINE: Okay. Again, everyone
2 can have a second.

3 REPRESENTATIVE SKIDMORE: I may
4 reorganize.

5 VICE-CHAIR FINE: Yep, that's fine. I
6 think it keeps us moving a little more smoothly.

7 Representative Thompson, I think I saw
8 your hand. Did you have a question?

9 REPRESENTATIVE THOMPSON: Yes. Thank
10 you, Mr. Chairman.

11 VICE-CHAIR FINE: You're recognized.

12 REPRESENTATIVE THOMPSON: I have a
13 question regarding the increase in the minority
14 population across the state of Florida. And I'd
15 like to know, given the proportional increase of
16 minorities in Florida, was there the possibility
17 of creating additional minority districts that
18 are not in either the primary or the secondary
19 plans that we've seen?

20 VICE-CHAIR FINE: I'm actually going to
21 answer that question myself since I spoke to it
22 on the floor. The proportion of black voters in
23 Florida has not materially changed in the last
24 ten years.

25 REPRESENTATIVE THOMPSON: Thank you,

1 Representative Fine. And yes. I did raise this
2 same issue on the floor, and I guess I just don't
3 understand, given 1.5 million individuals who,
4 when they responded to the census, identified
5 themselves as Hispanic and 500,000, who
6 identified, additional individuals, as black, why
7 there's no change, you indicated that there's no
8 change?

9 VICE-CHAIR FINE: I'll take this, again,
10 particularly as it relates to black voters. Let
11 me give a mathematical example.

12 If ten years ago, there was there were
13 ten people who lived in Florida and one of them
14 were black and ten years later, there are two
15 people in Florida that are black, that would be a
16 100 percent increase. But if the population of
17 Florida has gone from 10 to 20, even though the
18 black population has doubled, their proportion
19 remains the same at 10 percent. That is the
20 situation in the state of Florida as it relates
21 to the black population.

22 Yes. There are more. But there are
23 more of everybody, so the black percentage has
24 not materially changed.

25 REPRESENTATIVE THOMPSON: Thank you. So

1 I should understand, then, from your response
2 that there was not an opportunity to create
3 additional minority districts. Is that correct?

4 VICE-CHAIR FINE: That'd be a question
5 for Chair Leek.

6 CHAIRMAN LEEK: Yep. We've maintained
7 the benchmark. They're not entirely in the same
8 places, but we've maintained the benchmark.

9 VICE-CHAIR FINE: Do you have a
10 follow-up?

11 Okay. You're good for now.

12 Representative Slosber-King, I see you.
13 And then Rep. Omphroy, you'll be up
14 next.

15 REPRESENTATIVE SLOSBER-KING: Thank you,
16 Chair. My question centers around the statute of
17 limitations. So what is the current statute of
18 limitations that somebody can bring to challenge
19 the maps?

20 VICE-CHAIR FINE: Chair Leek, you're
21 recognized.

22 CHAIRMAN LEEK: Yeah. So remember that
23 each one of these redistricting bills lives its
24 own life, and that life necessarily ends at the
25 end of the decade. So there's not a current one,

1 period. There was not, to my knowledge, a
2 statute of limitations on the prior set of maps.
3 Right.

4 But because of where we are, because we
5 know this is headed to litigation, and because we
6 want finality for people out there to know what
7 district they live in, to know what district they
8 want to run in, a 30-day statute of limitations
9 works.

10 Listen, people are going to have to make
11 that decision and qualify in four months, right.
12 You know, people are going to have to make that
13 decision and win or lose an election in nine
14 months. So forcing the initiation of a lawsuit
15 early is the best course of action to have some
16 finality of what district you live in and what
17 district you're going to run in.

18 VICE-CHAIR FINE: Follow up.

19 REPRESENTATIVE SLOSBER-KING: Thank you.

20 Is there any other laws that you're
21 aware of that has a 30-day statute of
22 limitations?

23 VICE-CHAIR FINE: Chair Leek, you're
24 recognized.

25 CHAIRMAN LEEK: Not that I'm aware of,

1 but again, this is its own beast.

2 VICE-CHAIR FINE: Okay. All right.

3 Again, there'll be more bites of the apple.

4 Rep. Omphroy, you're recognized for a
5 question.

6 REPRESENTATIVE OMPHROY: Thank you so
7 very much, Chair.

8 So I'm looking at the protected
9 districts. And when I look at the protected
10 districts, all six of them, my concern happens to
11 be -- well, I know the House and the Senate
12 worked on this map. Unfortunately, the senator
13 for my part of Broward County is not in seat. So
14 I'm looking at this map, and I'm noticing that
15 Congressional District 20, there's eight city
16 splits. And I only compared it to the other
17 protected districts.

18 There are eight city splits in
19 Congressional District 20. There are two city
20 splits and Congressional District 24. There is
21 one in 5. There is one in 26. There is one in
22 27 and zero in 28. So my question is: Why is it
23 that CD20 has been split eight times?

24 I'm going to recognize our Chief Map
25 Drawer, Mr. Poreda, to answer that question.

1 CHIEF MAP DESIGNER POREDA: Thank you,
2 Mr. Chair.

3 That's a good question. That revolves
4 heavily around there being so many municipalities
5 all right up against each other in Broward
6 County, where that district -- and really, into
7 Palm Beach County too. And the other areas,
8 where a lot of the other minority districts that
9 you're referring to, they're either not cities or
10 their cities that can be incorporated differently
11 into the district.

12 So it's simply that there are just so
13 many municipalities in Broward County that are
14 all right up against each other.

15 VICE-CHAIR FINE: Follow up.
16 You're recognized.

17 REPRESENTATIVE OMPHROY: How many
18 municipalities are in Miami-Dade County?

19 VICE-CHAIR FINE: I don't know that
20 that's the subject of the bill.

21 REPRESENTATIVE OMPHROY: My reason for
22 asking the question, Chair, is that we're talking
23 about Broward County having all these cities all
24 configured all together. I'm almost certain that
25 Miami-Dade has a similar amount of cities, and

1 yet Miami-Dade does not have a similar amount of
2 splits.

3 VICE-CHAIR FINE: Do you want to take a
4 shot at that?

5 CHIEF MAP DESIGNER POREDA: I don't have
6 that exact number in front of me, Representative.
7 But I'd be happy to get the total number of
8 municipalities for both Broward and Miami-Dade
9 County. You are correct that Miami-Dade County
10 does have a great number of municipalities just
11 like Broward County, but it's where those
12 minority populations are distributed throughout
13 those cities and how the districts can be
14 constructed where it might lend itself to
15 splitting fewer in Dade County than in Broward
16 County because, if you remember, the keeping of
17 municipalities being closed at tier 2 concern and
18 all of these districts are tier 1 protected
19 districts.

20 So splitting them sometimes is a
21 requirement to make sure those districts can
22 perform rather than trying to keep the
23 municipalities whole. So it's just a function of
24 where their geography is, but I'll be happy to
25 get you the total number of municipalities in

1 both those particular counties.

2 VICE-CHAIR FINE: Follow up?

3 REPRESENTATIVE OMPHROY: Yes. Is there
4 any way for us to -- because, you know, when we
5 look at these maps, we can't necessarily see all
6 the cities that are in the particular protected
7 districts. And is there any way for me to get
8 all the cities within 20, all the cities within
9 24, all the cities within -- I know 5 only has
10 one city, all the cities within 27, all the
11 cities within 28.

12 I just want to be able to look at actual
13 cities within the protected districts. And I
14 thank you very much for allowing me to ask
15 questions.

16 VICE-CHAIR FINE: of course. And I'm
17 going to let Chair Leek answer this in a minute.
18 But I would note that in the software, you can
19 zoom in. I've done it. You can zoom in and you
20 can see cities and you can do that. It's hard to
21 see on the maps, but it is available on the
22 software that we all have access to and we've
23 been trained on.

24 I don't know if you have anything you
25 want to add to that, Chair Leek.

1 CHAIRMAN LEEK: That was precisely what
2 I was going to say. I would also invite you, if
3 you would like, to sit down with any of the
4 staff, and we can walk you through all of that.

5 VICE-CHAIR FINE: You're recognized,
6 Representative Omphroy.

7 REPRESENTATIVE OMPHROY: Thank you so
8 very much, Chair.

9 I have zoomed in, zoomed around, sat
10 with staff. It is extremely difficult for me to
11 see because some of my cities are very, very
12 tiny, and that's why my area had to be zoomed in
13 the way it is where it has a southeast section.
14 It is extremely difficult, and so that's why I'm
15 asking for a printout of the actual cities within
16 each of the protected districts because I have
17 zoomed. I have swum through these maps. So I
18 please ask for that consideration. I thank you.

19 VICE-CHAIR FINE: Sounds like we need to
20 ask the Speaker for bigger computer monitors, but
21 staff has said they're happy to sit down and
22 provide that to you.

23 Okay. Is there any member who has not
24 yet asked a question who would like to before we
25 move on to round two?

1 Okay. I see Ranking Member Geller.

2 You're recognized. Okay.

3 And you'll be next, Rep. Driskell.

4 REPRESENTATIVE GELLER: Thank you very
5 much, Mr. Chair.

6 The obligation we have is to produce a
7 map that is constitutionally compliant. Is it
8 the belief of -- I'll direct it to whoever wants
9 to answer whether that's the Chair or the
10 staff -- that the so-called primary map is
11 constitutionally compliant?

12 VICE-CHAIR FINE: Chair Leek, you're
13 recognized.

14 CHAIRMAN LEEK: Thank you.

15 You know, so you've hit on the crux of
16 the question, right. It is a novel legal
17 question that is being put forth, and if that
18 question is answered in the affirmative, it will
19 be constitutional. But that's also why we have a
20 secondary map in case that that question is not
21 answered in the affirmative.

22 VICE-CHAIR FINE: Ranking Member Geller,
23 you're recognized.

24 REPRESENTATIVE GELLER: Thank you.

25 Appreciate that answer. Is it therefore

1 fair to say -- and watch for what follows that --
2 is it therefore fair to say that there is a
3 serious legal question in the mind of the
4 proponents of the so-called primary map as to
5 whether it will be found constitutionally
6 compliant and that's why a secondary map is being
7 proposed?

8 VICE-CHAIR FINE: Chair Leek, you're
9 recognized.

10 CHAIRMAN LEEK: You know, I think all
11 questions that go to the Supreme Court are
12 serious legal questions. So it is a serious
13 legal question, and what we've done is we put
14 forth a primary map. But we don't know the
15 answer to the question, right. So we put forth a
16 primary map, and if that primary map is found to
17 be unconstitutional, then the secondary map kicks
18 in.

19 VICE-CHAIR FINE: You're recognized.

20 REPRESENTATIVE GELLER: Thank you,
21 Mr. Chair.

22 Is it a fair paraphrase of what you've
23 just said that there is -- watch again, be
24 careful here -- is it a fair paraphrase of what
25 you just said to say that there is a serious

1 doubt or question as to the constitutional
2 compliance of the so-called primary map?

3 VICE-CHAIR FINE: Chair Leek, you can
4 answer that question.

5 CHAIRMAN LEEK: No. I mean, the nature
6 of a novel question is that it's unknown. It's
7 unanswered. And so, you know, what you see is
8 the effort to make sure that we're covered if the
9 novel question is if the answer is not as
10 expected.

11 REPRESENTATIVE GELLER: Follow-up
12 question.

13 VICE-CHAIR FINE: You're recognized.

14 REPRESENTATIVE GELLER: Has the Chair, a
15 noted attorney, or any of the staff or our -- I
16 use the word "our" in a colloquial
17 sense -- outside legal expert opined as to
18 whether or not proposing two different maps
19 violates the single-subject rule because we're
20 being asked to vote on two completely distinct
21 legal propositions as part of a single bill?

22 VICE-CHAIR FINE: Chair Leek, you're
23 recognized.

24 CHAIRMAN LEEK: No.

25 REPRESENTATIVE GELLER: Follow up?

1 VICE-CHAIR FINE: You're recognized.

2 REPRESENTATIVE GELLER: Has there been
3 consideration given to whether or not voting on
4 two alternative propositions in a single bill
5 violates the single-subject rule?

6 VICE-CHAIR FINE: And before Chair Leek
7 answers that, I would note that -- I don't
8 remember what the vote was, but the House passed
9 HJR. And that did have two maps in it, a House
10 map and a Senate map, even though it was a single
11 --

12 REPRESENTATIVE GELLER: Not the same,
13 but --

14 VICE-CHAIR FINE: Maybe not, but there
15 were two -- one bill, two maps, and by the way,
16 completely different. One was the House, and one
17 was the Senate.

18 But with that, Chair Leek, you're
19 recognized to answer the question.

20 CHAIRMAN LEEK: And this doesn't violate
21 the single subject. The subject is
22 redistricting, and this has two maps, one
23 secondary and one primary. Doesn't violate the
24 single subject.

25 VICE-CHAIR FINE: Yes, you're

1 recognized.

2 REPRESENTATIVE GELLER: My next set of
3 questions is intended to focus on how this
4 primary/secondary approach, which is apparently
5 novel, would work. Is it intended that if the
6 reviewing court makes any change whatsoever in
7 the so-called primary map, if it does not strike
8 it in its entirety, if it says there's a problem
9 here or a problem there, we have to adjust this
10 district or the boundaries of this district,
11 which of course affects at least the contiguous
12 ones, or if it says this precinct is in the wrong
13 place, is it the intent of this -- because I
14 can't tell from the way the bill was worded --
15 that any change whatsoever automatically
16 disqualifies the entire primary map and
17 automatically moves us to the secondary or is the
18 secondary only intended if the whole map gets
19 struck?

20 VICE-CHAIR FINE: Chair Leek, you're
21 recognized?

22 CHAIRMAN LEEK: Yeah. I addressed that
23 upfront, and it's also in the bill language. If
24 the Court strikes down CD5, then the secondary
25 map goes into place.

1 VICE-CHAIR FINE: Yep, you're
2 recognized.

3 REPRESENTATIVE GELLER: Thank you,
4 Mr. Chair.

5 If there is any other change made
6 anywhere else in the map by the Court, am I to
7 understand that the secondary still doesn't kick
8 in?

9 VICE-CHAIR FINE: Before he asks that, I
10 mean, isn't the map the same, the primary and the
11 secondary, other than the CD, so they're the same
12 map other than that. So I'm not sure it would
13 matter.

14 But Chair Leek, you're recognized to
15 answer the question.

16 CHAIRMAN LEEK: Yeah. The secondary
17 only kicks in if the court finds a problem with
18 CD5.

19 REPRESENTATIVE GELLER: I'm good for
20 now.

21 VICE-CHAIR FINE: All right.
22 Rep. Driskell, you're recognized, and then
23 Rep. Omphroy will be after you.

24 REPRESENTATIVE DRISKELL: Thank you,
25 Mr. Chair.

1 So it sounds like, I just want to go
2 back to CD10, that the Senate views CD10 as a
3 protected black performing minority access
4 district but that the House maintains that it's
5 not. Could you talk to us about why it's not now
6 that we have the Senate data to understand why
7 they believe it is?

8 VICE-CHAIR FINE: Chair Leek, you're
9 recognized.

10 CHAIRMAN LEEK: Yeah. The underlying
11 data is roughly the same, but the conclusion is
12 different. And if you look at the performance
13 trends of CD10, we've come to the conclusion that
14 it's no longer a protected district. The Senate
15 came to the opposite conclusion.

16 VICE-CHAIR FINE: Rep. Driskell, you're
17 recognized. Or do you want to wait and come
18 back?

19 There could be --

20 REPRESENTATIVE DRISKELL: Just I guess -
21 -

22 VICE-CHAIR FINE: -- a third bite of the
23 apple even. So if you don't know your question,
24 you can take a few minutes.

25 REPRESENTATIVE DRISKELL: Thank you. I

1 guess the question is, you know, it's why. I
2 mean, why are we drawing that opposite
3 conclusion?

4 VICE-CHAIR FINE: Chair Leek, you're
5 recognized.

6 CHAIRMAN LEEK: I'll kick part of this
7 over to staff, but we're drawing that opposite
8 conclusion based on the trends and the
9 performance data.

10 But if somebody wants to go through
11 those trends, I'm happy to do it.

12 VICE-CHAIR FINE: Staff Director Kelly,
13 you're recognized.

14 STAFF DIRECTOR KELLY: I'll piggyback
15 off of -- thank you, Chair. I appreciate it.

16 And thank you, other Chair, for that
17 answer. I'll piggyback off of what you were
18 saying.

19 So I can't speak to the Senate's
20 process. I want to be real clear about that.
21 The House, whether it's going through the state
22 House map, the state Senate map, or any other
23 congressional proposals that have come before us,
24 we've run independent processes. So I want to be
25 clear that we're not opining on what the Senate

1 has done or the conclusions that we've reached.

2 Whenever we analyze this district, as we
3 know, going through the subcommittee and the
4 other maps we put out, we don't feel that it's
5 performing. I think one thing that's good to
6 focus on with, you know, the primary, and again,
7 it's the same district in the secondary map for
8 this proposal as well, we've been able to bring
9 it more in alignment with where we know the
10 Senate is. I think that's important because it
11 shows that we're working towards an in-process
12 and it's also as a direct result of several
13 members' feedback actually, some that was given
14 in committee and some that have come to talk with
15 staff as well. Thank you.

16 VICE-CHAIR FINE: All right. It's going
17 to be Rep. Omphroy, and then I will come back to
18 Rep. Skidmore.

19 Rep. Omphroy, you're recognized.

20 REPRESENTATIVE OMPHROY: Thank you so
21 very much, Chair.

22 Okay. So my question this time around
23 is in regards to CD24. And I'm looking at the
24 2012 information for the black voting-age
25 population, and then I'm looking at the proposed.

1 And I'm trying to figure out why there's a 6
2 percent difference between what it was before
3 compared to what it is currently being proposed.

4 VICE-CHAIR FINE: Rep. Omphroy, could
5 you point us exactly --

6 REPRESENTATIVE OMPHROY: Sure. I'm on
7 page 3 on -- and I'm looking at --

8 VICE-CHAIR FINE: "The total registered
9 voters percentage" at the top?

10 REPRESENTATIVE OMPHROY: Yes.

11 VICE-CHAIR FINE: Okay. So what
12 exactly? Which line are you looking at and which
13 column are you looking at?

14 REPRESENTATIVE OMPHROY: So I'm looking
15 at column 2012, and it's 48.21. And then I'm
16 looking at the proposed BVAP, and it's 42.7,
17 which I'm trying to figure out why we have gone
18 down 6 percent in eight years.

19 VICE-CHAIR FINE: Okay. So thank you.
20 We see the data.

21 And Mr. Poreda, you're recognized to
22 answer that.

23 CHIEF MAP DESIGNER POREDA: Thank you.

24 Just to make sure I'm looking at the
25 right column, you're on the packet for 8017, and

1 you're on page 4. And you're looking at the --

2 REPRESENTATIVE OMPHROY: No, sorry.

3 Page 3.

4 CHIEF MAP DESIGNER POREDA: Oh, I'm
5 sorry, page 3. So page 3, and you're looking at
6 District 24, and you're looking at the black
7 column from 2012 to 2012 and wondering why there
8 was -- and here, it looks like in 2012, it was
9 48.21 percent black total registered voters, and
10 in 2020, it was 44.01 percent registered voters.
11 Am I looking at the right data points?

12 REPRESENTATIVE OMPHROY: Correct.

13 CHIEF MAP DESIGNER POREDA: Okay. So
14 that just indicates that over the course, from
15 2012 to 2020, and you look at the other data
16 points in between, there's been a steady decline
17 of the share that black total registered voters
18 are of the total electorate in that particular
19 district. So over the course of the decade, with
20 the five election cycles that we have, that black
21 population has decreased from 48 percent to 44
22 percent just naturally throughout the decade.

23 VICE-CHAIR FINE: You're recognized.

24 REPRESENTATIVE OMPHROY: Thank you for
25 the follow-up, Chair.

1 So my question is: When I look at,
2 let's say, 26 or 27 and 28, I see that we have
3 tried to intensify the Hispanic voting-age
4 population in those districts, is there a reason
5 why we didn't intensify the black voting-age
6 population in 24?

7 VICE-CHAIR FINE: You're recognized,
8 Mr. Poreda.

9 CHIEF MAP DESIGNER POREDA: I mean,
10 you're dealing with different types of
11 population, and you're just dealing with the
12 different geographies for the different
13 districts. And 24, that black population has
14 just naturally decreased over the decade, and in
15 Districts 26, 27, and 28, it's just a different
16 segment of population that you're looking at.

17 That's also why the functional analysis
18 is individual for each individual district in
19 looking at its individual functional analysis to
20 determine that. And looking here, I would say
21 looking at the Hispanic total registered voters
22 over the course of the decade in all three of
23 those districts, they, all three of them are less
24 in 2020 that they were in 2012.

25 VICE-CHAIR FINE: You're recognized.

1 REPRESENTATIVE OMPHROY: Thank you,
2 Chair.

3 I just want to say thank you.

4 VICE-CHAIR FINE: Okay. Thank you.

5 Okay. Rep. Skidmore, you are recognized
6 for your second round.

7 REPRESENTATIVE SKIDMORE: Thank you, Mr.
8 Chair.

9 And this is a question that has probably
10 been asked, and I apologize. During the period
11 of time that the maps could be under litigation,
12 do we adopt what has been proposed in the primary
13 map or secondary map in terms of what candidates
14 would be able to prepare for?

15 VICE-CHAIR FINE: Chair Leek, you're
16 recognized.

17 CHAIRMAN LEEK: I think I'm answering
18 your question, but once it's adopted, the primary
19 map becomes the map.

20 REPRESENTATIVE SKIDMORE: I'm sorry.
21 Say it again.

22 CHAIRMAN LEEK: So the primary map
23 becomes a map upon adoption. And if it's
24 challenged, it is the map that is being
25 challenged, but it is in place.

1 VICE-CHAIR FINE: And the secondary
2 map's like that backup plan if the primary map
3 gets thrown out for whatever reason.

4 REPRESENTATIVE SKIDMORE: Okay.

5 VICE-CHAIR FINE: I'm going to do a
6 third round in a minute. Let's let Rep. Skidmore
7 go ahead.

8 REPRESENTATIVE SKIDMORE: So I'm just
9 trying to sort of play out the scenario in my
10 head knowing we don't have crystal balls. I
11 don't mean to suggest that. So because we have
12 an additional congressional seat, we wouldn't be
13 able to stick with our current map while that
14 litigation is taking place. We'd have to adopt
15 either the primary or secondary.

16 VICE-CHAIR FINE: Chair Leek, you're
17 recognized.

18 CHAIRMAN LEEK: Yeah. Let me see if I
19 can explain it. So when this comes out of the
20 legislature as a bill, it will either be signed
21 or vetoed or become law without being signed,
22 that is then the adoption time that map is in
23 place unless it's overturned or replaced.

24 VICE-CHAIR FINE: And Chair Leek,
25 wouldn't it be fair to say that if we only passed

1 one map and it was litigated, same thing? It
2 would still be in place. The only difference
3 being that, if it got tossed for whatever reason,
4 there's a plan B, and the other instance, it's
5 back to the drawing board, correct?

6 Okay.

7 CHAIRMAN LEEK: Right.

8 VICE-CHAIR FINE: All right. I'll let
9 us have a third bite at the apple in a minute,
10 but I do want folks to be aware that we do have
11 two amendments to the amendment that we're going
12 to be considering. There won't be questions back
13 on it afterwards, but I just want people to know
14 from a sense of timing here that I want everybody
15 to know what's coming up. I'm happy to allow
16 more questions on the amendment if there are
17 questions.

18 Rep. Omphroy, are you ready for round
19 three?

20 All right. You're recognized.

21 REPRESENTATIVE OMPHROY: You might have
22 answered this already, Chair, but very
23 hypothetical, maps are passed out of the House,
24 they're passed out of the Senate, governor says
25 no, and he vetoes it, how does that work? And

1 has that ever happened in the history -- and this
2 is just me being completely curious.

3 VICE-CHAIR FINE: It's a process
4 question.

5 REPRESENTATIVE OMPHROY: Yeah. I'm just
6 wondering what that looks like for us as a
7 committee.

8 VICE-CHAIR FINE: Okay. So even though
9 this isn't a question relating to the bill, I
10 mean, I think it's a question relating to the
11 process. People have the right to know.

12 Staff Director Kelly, would you like to
13 talk about the process?

14 STAFF DIRECTOR KELLY: Absolutely. And
15 I don't know about the entire history of
16 Florida's redistricting, so I don't want to
17 misspeak on that. I'd say in recent history that
18 hasn't happened.

19 And so, you know, as you described, you
20 know, we'll have a congressional map that goes
21 out of the House. It'll eventually pass out of
22 the Senate. And since the congressional map is
23 formed just like any other bill or piece of
24 litigation, as opposed to the House and Senate
25 maps, it doesn't go to the Supreme Court for

1 review.

2 It will go straight through to the
3 governor, and he has three options. He has the
4 ability to veto it, the ability to sign it, or
5 the ability to allow it to pass into law. So
6 depending on what happens at that stage in the
7 game, would indicate what comes next.

8 VICE-CHAIR FINE: Did that answer your
9 question?

10 Okay. So anyone else wishing to ask any
11 more questions before we move on?

12 Yes. Representative Thompson, you're
13 recognized.

14 REPRESENTATIVE THOMPSON: Thank you,
15 Representative Fine.

16 Is the primary map that you're proposing
17 essentially the same as what the governor is
18 proposing in terms of the congressional maps?

19 VICE-CHAIR FINE: Chair Leek, even
20 though it's not a question relating to the bill,
21 you're welcome to answer that.

22 CHAIRMAN LEEK: No, it's not.

23 REPRESENTATIVE THOMPSON: Thank you.

24 VICE-CHAIR FINE: Any additional
25 questions?

1 Representative Driskell, you're
2 recognized.

3 REPRESENTATIVE DRISKELL: Thank you.

4 With this novel process that we're
5 proposing with having a primary and a secondary
6 map, there's nothing in the legislation that
7 would preclude the Court -- not saying that the
8 Court would, but if the Court decided that it
9 didn't like either map, from just tossing both of
10 them out?

11 VICE-CHAIR FINE: Chair Leek, you're
12 recognized.

13 CHAIRMAN LEEK: Yeah. This doesn't
14 restrict the authority of the Court. Right.

15 REPRESENTATIVE DRISKELL: Okay.

16 VICE-CHAIR FINE: All right. Yep.
17 Ranking Member Geller, round three.

18 CHAIRMAN LEEK: Four? No, five.

19 VICE-CHAIR FINE: I don't know. I'm
20 losing track.

21 All right. Ranking Member Geller,
22 whatever round it is, you're recognized.

23 REPRESENTATIVE GELLER: Thank you. I
24 think it's round and round to be technical.

25 But Chair, are you concerned and have

1 you considered whether the adoption of a 30-day
2 statute of limitations is not authorized in the
3 Florida Constitution Fair District Amendment?

4 VICE-CHAIR FINE: Chair Leek, you're
5 recognized.

6 CHAIRMAN LEEK: No.

7 REPRESENTATIVE GELLER: Follow-up,
8 please.

9 VICE-CHAIR FINE: You're recognized.

10 REPRESENTATIVE GELLER: Given the --
11 let's just say, does that mean that you're not
12 concerned about it or you haven't considered it,
13 which?

14 VICE-CHAIR FINE: Chair Leek, you're
15 recognized.

16 CHAIRMAN LEEK: Yeah. There's nothing
17 set forth in the Constitution that would require
18 it or disallow it.

19 REPRESENTATIVE GELLER: Follow-up,
20 please.

21 VICE-CHAIR FINE: You're recognized.

22 REPRESENTATIVE GELLER: You don't think
23 there is anything in the abruptness of that
24 30-day statute that would interfere with the
25 constitutional right of access to courts?

1 VICE-CHAIR FINE: I think that's a
2 different question than what you asked before.

3 But Chair Leek, you're recognized.

4 REPRESENTATIVE GELLER: It is a
5 different -- yes, sir. That's correct.

6 CHAIRMAN LEEK: Yeah. You're asking my
7 legal opinion, and no. I don't think it would
8 interrupt or disrupt access to court.

9 REPRESENTATIVE GELLER: Okay.

10 VICE-CHAIR FINE: You're recognized.

11 REPRESENTATIVE GELLER: Thank you.

12 Am I correct that we have been unable to
13 determine anytime in the history of this state in
14 any previous separate beasts, as you call them,
15 these individual redistricting or reapportion
16 laws, where a statute of limitations has been
17 imposed?

18 VICE-CHAIR FINE: One second. When
19 you're ready, Chair Leek, you're going to be
20 recognized.

21 Just a minute.

22 CHAIRMAN LEEK: I'm sorry. I needed a
23 little refresher. But this is very much akin to
24 the 30-day challenge to ballot language. So your
25 specific question is whether it's ever happened

1 in reapportionment or redistricting. And I
2 actually don't know the answer to that question,
3 but the 30-day challenge actually goes on each
4 time you've tried to put something on the ballot.

5 VICE-CHAIR FINE: Chair Leek, just a
6 follow-up, isn't the reason for that is the
7 timeliness because there's an election coming up?

8 CHAIRMAN LEEK: That's exactly right.
9 So the reasoning would be consistent with what we
10 have here.

11 VICE-CHAIR FINE: Ranking Member Geller,
12 you're recognized.

13 REPRESENTATIVE GELLER: Thank you,
14 Mr. Chair.

15 Given that the previous redistricting
16 and reapportionment plan adopted after the 2010
17 census and the plan that was voted in 2012,
18 including the congressional plan which was struck
19 down, did not occur until 2015, affecting
20 elections in 2016, what's the policy reason
21 behind the rush to try to compel this litigation
22 to be filed when it's manifest that if it takes
23 longer to resolve, if it's filed later, heard
24 later, tried later, ordered later, it simply
25 doesn't kick into effect until it kicks into

1 effect?

2 VICE-CHAIR FINE: Chair Leek, you can
3 answer that.

4 But my understanding is when that
5 happened, that lawsuit, by the way, was filed
6 almost immediately. They didn't even need 30
7 days. It sounds like they needed like 30
8 minutes.

9 You're recognized, Chair Leek.

10 CHAIRMAN LEEK: Thank you. Yeah. You
11 know, we're trying to give the Court every
12 opportunity to expedite resolution of any
13 litigation that happens.

14 VICE-CHAIR FINE: Okay. Any other
15 questions before we move on to the amendment to
16 the amendment?

17 Okay. Seeing none, we're going to move
18 on. You should each have yellow papers on your
19 desk. These were not distributed in advance. So
20 I am going to take up -- and they don't have
21 barcode on them, so I'm going to explain which
22 one we're going to do by basically reading the
23 amendment so you know.

24 They're both by Rep. Driskell. The one
25 we're going to do is the one that says, "Remove

1 lines 7129 to 7136 of the amendment." It's Draft
2 Request 84152. So we're going to take that
3 amendment to the amendment up.

4 Representative Driskell, you're
5 recognized to explain the amendment.

6 REPRESENTATIVE DRISKELL: Thank you,
7 Mr. Chair.

8 This amendment removes the portion --
9 the amendment to the amendment removes a portion
10 of the amendment that is imposing the 30-day
11 statute of limitations. Presently, the statute
12 of limitations for challenge to districts will be
13 four years under statute 95.11(3)(p). Moving
14 this statute of limitations from four years to 30
15 days, I believe, would be highly problematic, and
16 actually, it does nothing to help the Court
17 expedite litigation.

18 It expedites the timeframe to file
19 litigation. But in terms of the judicial economy
20 or judicial efficiency, it's not an apples-to-
21 apples comparison. So what we're trying to do is
22 make sure that we remove that to give potential
23 litigants the time that they need to review the
24 information and to file a lawsuit.

25 And while it may not be the intention, I

1 sincerely doubt it is the intention of this
2 Committee or the legislature when we vote on this
3 map to appear as though we're using procedure as
4 a weapon to stave off substantive challenges, I'm
5 concerned about the appearance of that. And I'm
6 trying to save us from that and just remove that
7 language in the amendment so that we can leave
8 things with the status quo as they've always
9 been.

10 And that is the amendment, Mr. Chair.

11 VICE-CHAIR FINE: Okay. Thank you.

12 Representative Driskell having explained
13 her amendment, members, are there questions on
14 the amendment to the amendment?

15 Representative Mariano, you're
16 recognized for a question.

17 REPRESENTATIVE MARIANO: Thank you,
18 Chair. Thank you, Representative.

19 Can you please explain why a potential
20 litigate would not be able to meet the
21 requirements within 30 days?

22 VICE-CHAIR FINE: Representative
23 Driskell, you're recognized.

24 REPRESENTATIVE DRISKELL: Absolutely.
25 And there may be a number of reasons why they

1 couldn't. For example, look at how thick this
2 packet is and thick this packet is. I mean, it's
3 a lot of data that we're considering. It takes a
4 lot of time to analyze it. It may take time to
5 develop legal theories and to make sure that the
6 lawsuit is in the posture that they want. It may
7 take time for them to do pre-suit discovery and
8 talk to people who were involved, if they can get
9 that. It may take time to go through legislative
10 records, for example.

11 So with these hearings that we've been
12 having, sometimes these committee meetings have
13 gone on hours long. And the meeting that we're
14 in right now, we've already been here for an hour
15 and 52 minutes. It takes a lot to review that
16 material. It can take a lot of time to do legal
17 research, take a lot of time to read briefs. It
18 could take a lot of time to do comparative
19 analyses under the law.

20 In other words, in sum, it could take a
21 lot of time. And I keep saying "a lot of time,"
22 and maybe I shouldn't use that descriptive. What
23 I'm just saying is that it could take more than
24 30 days. Thirty days sounds like a lot, but I
25 can tell you, as a business litigator, it's not a

1 lot of time to review an entire record and the
2 evidence that you may want to rely on in bringing
3 a case.

4 VICE-CHAIR FINE: Representative
5 Mariano, follow up.

6 REPRESENTATIVE MARIANO: Thank you.

7 And are you aware of any previous
8 challengers not filing within this deadline? How
9 quickly do they normally file?

10 VICE-CHAIR FINE: Representative
11 Driskell.

12 REPRESENTATIVE DRISKELL: You know, I
13 can't answer that for you. And to be very honest
14 with, you know, this being filed overnight and it
15 only coming to my attention this morning, on the
16 same day that we had session, I've done the best
17 that I could to try to make sure that we're not
18 wading into a situation where we could appear
19 that we want to use procedure as a way to stave
20 off litigation.

21 Listen, if we believe that our maps are
22 good and they're constitutional, we should give
23 people every right that they're afforded under
24 the law to challenge those because, hopefully,
25 and I do believe we'll come up with congressional

1 maps, this is not the way to stave off
2 litigation.

3 VICE-CHAIR FINE: Representative
4 Mariano. Good?

5 All right. Any other members wishing to
6 ask a question on this amendment to the
7 amendment?

8 Okay. Seeing none, we don't have any
9 public testimony, I don't think, on the amendment
10 to the amendment?

11 No? Okay. Seeing no public testimony,
12 members, is there anyone wishing to debate on the
13 amendment?

14 Ranking Member, you're recognized.

15 REPRESENTATIVE GELLER: Thank you,
16 Mr. Chair.

17 I support this amendment. I urge the
18 members to support it. We've only heard about
19 this idea, for one thing, since pretty late last
20 night, and 13 and a half hours in advance of our
21 meeting today. I did try to use a couple of
22 those to get a little bit of sleep.

23 I actually also think not only that it's
24 not harmful to have people file a little bit
25 later and take a little more time to be able to

1 investigate so things can go more quickly, even
2 if that means that the maps we vote might turn
3 out to be the ones that govern the elections at
4 the end of this year.

5 In fact, there was recently a decision
6 that was made in regard to Alabama, that the
7 Supreme Court, by a narrow vote, decided to leave
8 the map that had been put forth in place for the
9 moment. They said that that can be reviewed and
10 decided in the fullness of time. And perhaps
11 that's what will happen here in this state and
12 maybe it'll take more time and maybe it won't get
13 done before 2022 since I don't personally plan to
14 be that litigant. I have no idea how long they
15 might need.

16 But I'll point out one other unintended
17 consequence. If you require people to file
18 within 30 days, you're likely to force some
19 litigation that perhaps, in the fullness of time,
20 might not occur.

21 If you simply gave people enough time to
22 study all the issues, gather all the data,
23 perhaps they would find that the plan that's
24 ultimately adopted is satisfactory, that they
25 don't need to challenge it, and forcing them to

1 run down and get to the courthouse and get
2 something in before the 30 days is up might
3 actually result in unnecessary litigation, which
4 I know we would all not like to see happen.

5 So I strongly support the amendment to
6 delete the 30 days, and I urge you to vote in
7 support of it.

8 VICE-CHAIR FINE: Representative Rommel,
9 were you wishing to debate?

10 REPRESENTATIVE ROMMEL: Thank you,
11 Chair.

12 And Rep. Driskell, I understand your
13 concern in making sure possible litigants have
14 proper time to prepare for a possible lawsuit,
15 but I truly don't think it's necessary. And I
16 urge our members to vote down on this.

17 Before we even started session this
18 year, multiple groups on the outside already
19 indicated there were prepared to file lawsuits
20 before we even filed a bill. So I think 30 days
21 is more than ample time since they've already
22 threatened to file lawsuits. So please vote
23 down.

24 VICE-CHAIR FINE: Any of the members
25 wish to debate?

1 Representative Skidmore, you're
2 recognized.

3 REPRESENTATIVE SKIDMORE: Thank you, Mr.
4 Chair.

5 Because the 30 days doesn't really
6 indicate how long litigation is going to take, it
7 just really just a number picked out of the air.
8 Just filing doesn't do anything about restricting
9 how long it's going to take. So it doesn't help
10 in terms of, oh, we need to know what we're
11 doing, candidates need to know where they're
12 running, because the litigation could take, you
13 know, two, three years before it's completed. So
14 I'm not sure I really understand the purpose for
15 that.

16 And I also think one year is certainly a
17 compromise between what we understand four years
18 is what we have at the moment in terms of other
19 types of statutes of limitation. So I certainly
20 think one year is an appropriate compromise from
21 30 days giving the folks who want to be able to
22 understand all of this process.

23 And Rep. Driskell, you know, she
24 motioned to some of the things on our desks that
25 we're going through, not to mention the bill

1 itself that is sitting on the counter that has
2 repeatedly been, we've been reminded is, you
3 know, in excess of 300 pages.

4 So I certainly think one year is a
5 significant compromise, and we should definitely
6 vote up on this amendment.

7 VICE-CHAIR FINE: Representative
8 Goff-Marcil, you are recognized.

9 REPRESENTATIVE GOFF-MARCIL: Thank you,
10 Chair.

11 I need to reiterate as well, because
12 going from four years to 30 days, that's enough
13 of a red flag to have people file a lawsuit just
14 from that. So I definitely think that this is a
15 great amendment, and we should vote up on it.

16 VICE-CHAIR FINE: Yes. Representative
17 Thompson, you are recognized.

18 REPRESENTATIVE THOMPSON: Thank you,
19 Representative Fine.

20 I just want to point out that in 2012,
21 there was a challenge to the State Senate maps,
22 not to the House but to the Senate that certainly
23 took considerably more than 30 days. So I wanted
24 to point that out and ask for your support of
25 Representative Driskell's very good amendment.

1 VICE-CHAIR FINE: And not to -- just
2 that challenge, while it took a long time, it was
3 filed within 30 days. It was filed, my
4 understanding is within 30 minutes. So just so
5 folks understand.

6 Any other members wishing to speak in in
7 debate? Anyone else?

8 Representative Leek, you are recognized.
9 Chair Leek.

10 CHAIRMAN LEEK: Thank you. I appreciate
11 it. And listen, the first lawsuit, 2012, was
12 filed within the first hour of the maps. We need
13 to disabuse ourselves of the fantasy that these
14 lawsuits aren't already prepared and weren't
15 started before we got census data.

16 Any serious challenge to the maps can
17 easily be achieved within the first 30 days, and
18 we can start the clock running to get the Court
19 to expedite the case and give some finality to
20 our voters. That's the purpose of the 30 days.
21 I urge you to vote this amendment down.

22 VICE-CHAIR FINE: Before I recognize
23 Representative Driskell to close on her
24 amendment, look, I would add to what Chair Leek
25 said. There's a compelling public policy

1 interest for this to be done quickly. And
2 anyone, frankly, who has concerns with the maps
3 and who wishes to sue, if they don't sue fast,
4 they're not all that concerned because we have an
5 election very soon.

6 Let's just hypothetically play this out.
7 If the governor were to sign this, we get this
8 done over the next couple of weeks, governor
9 signs that by the end of March, you know,
10 qualifying is two months later. The primary is
11 four months later.

12 So voters have a right, we have an
13 obligation to help our voters have some funding
14 to vote on. And frankly, if people think those
15 districts are wrong, then they owe it to those
16 voters to do it fast to try to change it before
17 the election.

18 If they're going to drag it out, then
19 they're actually hurting the same people that
20 they claim to want to help.

21 With that, Representative Driskell,
22 you're recognized to close on your amendment.

23 REPRESENTATIVE DRISKELL: Thank you, Mr.
24 Chair, and thank you, members, for the robust
25 conversation around this.

1 I suppose what I would say is a few
2 points. The first is that the measure of concern
3 that a member of the public or group may have
4 about the constitutionality of the maps is not a
5 perfect measure for how quickly that lawsuit
6 should be filed.

7 I think that the rules of civil
8 procedure are enacted to provide guardrails and
9 make sure that litigation has a cognizable basis
10 and that a lawsuit is reasonable when it is
11 brought. It doesn't track or comport to say I
12 really don't like this map, I really want to
13 bring this lawsuit, and slap something together
14 within 30 days. No. You want to take your time
15 and make sure that you get it right.

16 Second, there was a lot of comment about
17 groups that have made statements in the public.
18 I don't know what all groups have done that, but
19 it sounds like there's been some conversation
20 today that there are groups that have made
21 comments around wanting to sue. Well, that's
22 great. And it sounds to me -- I mean, I don't
23 want to say that's great. I'm just like, well,
24 you know, whatever, that they did that. But my
25 suspicion is that any group that would say that

1 might have more resources than just say like an
2 average citizen who wanted to bring a lawsuit.
3 We keep talking a lot about groups.

4 But this is a statute of limitations
5 that would govern everybody. And so you think
6 about the members of the public who have been
7 doing their best to track the process, to use the
8 website to submit their maps, and you think about
9 what resources they may have. They may not have
10 the resources to retain counsel or, you know, to
11 mount a large challenge, but they certainly would
12 have standing to bring a challenge if they wanted
13 to. And 30 days is far too short a time for
14 something that this important.

15 And the third thing that I would
16 mention. I really don't understand the arguments
17 that are being made. To me, it's just a red
18 herring around wanting to have the Court resolve
19 these issues as quickly as possible.

20 I've yet to see in any of the
21 jurisprudence that I've read around
22 redistricting, the Court saying that it hasn't
23 had sufficient time, or if only these lawsuits
24 had been brought sooner, they could have done
25 their job better. This has nothing to do with

1 the Court's ability to do its job. What we're
2 talking about is on the front end, giving
3 litigants the time, potential litigants the time
4 that they would need to bring an effective
5 lawsuit.

6 And if we think that these maps are
7 constitutional, if we believe in our work, and I
8 believe that through this process, we will be
9 able to get to a place where we can all stand
10 behind our work, then we should stand behind our
11 work and not use a procedural and, frankly,
12 arbitrary deadline that is removing it from four
13 years, 48 months. If my math is right, Randy's
14 probably better, Chair Fine's better at math
15 tonight than I am. He always says. Forty-eight
16 months down to one month to do it.

17 We're using procedure as a weapon and
18 it's wrong. We're using procedure as a weapon to
19 stave off substantive challenges and that is
20 wrong. That's why I brought the amendment. You
21 know, I regret that there was not enough time to
22 talk to the Chair about it. It all kind of came
23 together pretty fast this morning. But that's
24 the intention of the amendment because I do not
25 believe that it would be the intention of this

1 Committee or the legislative body to not stand
2 behind its work product. So please vote up on
3 the amendment.

4 VICE-CHAIR FINE: Having closed on the
5 amendment, members will vote on the amendment
6 now. All in favor say yea.

7 MULTIPLE SPEAKERS: Yea.

8 VICE-CHAIR FINE: All opposed, nay.

9 MULTIPLE SPEAKERS: Nay.

10 VICE-CHAIR FINE: Show the amendment
11 failed.

12 Okay. We're now going to move on to our
13 second amendment. Again, you should have the
14 yellow piece of paper in front of you. At the
15 bottom, it says Draft Request 84153. And just so
16 you know, we're talking about the amendment
17 having three lines in it. They're on line 7, 8,
18 and 9. So that's the amendment.

19 Representative Driskell, you are
20 recognized to explain the amendment.

21 REPRESENTATIVE DRISKELL: Thank you, Mr.
22 Chair.

23 So this amendment, rather than maintain
24 the status quo, which would be four years under
25 statutes, would bring it to one year. Although

1 one year is only 25 percent of the current
2 statute of limitations, at least it's longer than
3 30 days, and I think it would be a reasonable
4 compromise to require litigants to bring a
5 lawsuit within one year. And that is the
6 amendment to the amendment.

7 VICE-CHAIR FINE: Okay. Thank you. And
8 that math is correct.

9 Members, are there any questions on the
10 amendment?

11 All right. Seeing no questions. We
12 don't have any public comment on this amendment
13 to the amendment. Members, is there anyone
14 wishing to debate on the amendment?

15 Yes. Representative Goff-Marcil, you
16 are recognized.

17 REPRESENTATIVE GOFF-MARCIL: Thank you,
18 Mr. Chair. And thank you for this really good
19 amendment. I think the other amendment was
20 better than this amendment that this amendment,
21 but this seems like a compromise.

22 I feel when we go from 48 months to 30
23 days, that just seems -- we're starting to go
24 into violating notice and due process of law,
25 which is very concerning. And again, there will

1 be a lot of red flags going up on that.

2 But going from 48 months to 12 months,
3 is a very good compromise. And as Representative
4 Driskell said, if these maps are fine, this is
5 all a moot point because it doesn't matter how
6 many lawsuits are out there or are brought up,
7 they would have to be successful to overturn the
8 map. And these are congressional maps, and
9 they're constitutional maps, then there's not a
10 problem. So please accept this, vote up on this
11 amendment.

12 VICE-CHAIR FINE: Any other members
13 wishing to debate on this amendment to the
14 amendment? Okay.

15 Oh, yes. Representative Leek you're
16 recognized.

17 CHAIRMAN LEEK: Thank you. Members, I
18 urge you to vote down on this. And if you think
19 about what you're asking, right, you're asking
20 for someone to initiate a challenge. Not the
21 conclusion. This 30-day statute of limitations
22 doesn't require the Court to rush, doesn't
23 require the Court to conclude it within 30 days.
24 But you're telling the world that you can file a
25 lawsuit three months after we've elected a member

1 into one of the districts.

2 I mean, that just does not make any
3 sense. All this requires is that you initiate
4 the lawsuit within the 30 days. I urge you to
5 vote down on this.

6 VICE-CHAIR FINE: Seeing no additional
7 debate, Representative Driskell, you are
8 recognized to close.

9 REPRESENTATIVE DRISKELL: Thank you, Mr.
10 Chair.

11 I'm having a hard time with this one
12 because we already have process and procedure in
13 place for if the maps get challenged. We just
14 move forward with the maps that we passed. Why
15 do we do that? Because we believe in the maps
16 that we passed. And that's the process that's
17 allowed.

18 The process is the process. I know
19 we've wanted this process to be very
20 collaborative. This is a change that I was
21 surprised to see. Maybe with some further
22 conversation, we can talk about a compromised
23 position as these head to the floor, because
24 moving it from four years to 30 days, it's quite
25 drastic. And I don't think that this is an

1 invitation to litigation in any way. It's not an
2 invitation. We're not asking people to sue us.

3 I'm sure the Committee would prefer that
4 they didn't and that they, you know, like our
5 work product. But that's not what statute of
6 limitations are for. Statute of limitations are
7 to recognize, with a sense of equity and fairness
8 and justice under the law, that you cannot
9 restrict people's access to the Court. And part
10 of access to the Court is providing a reasonable
11 amount of time for people to bring a lawsuit.

12 We have statutes of limitations for like
13 everything under the law, whether it's a wrongful
14 death suit, you know, whether it's an action in
15 tort, an action in contract, if it's not clear
16 what it is, you've got latches, you got all sorts
17 of things to make sure that people have the
18 access that they need.

19 And I'm here to tell you that this looks
20 like we're weaponizing procedure to cut off
21 substantive challenges to the map. And I don't
22 think that's right. And so this is a compromise
23 position to try and do this within one year,
24 which frankly, probably also is still too short,
25 but at least we're trying to work with what's

1 been proposed by the Committee staff and by the
2 Chair and try to reach a compromise position.

3 And if the amendment is voted down
4 today, I do hope that maybe we can continue
5 conversations and see what a compromise position
6 might be. With that, I asked you to vote up on
7 this amendment to the amendment. Thanks.

8 VICE-CHAIR FINE: Representative
9 Driskell having closed on her amendment, all in
10 favor say yea.

11 MULTIPLE SPEAKERS: Yea.

12 VICE-CHAIR FINE: All opposed, nay.

13 MULTIPLE SPEAKERS: Nay.

14 VICE-CHAIR FINE: Show the amendment
15 failed.

16 Okay. That concludes both of our
17 amendments to the amendment. So we will now
18 return to the original amendment that has been
19 unchanged. We're now at the point in the process
20 where we would do public testimony.

21 We do have one public testimony card on
22 this amendment. It is Cecile Scoon, with the
23 League of Women Voters of Florida who wishes to
24 speak for information only.

25 MS. SCOON: Thank you for this

1 opportunity. Cecile Scoon, president of the
2 League of Women Voters of Florida. And I've been
3 listening. It's been a very interesting debate
4 and a lot of information without a whole lot of
5 time to absorb it. The league would say that we
6 would like this body to exercise caution with
7 regards to the primary map that has been
8 presented with the change in the voting-age
9 population of the black population.

10 As Chair Leek indicated, it is not a
11 de minimis change. He indicated it was
12 substantial and when asked, readily admitted, he
13 didn't know for sure if a court or anybody would
14 say it was constitutional or not because it's
15 kind of a new concept to present two maps in this
16 way.

17 And the concern that we have is, when
18 you all were presenting your prior map, I believe
19 on Friday, there was only one real force against
20 your map at that time, a strong force, and that
21 was the governor's office and his representative,
22 Mr. Popper, came and spoke before you. And of
23 course, we know that the governor had presented a
24 map that diminished the voting strength of
25 African Americans by two districts.

1 And so to have this map here now before
2 us, that is the only entity that we know that was
3 pushing in that direction was the governor who
4 has indicated that his desire was to limit
5 access, it is concerning that anything would
6 change that may be possibly go in that direction.

7 So I think that -- just ask everyone to
8 be very cautious about this move. Your analysis
9 from Friday, I think was interesting and strong.
10 And you asked a lot of really good questions of
11 Mr. Popper. He had no case law to support what
12 he was advising you to do.

13 So I would just ask you to be cautious
14 in adhering in any way to the guidance from that
15 direction from Mr. Popper and his efforts, when
16 he could not cite any case law to support his
17 position and actions. So we'll just leave it
18 there.

19 There's not a lot of time to do the deep
20 analysis that we would normally like to, you
21 know, work on, and we know that everybody's
22 working as hard as they can. But we just asked
23 you to be very cautious in this move. Thank you.

24 VICE-CHAIR FINE: Thank you for your
25 testimony. I would note, however --

1 We're good. You're welcome.

2 I would note, however, most of us aren't
3 on the committee last Friday. And while we said
4 there was one, you said there's only one strong
5 force against what was presented Friday, it was
6 my understanding that every single democratic
7 member of the Committee voted against it. So I
8 don't know that it's very respectful of them to
9 say they're not a strong force because it didn't
10 pass unanimously.

11 Ranking Member Geller.

12 REPRESENTATIVE GELLER: I had a question
13 if Ms. Scoon would entertain one.

14 VICE-CHAIR FINE: That's fine. You're
15 welcome to come back up.

16 MS. SCOON: Absolutely. And
17 Representative Fine, I was referring to
18 District 5 with regards to that part of the map.
19 Just to clarify for you. Thank you.

20 Yes, sir.

21 REPRESENTATIVE GELLER: Thank you,
22 Mr. Chair.

23 Ms. Scoon, I understand they haven't
24 been out very long and we're all in the same
25 boat. But so far, has your organization been

1 able to develop any analysis as to whether or not
2 the proposed primary map with an all in Duval
3 County purported minority district to elect
4 representatives of the Community's own choice is
5 constitutionally compliant or whether conversely,
6 it constitutes diminishment, dilution, or
7 backsliding?

8 MS. SKOON: No, we have not had that
9 opportunity.

10 VICE-CHAIR FINE: Thank you. Okay.

11 Seeing that, we're going to move on to
12 debate on the amendment. We will obviously still
13 have debate on the bill as amended, assuming it
14 is amended.

15 Members, is there anyone wishing to
16 debate on Chair Leek's amendment?

17 Okay. Well, seeing none, Chair Leek --
18 oh. Okay.

19 Ranking Member Geller, you are
20 recognized to debate on the amendment.

21 REPRESENTATIVE GELLER: Thank you.

22 I don't believe that the change in the
23 proposed minority district contained wholly
24 within Duval County is constitutionally compliant
25 in that I think that it represents a substantial

1 dilution or diminishment of the minorities'
2 ability to elect representatives of that
3 community's own choice. In that sense, I believe
4 that proposed map is constitutionally deficient.

5 I understand there have been concerns
6 raised about compactness. Compactness is a
7 tier 2 standard. Tier-two standards are not
8 supposed to imperil tier 1 standards.

9 This is a protected district or ought to
10 be a benchmark district. The proposed dilution
11 of having that district entirely within Duval
12 County, which is a substantial numerical
13 dilution, is not, in my opinion, satisfied by
14 reliance on trends, especially where we've not
15 been able to see that analysis, the work of
16 outside counsel, or any of what the consulting
17 expert may have determined.

18 The notion that that map is
19 constitutionally compliant is belied by the very
20 fact that there is a so-called secondary map in
21 an effort to assure constitutional compliance.
22 If there was confidence that the proposed
23 district in Duval County was constitutionally
24 compliant, we would not have a secondary map or a
25 need for a secondary map. And it is therefore

1 apparent that even the proponents of that map
2 have no confidence in it as being
3 constitutionally compliant.

4 It may, in fact, be a novel legal
5 theory, or it may be simply a blatantly
6 unconstitutional violation of all the
7 jurisprudence we have seen under Voting Rights
8 Act cases and the precedent set when this map
9 was, in fact, drawn only a few years ago by the
10 same courts that we're now saying, well, who
11 knows what they'll do.

12 If it was as unconstitutional as we've
13 been led to believe, why did the Court draw it?
14 At the conclusion of that, I also think the
15 process of a primary and secondary is improper.
16 I think it violates the single-subject rule, and
17 I think it is a terrible precedent for us to set.

18 Can you imagine applying that precedent
19 to every law, that this body votes? We're going
20 to have a new law. We don't know if it's legal,
21 but we're going to have a new law. And in case
22 it turns out it's not legal, we'll have a
23 different law.

24 What if we did that on everything? I
25 don't think it's the right approach. I have

1 serious questions as to whether it's authorized
2 by law, and it is, in fact, the culmination of a
3 process that has left minority members of this
4 Committee seriously in the dark.

5 It is the culmination of a process that
6 has seen our lawyers and our experts working for
7 our House produce information and analyses and
8 opinions which are not shared with us, though
9 they are paid for by the taxpayers of Florida,
10 whom the minority members of this Committee
11 represent, as well as the majority members of the
12 Committee.

13 This primary secondary approach is
14 flawed. Perhaps the secondary map, if adopted,
15 with some tweaks that have been put on it, would
16 be something there that an agreement could be
17 reached with the Senate. I can't say that that
18 map would be constitutionally compliant based on
19 the fact that I haven't seen all of the data I
20 would need to look at, apparently based on some
21 incorrect assumption that I said I personally was
22 going to sue the House, which I have no intention
23 of doing it this time.

24 But regardless of whether I have the
25 information to determine if that secondary map is

1 or is not constitutionally compliant, I think it
2 is abundantly clear that that so-called primary
3 map is not constitutionally compliant.

4 And again, if the people voting it in
5 thought it was, we would not have a secondary
6 map. So I oppose this amendment. And I would
7 ask, respectfully, that the Chair and the
8 majority party members of the Committee make a
9 choice. Pick a map that you think will survive
10 constitutional review and pass that map because
11 this primary/secondary approach unprecedented in
12 the history of our state is wrongheaded, bad
13 precedent, and in my opinion, unconstitutional.

14 Vote down on this proposed amendment and
15 make a choice as to what you think is
16 constitutional. Thank you.

17 VICE-CHAIR FINE: Any other members
18 wishing to speak in debate?

19 Yes, Representative Sirois, you are
20 recognized.

21 REPRESENTATIVE SIROIS: Thank you very
22 much, Mr. Chairman.

23 And you know, as I'm sitting here
24 listening to these comments and I hear that, you
25 know, the amendment before us is improper, I look

1 at it and find it to be prudent and reasonable
2 given the circumstances ahead of us.

3 This amendment, I think, is making the
4 best decision that we can with the information
5 that we have in front of us in our awareness of
6 the timetable moving forward. We also have an
7 election cycle ahead of us. And I think that
8 Floridians deserve some clarity in terms of
9 district boundaries.

10 I think candidates deserve some clarity
11 in terms of qualifying. You know, so I think
12 that this is a good step for us to take to kind
13 of lay the groundwork but also recognize the time
14 constraints that exist as we approach the end of
15 session.

16 You know, we also have a Senate that we
17 have to work with, and obviously, take into
18 consideration their views on these matters. The
19 governor has proposed a novel legal theory that,
20 you know, remains somewhat of an open question
21 for us moving forward. So I think that the
22 amendment, you know, takes all of that
23 wholistically into account and puts us in a good
24 position to proceed.

25 The other thing that I feel compelled to

1 talk a little bit about, because with all due
2 respect, Ranking Member, you know, I think this
3 suggests that this hasn't been an effort where
4 there's been collaboration and communication
5 among members. That's not been my experience.

6 And I think as Chair Leek indicated in
7 his comments at the start of our Committee
8 meeting, both of us have been open and receptive
9 to feedback from members, perspectives,
10 experiences that members have in their own
11 communities and neighborhoods that they're
12 bringing to the table. And I think that there's
13 a lot in this map, in the amendment that we can
14 all be very proud of in terms of member input and
15 a collaborative effort towards, you know, a final
16 product.

17 And I've been a participant in those
18 meetings around the Capitol with many of you and
19 members not on this Committee, and I think those
20 conversations have been very productive and
21 helpful and have resulted in the amendment, the
22 maps that are before us today.

23 So I encourage members to be proud of
24 this work product to vote up on this amendment,
25 and I appreciate the continued conversation.

1 VICE-CHAIR FINE: Any other members
2 wishing to speak in debate?

3 Before I give it to Chair Leek to close,
4 a couple of comments of my own. I want to reject
5 a couple of the comments that were made, because
6 I don't think they're accurate, relating to the
7 process.

8 The notion of the secondary map,
9 frankly, is probably a good idea that might have
10 been done before, because I would note that, even
11 if what we're proposing is a secondary map or the
12 primary map, there are folks who have said they
13 would litigate against it. And so the notion
14 that was put forth as though like the second map
15 is like the safety school, if you think about
16 college admissions, that you know you're going to
17 get into if you don't get into your stretch
18 school, I think is a false analysis.

19 I mean, frankly, there's no guarantee
20 because there are folks who take issue with that
21 map as well. So the notion is it's a guaranteed
22 backup. And so if we were so confident about it,
23 why wouldn't we put that out as the only map I
24 think is false equivalence.

25 Again, there are folks who have

1 legitimate concerns about that map. And I think
2 the notion, you know, that the governor's
3 argument is going to be so easily dismissed, I
4 think there's a lot of reason to support that.

5 The other thing I would note is this
6 notion of "what if's." I'd like to remind folks
7 that a number of months ago, we did something
8 exactly like this in what is one of our other
9 most significant things we will work on the
10 legislature because of the time horizon. When we
11 passed the Seminole Compact, which had a 30-year
12 time horizon, this is a 10-year time horizon, we
13 all knew that there was a risk in the compact.
14 And so we put in that compact, distinct
15 severability that said, if X is found illegal by
16 the courts, the rest of it can still exist.

17 Now, unfortunately, the Biden
18 administration did not share that information
19 with the courts, and so we are in a different
20 place than we expected to be. But all of us who
21 voted for that compact explicitly voted for
22 something that included severability and a backup
23 plan if there was an issue with the Court. So
24 something we actually all thought was a good idea
25 just a few months ago, and I think this builds on

1 that here as well.

2 With that, Representative Leek, you are
3 recognized to close.

4 CHAIRMAN LEEK: Thank you. Very well
5 said. And in fact, good enough I don't think I
6 need to add any more of the substantive arguments
7 here.

8 But what I do want to tell you is where
9 we are procedurally. This, much like a budget,
10 even though we pass a budget out of a committee,
11 then it goes on to the floor, we pass it on the
12 Committee then goes to conference, and the budget
13 that you end up eventually may not resemble
14 entirely the budget that you passed out of the
15 committee. That's where we are today.

16 So what we're doing is we're putting
17 this in a posture to move on to the next step.
18 The next step for us will be the floor, and then
19 potentially it's in conference and then
20 potentially, to the governor's office. So that's
21 what we're doing today. I urge you to vote up on
22 this amendment. Let's keep us moving. Our
23 timeline is getting shorter, so we need to get
24 this thing moving and out of Committee now. And
25 with that I close.

1 VICE-CHAIR FINE: Having closed on the
2 amendment, all in favor of this amendment say
3 yea.

4 MULTIPLE SPEAKERS: Yea.

5 VICE-CHAIR FINE: Opposed nay?

6 MULTIPLE SPEAKERS: Nay.

7 VICE-CHAIR FINE: Show the amendment
8 adopted.

9 All right. Members, we are on the bill
10 as amended. Are there any questions on the bill
11 as amended? There shouldn't be because it's the
12 same thing we just talked about.

13 All right. Seeing none, we're going to
14 move on to public testimony on the bill as
15 amended. We do have two appearance forms.

16 The first is Jerry Nolan, who's
17 representing himself as an individual citizen and
18 voter. Multiple titles. Are you here,
19 Mr. Nolan?

20 He is not here, but he is a proponent.

21 And our second speaker is Lashonda
22 Holloway, who is representing, I think herself.
23 Is she here?

24 Okay. And she is also a proponent of
25 the bill. All right.

1 Unless there's anybody else, public
2 testimony? All right. Seeing none, members, are
3 there any members wishing to debate?

4 Yes. Representative Skidmore, you're
5 recognized in debate.

6 REPRESENTATIVE SKIDMORE: Thank you, Mr.
7 Chair.

8 And as a member of the Congressional
9 Redistricting Subcommittee, I was encouraged by
10 our meeting last week and encouraged by the
11 individual meetings that Chair Sirois has
12 acknowledged. So this big change overnight has
13 me, you know, a little caught off guard a little
14 bit. And I do have some major concerns with a
15 couple of things. Not as many as maybe Ranking
16 Member Geller, but a couple of things.

17 I am very concerned about the primary
18 map District 5 because it does seem to me, based
19 on language that the House actually used, that it
20 does reflect diminishment. And I recognize that
21 the secondary map is there in case the Court does
22 rule that way. But to me, I feel like we should
23 have just gone forward with the secondary map.
24 And I really reject the governor's interference
25 in our legislative process. I think it's wrong.

1 He gets to, you know, to veto or approve
2 the maps that we create. He has no authority
3 here. And I'm kind of disappointed that our
4 House acquiesced based on testimony that was
5 given that really did not have a lot of substance
6 behind it.

7 I also think 30 days is an inappropriate
8 maneuver, and it's a false narrative that that 30
9 days would somehow compel the Court to rule more
10 quickly or sooner rather than later, in any
11 litigation that was brought forward. And I also
12 believe that the work product that's created by
13 the general counsel and Mr. Alford, the expert
14 consultant, is mine. I am the client. We are
15 all the client. And I truly believe that.

16 And I don't see any reason why that
17 information has been withheld from us, so that we
18 can understand this map better and be more
19 collaborative partners so that we understand some
20 of the analysis, some of the things threshold
21 data that we don't have and we don't know how to
22 analyze.

23 So I think there are some flaws here,
24 and I won't be able to vote for it. I still have
25 high hopes at the end of the day, with our Senate

1 partners, we're going to get somewhere that we
2 all agree on. And I think we all want to do
3 that. And so that is the direction I will
4 continue to move in.

5 But for today, I will not be able to
6 support the bill as amended. Thank you.

7 VICE-CHAIR FINE: Representative
8 Robinson, you're recognized in debate.

9 REPRESENTATIVE ROBINSON: Thank you, Mr.
10 Chair.

11 Look, our Committee has met six or seven
12 times this session. We've done a lot of
13 different things, whether it's education or our
14 workshop maps, and I'm very proud of what we've
15 done over the past several weeks. But frankly,
16 we only have one charge, and that's to produce a
17 legally compliant map to the full vote by the
18 House.

19 And to me what we're doing today, while
20 being unique, I frankly, don't think it's
21 terribly unique. As Chair Fine mentioned, we do
22 severability stuff all the time here, and so I
23 have no problem changing our goal from a legally
24 compliant map to a legally compliant product,
25 which is exactly what we're doing here.

1 And to me, we accomplished our primary
2 goal, which is to produce a legally compliant
3 product to the full House for consideration. And
4 look, this product is closer to our Senate
5 colleagues. So that's very good. And frankly,
6 to me, the voters and the candidates in these
7 congressional districts deserve some certainty
8 and deserve us to do this work to move it
9 forward, to give them all certainty.

10 So I'm very pleased with what we've
11 done, and I look forward to voting on this
12 product. Thank you.

13 VICE-CHAIR FINE: Ranking Member Geller,
14 you are recognized.

15 REPRESENTATIVE GELLER: I won't waste my
16 colleagues' time with a repetition of what I've
17 already said. I just ask that for the record my
18 comments against the amendment be considered
19 against the bill as amended. Thank you.

20 VICE-CHAIR FINE: Representative Tuck,
21 you are recognized.

22 REPRESENTATIVE TUCK: Thank you,
23 Mr. Chair.

24 And members, I think we need to keep in
25 mind here that every redistricting cycle was very

1 different, very unique. I had the privilege to
2 sit on both the congressional and this Committee
3 as well. And it's been incredible to see the
4 input from members from the public, from
5 everybody to get it in a posture to what we see
6 today. And I want to commend staff and everybody
7 involved for that.

8 I think the changes that we see here are
9 a great effort to make sure that members, all
10 members have the opportunity to participate in
11 the entire process in a meaningful way while
12 still bringing a constitutionally compliant
13 product in for a landing during our regular
14 session. So with that, I would encourage
15 everyone to vote up on this great change to this
16 map. Thank you.

17 VICE-CHAIR FINE: Okay. Representative
18 Driskell, you are recognized.

19 Yep, Representative Driskell.

20 REPRESENTATIVE DRISKELL: Thank you,
21 Chair.

22 So just a few things I'm not sure had
23 been raised and just wanted to make sure that
24 they were covered. When it comes to CD10, I
25 don't think we're there yet. The Senate

1 recognizes that as a protected district, the
2 House does not. I have concerns around that. As
3 Rep. Skidmore pointed out, and as I attempted to
4 correct in my amendments to the amendments, 30
5 days is not a lot of time. It's not sufficient
6 time for litigation to be brought. I'm concerned
7 about us shortening that statute of limitations.

8 And then the third point that I wanted
9 to make was around CD5. I have real concerns
10 about how it's drawn in the primary map. And
11 while it's capable of -- it appears under this
12 analysis of being drawn wholly within Duval
13 County, you know, I think about those voters in
14 Tallahassee and Gadsden and other places who
15 would be perhaps losing their ability to elect
16 the candidate of their choice.

17 And so, for those reasons, I'll have to
18 be down. You know, I would echo that I
19 appreciate the staff for taking time to meet and
20 try to help answer some of my questions about
21 this process. And I think that's a good thing.
22 I think we're headed on the right track in terms
23 of having this be a collaborative process. And I
24 remain optimistic that we can get there.

25 But we have some work to do. We have

1 some real work to do around CD5, around CD10.
2 And you know, just to echo Rep. Skidmore and Rep.
3 Geller's comments, you know, I hope we can
4 continue this conversation around legal counsel
5 because I was personally not satisfied with the
6 rationale that I heard today for why, as members
7 of the House, we aren't all able to have access
8 to that counsel.

9 And if it's the situation where, you
10 know, we can't have access to that counsel, then
11 could resources be made available to provide
12 counsel for those who of us who would appreciate
13 the opportunity to talk to counsel in this
14 process? So thank you. And for those reasons,
15 I'll be down today.

16 VICE-CHAIR FINE: Additional debate?

17 Representative Byrd, you are recognized
18 in debate.

19 REPRESENTATIVE BYRD: Thank you,
20 Chairman Fine.

21 A decade ago when litigation arose over
22 redistricting, Congresswoman Corrine Brown said
23 redistricting makes strange bedfellows, and it
24 certainly does because, while I'm going to join
25 Representative Geller in opposing the bill under

1 constitutional grounds, I'm going to do so for
2 very different reasons.

3 And I'm sure it's no surprise to any of
4 you that I'm going to focus my comments on the
5 concept of the constitutionality of what we're
6 about to do.

7 So I think it's a necessary to
8 understand the legal landscape, which includes
9 the Federal Constitution, the Federal Voting
10 Rights Act, and the rules contained in
11 Article III, Section 20 of the Florida
12 Constitution.

13 Since 1993, the Supreme Court has held,
14 under the equal protection clause and the 15th
15 Amendment to the Constitution, that states are
16 prohibited from using race as a predominant
17 factor in drawing district lines unless the state
18 can show a compelling state interest and that its
19 reason for doing so are narrowly tailored to
20 pursue that compelling state interest. This is
21 the strict scrutiny test, and outside of
22 redistricting litigation, states are almost never
23 able to meet it.

24 There's been some discussion about what
25 the Supreme Court of Florida did back in 2015.

1 But redistricting cases continue to evolve. And
2 I want to look at three cases that have come out
3 from the United States Supreme Court. Cooper v.
4 Harris in 2017, Bethune-Hill v. Virginia State
5 Board of Education in 2017, and Abbott v. Perez
6 in 2018.

7 Cooper struck down racial gerrymanders
8 designed to create majority-minority House
9 districts in North Carolina. So I want to read
10 from the Cooper case, and once again, this is
11 2017. Supreme Court of Florida case in the last
12 redistricting round was 2015.

13 And this opinion was delivered by
14 Justice Kagan she wrote the majority opinion for
15 the Court. She says, "The Constitution trusts
16 states with the job of designing congressional
17 districts, but it also imposes an important
18 constraint. A state may not use race as the
19 predominant factor in drawing district lines
20 unless it has a compelling reason. The Equal
21 Protection Clause of the 14th Amendment limits
22 racial gerrymanders and legislative redistricting
23 plans. It prevents a state in the absence of
24 'sufficient justification' from separating its
25 citizens into different voting districts based on

1 race.

2 "First, the plaintiff must prove that
3 race was the predominant factor motivating the
4 legislature's decision to place a significant
5 number of voters within or without a particular
6 district. That entails demonstrating that the
7 legislature subordinated other factors.
8 Compactness, respect for political subdivisions,
9 partisan advantage, as have you, to racial
10 considerations. The plaintiff may make the
11 required showing through direct evidence of
12 legislative intent, circumstantial evidence of a
13 district shape and demographics, or a mix of
14 both.

15 "Second, if racial considerations
16 predominated over others, the design of the
17 district must withstand strict scrutiny. The
18 burden now shifts to the state to prove that its
19 race-based sorting of voters serves a
20 'compelling interest' and is narrowly tailored to
21 that end. This Court has long assumed" -- again
22 assumed not required -- "that one compelling
23 interest is complying with operative provisions
24 of the Voting Rights Act of 1965.

25 "So how do racial gerrymanders survive

1 such strict scrutiny? Supreme Court has assumed
2 the Voting Rights Act sometimes requires drawing
3 racial gerrymanders and, therefore, states have a
4 compelling interest in complying with federal law
5 that is itself an exercise of Congress's power to
6 enforce the 14th and 15th amendments.

7 "A state doesn't have to prove that its
8 racial gerrymander was literally required by the
9 VRA, only that the state had good reasons or a
10 strong basis to believe that it needed to
11 discriminate on the basis of race and drawing
12 district lines in order to create a VRA district.

13 "The state then must meet the narrow
14 tailoring requirement, it must show that the
15 actual district doesn't go too far in packing
16 disparate voters into a district just because
17 they are black. States are more commonly faulted
18 for excessive packing than for the creation of
19 such districts in the first place."

20 So now, I want to focus a little bit on
21 the secondary map, which was the primary map
22 before the amendment. And I think that's where
23 some of the disagreement begins because we
24 assume, and I understand why there's the illegal
25 assumption that that map is the benchmark map,

1 because it is the one that the Supreme Court of
2 Florida approved last redistricting cycle.

3 But I want to read from Justice
4 Polston's dissenting opinion. And in the 2015,
5 Florida Supreme Court case, he said -- and this
6 is under our current map, which is the same or
7 essentially the same as the secondary map. And
8 this is so this is concerning the district that
9 runs from Jacksonville, west of Tallahassee.

10 This is what Justice Polson said. "This
11 is a court adopted map, not a legislative-drawn
12 map. The map the trial court recommended and the
13 majority adopts was drawn by a democratic
14 consulting firm, a firm that has performed
15 mapping and data analysis for numerous democratic
16 candidates and causes.

17 "It traditionally adopts a remedial plan
18 drawn entirely by Democrat operatives.
19 Plaintiffs even stated in oral argument, and the
20 majority opinion agrees, that if the remedial
21 plan had been drawn by the Democratic National
22 Committee itself, the outcome would be the same.
23 Not only is this ironic, it is an
24 unconstitutional violation of the Fair District's
25 amendments in the separation of powers."

1 And Justice Polston, therefore,
2 dissented. I think it's important to put that in
3 the proper context.

4 It's also important to note that we've
5 talked a little bit when we were going through
6 the historical analysis, the Shelby County
7 opinion, which struck down the pre-clearance
8 requirements under the Voting Rights Act. Fair
9 District amendments were passed prior to the
10 United States Supreme Court's opinion in Shelby,
11 and that's important for this reason.

12 So in addition to the federal law, there
13 is the Florida rule that districts shall not be
14 drawn with the intended result of denying or
15 abridging the equal opportunity of racial or
16 language minorities to participate in the
17 political process or to diminish their ability to
18 elect representatives of their choice and
19 district shall consist of contiguous territory.

20 The requirements of compactness and
21 following existing boundaries are flagrantly
22 violated by the secondary map, in my opinion and
23 the opinion of others. It's really not in
24 dispute, and I think that's why we've gone to the
25 primary map.

1 But the Florida rule incorporates
2 language similar to Sections 2 and 5 of the
3 Voting Rights Act and gives those rules
4 preference over compactness, and this is where
5 things get tricky.

6 The prohibitions on districts that
7 diminish racial minorities' ability to elect a
8 representative of their choice is a state analog
9 to Section 5 of the VRA. Section 5 was written
10 to apply only to states that were required to
11 pre-clear changes in their voting rules or
12 districts before implementing them. Covered
13 jurisdictions had to show that they were not
14 retrogressive a rule that the Court read to mean,
15 among other things, that states could not reduce
16 the number of majority-minority districts.

17 Proponents have argued that once a VRA
18 district exists, a VRA territory exists forever.
19 Here's what's important to note, the state of
20 Florida was never one of the pre-clearance
21 districts. Five counties in Florida were
22 pre-clearance districts. None of those five
23 counties are in the district in question.

24 So if we call Florida's little
25 Section 5, it prompts the question of complying

1 with Section 5 of the VRA is a compelling state
2 interest that justifies racial discrimination, is
3 complying with the state version of Section 5
4 also enough to justify racial discrimination?

5 I would submit that it does not because,
6 last week when Mr. Popper testified, and I
7 watched the entirety of the committee, and he was
8 asked the question, you know, do you have any
9 case law to support your proposition? He said,
10 no. The flip side is true as well. There's no
11 case law addressing whether or not the State Fair
12 Districts amendments are or constitute a
13 compelling state interest for the State of
14 Florida to draw racially gerrymandered districts,
15 or use race as the predominating factor in
16 opposition to the 14th and 15th amendments.

17 So now we come to the primary map, which
18 I think during the presentation of the amendment,
19 it was conceded that, you know, while it
20 addresses the compactness issue, it's still a
21 racially gerrymander or a district drawn upon a
22 racial basis that violates the 14th amendment.

23 It has been suggested that the governor
24 has a novel legal theory. I don't think it's a
25 novel at all. I think it's well grounded in the

1 United States Constitution, the 14th and 15th
2 amendments which, let's remember, the 14th and
3 15th Amendments were specifically written to
4 prevent states from using race in voting and in
5 redistricting. We have to remember that.

6 So the State Fair Districts, I do not
7 believe can constitute the compelling state
8 interest to draw maps based on racial lines. And
9 so therefore, just because the Court approved the
10 districts in 2015 and they were court-approved,
11 does not mean today that they are
12 constitutionally valid when looked in light of
13 the 14th and 15th amendments and the subsequent
14 case law and cases that are continuing, you know,
15 currently and before the Supreme Court, such as
16 the Alabama opinion.

17 So for that reason, because I believe
18 that both the primary and secondary maps violate
19 the United States constitutional provisions of
20 the 14th and 15th Amendment, I regretfully must
21 be down today. Thank you.

22 VICE-CHAIR FINE: Additional members
23 wishing to speak in debate?

24 Okay. Seeing none, just a couple of
25 points. I did want to address the comment that I

1 thought was inappropriate here about the
2 governor's involvement. Neither map that we are
3 voting on today is the governor's map. The
4 governor has a separate map that we have not
5 considered here.

6 And I also want to belie the notion that
7 his interest and his opinions are not
8 appropriate. He's a citizen of the state of
9 Florida. And he submitted a map the same way any
10 other citizen did. In addition, he does have the
11 right to veto whatever we pass.

12 And frankly, if you don't talk to the
13 governor's office when you're running any bill in
14 the process to make sure you're getting their
15 opinion as you move through the process, then
16 you're not doing a good job of being a bill
17 sponsor because he does have that right. We
18 sometimes assume if you get a bill through the
19 House and Senate, he's just automatically going
20 to sign it. I think some of you have experienced
21 that that is not necessarily the case.

22 I certainly respect his view. And I
23 certainly respect the opinion that Chair Byrd has
24 put forth. I think that it's an interesting
25 concept, and it's one that certainly does need to

1 be explored. But I also recognize we're 14 days
2 from the end of session, and we do have an
3 obligation to keep a product moving forward.

4 I think you've seen, this Committee
5 listens at every step of the process, and you see
6 changes. There have been changes, I think, on
7 every map and every committee at every stage, and
8 I'm assuming that there will continue to be as
9 all of the stakeholders are involved in all of
10 the opinions are weighed as it moves through the
11 process.

12 So I'm optimistic that at the end of
13 these next 14 days, we've got something that
14 everyone can be excited about, hopefully, whether
15 it is my good friend and, I think, future law
16 professor Cord Byrd or Rep. Driskell and our
17 Ranking Member. Hopefully that is where we will
18 end up over the next two weeks, but we will see.

19 And with that, I'm going to let
20 Rep. Sirois close on his bill.

21 REPRESENTATIVE SIROIS: I appreciate the
22 time, members, this afternoon. I won't spend too
23 much of your time revisiting subjects that we
24 have already talked about. But I do want to
25 mention I'm proud of the significant member input

1 that we have had, and I also appreciate all of
2 the comments that my colleagues have made in
3 supportive Chair Leek's amendment.

4 I'm not much of a legal scholar, far
5 from it. But I believe that the bill that we
6 have in front of us today is the best outcome
7 that we could have given the information and the
8 realities in front of us.

9 When I embarked on this process over the
10 summer, a lot to learn, especially from you,
11 Chair Leek, and I appreciate that and the time
12 that we have spent together.

13 But part of my understanding is that
14 this process of redistricting is not as much
15 about what the law could be, as it is as much
16 about what it is. And I feel compelled to
17 revisit what the law is related to this process
18 that we have touched on time and time again in
19 this Committee and in my subcommittee, and I just
20 want to take a moment to read from our
21 constitutional standards because we haven't had
22 an opportunity to do that today. And I think we
23 should before we have an opportunity to vote on
24 the work product that is in front of us.

25 So our tier 1 standards. "No

1 apportionment of planned or individual districts
2 shall be drawn with the intent to favor or
3 disfavor a political party or an incumbent.
4 Districts shall not be drawn with the intent or
5 result of denying or abridging the equal
6 opportunity of racial or language minorities to
7 participate in the political process or to
8 diminish the ability to elect a representative
9 their choice. Districts shall consist of
10 contiguous territory."

11 Our tier 2 standards. "Districts shall
12 be nearly equal in population as practical. We
13 know with our congressional districts, they must
14 be drawn to the person. Districts shall be
15 compact. Districts, where feasible, shall
16 utilize existing political and geographical
17 boundaries."

18 Members, the work product that is in
19 front of you today is legally compliant. I am
20 proud to have my name attached to it. I am proud
21 to have spent the last six months working with
22 members and receiving their input and perspective
23 on it. I think is the best product that we could
24 have given the information and the reality that
25 is in front of us. And I ask for you to join me

1 in voting yes today.

2 VICE-CHAIR FINE: Thank you. Having
3 closed on his bill, members, please remember to
4 turn on your microphones when you vote.

5 DJ, please call the roll.

6 MS DJ: Chair Leek.

7 CHAIRMAN LEEK: Yes.

8 THE SECRETARY: Representative Andrade.

9 REPRESENTATIVE ANDRADE: Yes.

10 THE SECRETARY: Bush.

11 REPRESENTATIVE BUSH: No.

12 THE SECRETARY: Byrd.

13 REPRESENTATIVE BYRD: No.

14 THE SECRETARY: Clemons.

15 REPRESENTATIVE CLEMONS: Yes.

16 THE SECRETARY: Drake.

17 REPRESENTATIVE DRAKE: No.

18 THE SECRETARY: Driskell.

19 REPRESENTATIVE DRISKELL: No.

20 THE SECRETARY: Fine.

21 VICE-CHAIR FINE: Yes.

22 THE SECRETARY: Geller:

23 REPRESENTATIVE GELLER: No.

24 THE SECRETARY: Goff-Marcil.

25 REPRESENTATIVE GOFF-MARCIL: No.

1 THE SECRETARY: Grall.
2 REPRESENTATIVE GRALL: Yes.
3 THE SECRETARY: Grant.
4 REPRESENTATIVE GRANT: Yes.
5 THE SECRETARY: Jenne has been excused.
6 Latvala.
7 REPRESENTATIVE LATVALA: Yes.
8 THE SECRETARY: Mariano.
9 REPRESENTATIVE MARIANO: Yes.
10 THE SECRETARY: McClain.
11 REPRESENTATIVE MCCLAIN: Yes.
12 THE SECRETARY: Omphroy.
13 REPRESENTATIVE OMPHROY: Yes.
14 THE SECRETARY: Payne.
15 REPRESENTATIVE PAYNE: Yes.
16 THE SECRETARY: Robinson.
17 REPRESENTATIVE ROBINSON: Yes.
18 THE SECRETARY: Rommel.
19 REPRESENTATIVE ROMMEL: Yes.
20 THE SECRETARY: Sirois.
21 REPRESENTATIVE SIROIS: Yes.
22 THE SECRETARY: Slosber-King.
23 REPRESENTATIVE SLOSBER-KING: No.
24 THE SECRETARY: Thompson.
25 REPRESENTATIVE THOMPSON: No.

1 THE SECRETARY: Tuck.

2 REPRESENTATIVE TUCK: Yes.

3 THE SECRETARY: Ex Officio Skidmore.

4 REPRESENTATIVE SKIDMORE: No.

5 THE SECRETARY: Fifteen yeas, nine nays,
6 Mr. Chair.

7 VICE-CHAIR FINE: Show the bill reported
8 favorably.

9 Members, I will now give the gavel back
10 to Chair Leek.

11 CHAIRMAN LEEK: Thank you, all. Boy,
12 this is a technical, tedious process. And I want
13 to thank, you know, the few members of the public
14 who showed up at the committee meetings and all
15 the members in this Committee for your thorough
16 and thoughtful questions.

17 I also want to thank our staff. When I
18 say this is a tedious process, I mean that it
19 requires hours upon hours upon hours of work to
20 achieve the first piece of work product. So I
21 want to thank our staff: Leda, Jason, Sam, DJ,
22 Karen. Am I missing anybody? Don't get me in
23 trouble. Kyle.

24 I want to thank all of you because I
25 know how much work that you've put in coming up

1 with any work product. I also want to thank you
2 for sitting down with every member who engaged in
3 the process in a substantive way and walking them
4 through the same thing that I'm sure you had
5 walked us all through at some point or another so
6 that they had an understanding of how to
7 participate and how to engage in the process.

8 This concludes our committee meeting for
9 this Committee. I want to thank you all for
10 stepping up, engaging in the process, and I want
11 to encourage you all to know that this is not the
12 end. We'll keep going. You'll see this on the
13 floor, probably see this on conference, and the
14 work product, much like the budget, the work
15 product that we end up with may look different
16 than what we're doing here today. But thank you
17 for keeping the process moving.

18 And with that, Vice Chair Fine moves, we
19 rise.

20 (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.



Julie Thompson, CET-1036

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EXHIBIT 9



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.

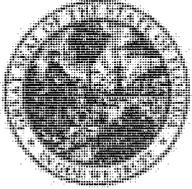
Accordingly, I withhold my approval of **CS/SB 102** and do hereby veto the same.

Sincerely,

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

Ron DeSantis
Governor

EXHIBIT 10



RON DESANTIS
GOVERNOR

STATE OF FLORIDA

Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com
850-717-9418

MEMORANDUM

2022 MAR 29 11:11 AM
STATE
LEGISLATIVE
OFFICE

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).

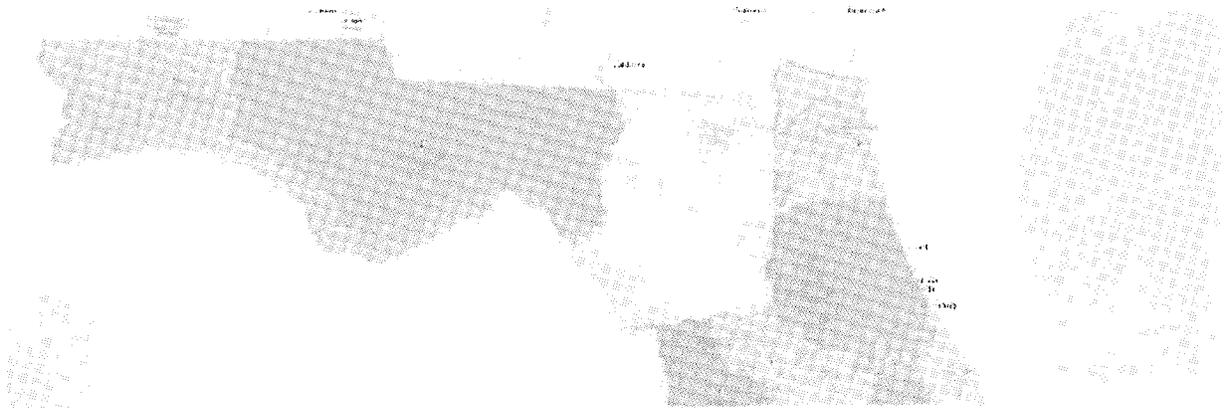
In the secondary map, which was the original map reported out of the House Congressional Redistricting Subcommittee, District 5 is a sprawling district that stretches approximately 200 miles from East to West and cuts across eight counties to connect a minority population in Jacksonville with a separate 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) (last visited Mar. 28, 2022), with Fla. Redist. 2022, H000C8015, <https://bit.ly/36hFRBB> (available at 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%.¹ Compare Fla. Redist. 2022, FLCD2016, <https://bit.ly/3Iv6FeW> (available at 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) (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.

¹ 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.

EXHIBIT 11

PROCLAMATION
STATE OF FLORIDA
EXECUTIVE OFFICE OF THE GOVERNOR
TALLAHASSEE

TO THE HONORABLE MEMBERS OF THE
FLORIDA SENATE AND HOUSE OF REPRESENTATIVES

WHEREAS, Article III, Section 3 of the Florida Constitution permits the Governor to convene the Legislature in Special Session during which only such legislative business may be transacted as is within the purview of this Proclamation, or of a communication from the Governor, or as is introduced by consent of two-thirds of the membership of each house of the Legislature; and

WHEREAS, Article III, Section 3 of the Florida Constitution limits the duration of a Special Session to twenty (20) consecutive days; and

WHEREAS, on March 29, 2022, the Legislature presented to me CS/SB 102, an act relating to establishing the congressional districts of the State of Florida; and

WHEREAS, on March 29, 2022, pursuant to Article III, Section 8 of the Florida Constitution, I vetoed and transmitted my objection to CS/SB 102; and

WHEREAS, redistricting is primarily the duty and responsibility of the states, *see* U.S. Const. art. I, § 4, cl. 1; and

WHEREAS, the Legislature and Governor have an obligation every ten years to redraw Florida's congressional districts consistent with the most recent decennial census, *see* 2 U.S.C. §§ 2a-2c, and the one-person, one-vote requirement of the U.S. Constitution, *see Kirkpatrick v. Preisler*, 394 U.S. 526, 530-31 (1969); and

WHEREAS, the 2020 Census resulted in the apportionment to Florida of 28 representatives to the U.S. House of Representatives; and

WHEREAS, based on statewide population growth, the State of Florida gained an additional congressional seat when compared to the 2010 Census; and

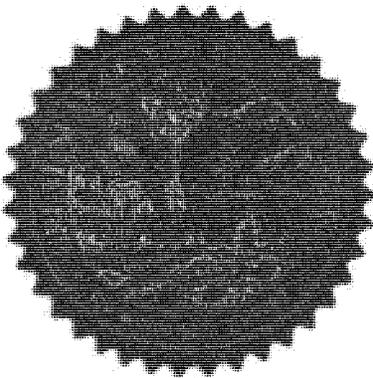
WHEREAS, the qualifying period for election to the U.S. House of Representatives is June 13, 2022, to June 17, 2022, pursuant to Florida law; and

WHEREAS, the failure to redistrict the congressional districts of the State of Florida could result in confusion and chaos in the administration of Florida's congressional elections.

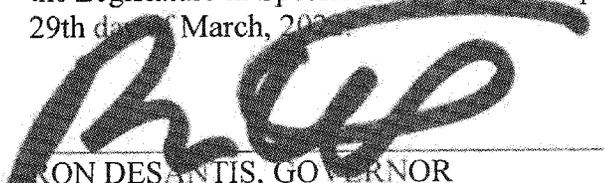
NOW, THEREFORE, I, RON DESANTIS, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1) of the Florida Constitution, do hereby proclaim as follows:

Section 1. The Legislature of the State of Florida is convened in Special Session commencing at 12:00 p.m., Tuesday, April 19, 2022, and extending no later than 11:59 p.m., Friday, April 22, 2022.

Section 2. The Legislature of the State of Florida is convened in Special Session for the sole and exclusive purpose of considering legislation relating to the establishment of congressional districts for the State of Florida and any legal challenges thereto, including the appropriation of additional funding for pending and prospective redistricting litigation.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed to this Proclamation convening the Legislature in Special Session at the Capitol, this 29th day of March, 2022.


RON DESANTIS, GOVERNOR

ATTEST:


SECRETARY OF STATE

2022 MAR 29 PM 1:09
SECRETARY OF STATE
TALLAHASSEE, FL

EXHIBIT 12

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

)

TRANSCRIPTION OF AUDIO RECORDING
HOUSE SESSION - THE FLORIDA CHANNEL
APRIL 20, 2022
10:00 A.M.

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

1 APRIL 20, 2022

2 MR. SPEAKER: Members of the House will
3 come to order. Members, please take your seats.
4 Members and visitors in the gallery, please rise for
5 the prayer. The prayer today will be given by
6 Representative Payne.

7 Representative Payne, you may approach the
8 wall.

9 REPRESENTATIVE PAYNE: Thank you, Speaker.
10 Members, please join me in prayer.

11 Father, today we come before you this
12 morning anticipating for what you have in store for
13 us today. Let us not forget to praise, honor, and
14 worship you. We are expecting to hear your voice,
15 and we will be willing to be used by you in order to
16 fulfill our faithful duties. Father, we ask your
17 blessing on all the members of the Legislature, our
18 House and Senate colleagues, our speaker, our senate
19 president, upon our governor, cabinet members and
20 their families.

21 Lord, we are grateful to be living in a
22 democracy, where so many play a part of making sure
23 the needs of Floridians are met. As we work
24 together to find solutions to difficult problems, we
25 ask that you guide our words so that we speak with

1 respect and humility to one another.

2 And, Father, finally, we ask a special
3 blessing and prayer for those suffering in the war-
4 torn regions of the Ukraine. Help there be an end
5 to the suffering and violence soon. Protect those
6 in harm's way. All these things we ask in your holy
7 name. Amen.

8 MR. SPEAKER: Amen. Thank you,
9 Representative Payne.

10 The clerk will unlock the machine, and
11 members will record their presence.

12 Have all members recorded their presence?
13 All members recorded their presence.

14 Clerk will lock the machine after presence
15 of a quorum.

16 THE CLERK: One hundred and six members
17 voting in quorum as present, Mr. Speaker

18 MR. SPEAKER: Members and visitors in the
19 gallery, please remain standing for the pledge. The
20 pledge this morning will be embedded by
21 Representative Tant from her desk.

22 REPRESENTATIVE TANT: I pledge allegiance
23 to the flag of the United States of America and to
24 the Republic for which it stands, one nation under
25 God, indivisible, with liberty and justice for all.

1 MR. SPEAKER: Are there corrections to the
2 journal?

3 Hearing none. Show the journal approved.
4 Are there matters on induction in reference?

5 THE CLERK: None on the desk, Mr. Speaker.

6 MR. SPEAKER: Are there communications?

7 THE CLERK: None on the desk, Mr. Speaker.

8 MR. SPEAKER: Are there messages from the
9 Senate?

10 THE CLERK: None on the desk, Mr. Speaker.

11 MR. SPEAKER: Are there reports of the
12 standing committees and subcommittees.

13 THE CLERK: On the desk, Mr. Speaker.

14 MR. SPEAKER: Read the report.

15 THE CLERK: The Honorable Chris Sprowls,
16 speaker, House of Representative. Dear Mr. Speaker,
17 your rules committee herewith submits a special
18 order for Wednesday, April 20, 2022.

19 Reading of the report, Mr. Speaker.

20 MR. SPEAKER: Representative Renner, you're
21 recognized in the report?

22 REPRESENTATIVE RENNER: Mr. Speaker, the
23 report sets the special order calendar and
24 allocation of times for questions and debate
25 contained in the letter, and I move the adoption of

1 the special order report for today, April 20, 2022.

2 MR. SPEAKER: Are there questions? Are
3 there questions? Is there a debate? All in favor
4 of adoption of the special order calendar, say yea.

5 (Multiple yays)

6 MR. SPEAKER: All opposed, no.

7 (Multiple nos)

8 MR. SPEAKER: Show the special order
9 calendar as adopted. Are there motions relating to
10 committee and subcommittee references?

11 Representative Geller, you're recognized.

12 REPRESENTATIVE GELLER: Thank you,
13 Mr. Speaker. I rise to make a motion.

14 MR. SPEAKER: You're recognized.

15 REPRESENTATIVE GELLER: I rise pursuant to
16 -- thank you, Mr. Speaker. I rise to -- pursuant to
17 House Rule 11.12 and now move to refer House Bill
18 1C, establishing the congressional districts to the
19 state to the full redistricting committee and to the
20 appropriations committee. And with your permission,
21 Mr. Speaker, at the time, I'd like to debate the
22 motion.

23 MR. SPEAKER: All right. Members,
24 Representative Geller has moved to move the
25 redistricting bill, which is 1C, to the larger

1 redistricting committee. This is a debatable
2 motion. It will pass or not pass by a majority
3 vote.

4 It is debatable. However, it is only
5 debatable as -- I think as you know, Representative
6 Geller, as to the propriety of the reference. That
7 is the motion.

8 Representative Geller, you're recognized to
9 debate.

10 REPRESENTATIVE GELLER: Thank you,
11 Mr. Speaker. As to the propriety of the reference
12 to both full redistricting and to appropriations,
13 the appropriations is because there's a million-
14 dollar appropriation included in this bill and that
15 should be heard by the appropriations committee.
16 House Bill 1C is a significant bill and it will
17 alter the electoral landscape of this state for up
18 to 10 years for 22 million people. It's 140 pages,
19 13 sections, in addition to that, a million-dollar
20 appropriation.

21 It was heard yesterday in the congressional
22 redistricting subcommittee, where speakers from
23 across the state came to testify on its impact. At
24 the end, because of time constraints, some of those
25 members of the public were given very short periods

1 of time, I believe, 60 seconds, and there was just
2 the one hearing. And I understand that in one
3 hearing, there is a limit, but the bill should be
4 treated as every other bill that we've seen.

5 I don't believe there is a rule. It's up
6 to the discretion of the House, but I can't recall a
7 bill that's gone directly from subcommittee to rules
8 and special order without going through a full
9 committee. That's why we have committees. That's
10 the purpose of it. And the principle -- the
11 jurisdiction here is the full redistricting
12 committee. Not referring it and having it heard
13 there is a departure from our customs and practice.

14 There is time it could have been done. It
15 could still be done. And some of us on full
16 redistricting have spent many months preparing for
17 this exact thing, and we have questions. We studied
18 this process and debate that should be heard. An
19 assumption of a rule that we adopted this year on
20 time management, were for the first time, beginning
21 in this -- well, I would say this term last year --

22 MR. SPEAKER: Representative Geller, we're
23 getting outside the propriety of the reference.
24 Just keep your debate to the propriety of the
25 reference.

1 REPRESENTATIVE GELLER: Yes, Mr. Speaker.
2 The assumption we make about full committee is that
3 after subcommittee, full committees will completely
4 vet issues, and that's why limiting time is now a
5 rule that we have. If this is supposed to be an
6 open and transparent, publicly accessible practice,
7 we need to have it heard in accordance with what we
8 have always done heretofore, and it belongs in those
9 full committees.

10 And, therefore, I asked the House,
11 consistent with our practice, procedure, and
12 tradition, to refer this bill to the full
13 redistricting committee and to the appropriations
14 committee. I believe we could get that squeezed in,
15 if that was the choice that the House makes. And I,
16 therefore, ask for your favorable support in this
17 motion.

18 MR. SPEAKER: All right. Members,
19 Representative Geller having closed on his motion
20 under Rule 11.12, members, now we will vote as a
21 majority vote whether or not to send those bills --

22 Representative Joseph, we just did -- he
23 just closed on his motion.

24 REPRESENTATIVE JOSEPH: (Indiscernible)

25 MR. SPEAKER: On the propriety of the

1 reference. I went to Representative Geller because
2 I didn't see any other microphones, so he just
3 closed on his motion.

4 REPRESENTATIVE JOSEPH: (Indiscernible)

5 Representative Joseph, would you like to be
6 recognized and debate?

7 REPRESENTATIVE JOSEPH: I would.

8 MR. SPEAKER: You're recognized.

9 REPRESENTATIVE JOSEPH: Thank you. Thank
10 you, Mr. Speaker, and I apologize for interjecting.
11 We just didn't have the opportunity to debate. I
12 was waiting for that time. This is a highly unusual
13 process that we're in right now. The Legislature
14 has a constitutional duty to draw our redistricting
15 maps.

16 MR. SPEAKER: Representative Joseph, you
17 have to keep your debate to the propriety of the
18 reference.

19 REPRESENTATIVE JOSEPH: I understand.

20 MR. SPEAKER: You're recognized.

21 REPRESENTATIVE JOSEPH: Thank you,
22 Mr. Speaker. I understand. I'm just trying to
23 explain that. So as far as making sure that we re-
24 ference it, part of the purpose is so that we can
25 fully do our jobs. That's one. Because as a member

1 of the sub-committee that addressed these
2 congressional redistricting maps, we were cut off in
3 questions. Our debate was limited. The comments
4 from the public was limited. That does not comport
5 to procedural nor substantive due process, which is
6 what this whole thing is supposed to be about. We
7 are not giving the public a reasonable opportunity
8 to participate. We're not giving people --

9 MR. SPEAKER: Representative Joseph, would
10 you like to debate on the propriety of the
11 reference? That is not what you're doing. If you
12 would like to confine your debate to the propriety
13 of the reference, I'll recognize you. You're
14 recognized.

15 REPRESENTATIVE JOSEPH: Thank you,
16 Mr. Speaker. So for all of those reasons, I believe
17 that it should be re-referenced to at least the
18 first committee. But because there is also a \$1
19 million appropriation that attaches to it, it should
20 also, as is the practice, be assigned to an
21 appropriations committee.

22 When we look at the information that was
23 provided to us, as far as the impact, we don't have
24 that. So for those reasons, I rise in support of
25 the motion and ask that members would consider

1 voting up, if not for us, then for the people of
2 Florida to allow the public to have a reasonable
3 opportunity to participate and to have our members
4 have an opportunity to fully execute our duties and
5 to fully vet what we're about to vote on. Thank
6 you.

7 MR. SPEAKER: Is there additional debate?
8 Is there additional debate?

9 Seeing none, members will now proceed to
10 vote, please.

11 Representative Robinson, you're recognized
12 in debate on the propriety of the reference.

13 REPRESENTATIVE ROBINSON: Thank you,
14 Mr. Speaker. And I just wanted to be on record
15 saying I truly agree that we should, I mean, just
16 follow the process. We come up here, and we have
17 all these different pieces of legislations that we
18 file and then -- now, I'm a freshman member, but it
19 appears that we pick and choose which one of the
20 pieces of legislation is going to actually follow
21 the full process.

22 I believe that this is something that's
23 hugely -- that's going to affect all Floridians, and
24 it should go through appropriations. Besides, they
25 have a million dollars on it. And yes, it should go

1 to the full redistricting committee. Everyone
2 should be able to voice their opinion and really
3 truly vet this particular piece of legislation. So
4 I hope that all of my colleagues truly would. Let's
5 just follow the process. It's the process we do for
6 everything else. Let's not change on this
7 particular piece of legislation.

8 MR. SPEAKER: Any additional debate,
9 members? Any additional debate?

10 Seeing none, all in favor of adoption of
11 Representative Geller's motion say yea.

12 (Multiple yeas)

13 MR. SPEAKER: All opposed, no.

14 (Multiple nos)

15 MR. SPEAKER: Show the motion fails.

16 Are there matters on reconsideration?

17 THE CLERK: None on the desk, Mr. Speaker.

18 MR. SPEAKER: Are there bills on joint
19 resolutions on third reading?

20 THE CLERK: None on the desk, Mr. Speaker.

21 MR. SPEAKER: Are there bills on the
22 special order calendar?

23 THE CLERK: On the desk, Mr. Speaker.

24 MR. SPEAKER: Read the first bill.

25 THE CLERK: By Representative Leek, House

1 Bill 1C, a bill to be entitled, an act establishing
2 the congressional districts of the state.

3 MR. SPEAKER: Before we get there,
4 Representative Leek, I forgot to mention today is
5 Representative Fine's birthday.

6 Happy birthday, Representative Fine.

7 I'd ask everybody to be nice to
8 Representative Fine today, but let's be honest,
9 that's not going to happen.

10 MR. SPEAKER: Representative Leek, you're
11 recognized.

12 REPRESENTATIVE LEEK: Thank you,
13 Mr. Speaker.

14 Members, today we will be presenting Map
15 P000C0109. This is the map reflected in the data
16 packet in front of you as well as being posted on
17 the Florida redistricting.gov website. This
18 congressional map is an improvement upon the
19 benchmark map with regard to Tier 2 metrics.

20 This map improves county splits by keeping
21 50 counties whole as opposed to the 49 from last
22 decade. It allows 396 cities to remain whole as
23 opposed to 373 in the benchmark map, and it improves
24 upon all three mathematical measures of compactness
25 with respective scores of 0.47 for REOC, 0.81 for

1 the convex hull, and 0.43 for Polsby-Popper.

2 This map also satisfies the appropriate
3 population deviation at plus or minus a single
4 person. As you may be aware, there are 10 districts
5 in this map that are the exact copies of districts
6 that the Legislature passed during regular session.
7 Those are Congressional Districts 1, 2, 20, 21, 22,
8 23, 24, 25, 27, and 28. You can see those here on
9 the screen. The remaining 18 districts have been
10 newly proposed by the Governor's office and consist
11 of the Congressional Districts 3 through 19 and 26
12 as now seen on the screen.

13 Given that these 18 districts are the new
14 content for this body to review, I would like to
15 focus the majority of my presentation today on those
16 districts. I am more than happy to take questions
17 on the Legislature's districts as well, but I don't
18 want to belabor the explanation of districts that
19 we've already extensively reviewed.

20 Districts 4 and 5. Let's begin in
21 Northeast Florida with Districts 4 and 5. As
22 described yesterday in committee by the Governor's
23 map drawer, Plan P000C0109 creates two new districts
24 in Northeast Florida, consistent with maps
25 previously proposed by the Governor's office. These

1 two districts are race neutral and overall more
2 compact than the configuration of Districts 4 or 5
3 that were previously passed by the Legislature.

4 The boundary lines between the two
5 districts are mostly the St. Johns River. As you
6 know, Jacksonville is the one city in the state that
7 is larger than a congressional district. It has
8 over 900,000 people and must be split. And the
9 river, which nearly equally divides the city, stands
10 out as a recognizable boundary for these two
11 districts. The southern boundaries of Districts 4
12 and 5 are still exactly as the Legislature proposed
13 them, previously using the Clay Putnam County lines,
14 and where the split occurs within St. John's County
15 is the same.

16 District 6 through 16 and 18. The next
17 several slides visualized changes the central
18 Florida region and on the west coast from Citrus
19 County down to Lake County. As described yesterday
20 in committee by the Governor's map drawer, looking
21 holistically at the region in keeping Brevard,
22 Osceola, and Polk Counties all whole, as was the
23 case of the legislatively passed maps, in effect
24 creates a wall across three quarters in the state.
25 Breaking that wall in Polk County essentially gives

1 more flexibility and considering the different
2 options for creating more compact districts and more
3 adherence to political and geographical boundary
4 lines in those northwestern Gulf counties of the
5 state. So in effect, splitting Polk County allowed
6 for additional considerations. For example, one
7 Tier 2 improvement that was made by splitting Polk
8 County was being able to keep Citrus and Sarasota
9 Counties whole.

10 District 9 was improved by smoothing its
11 visual and mathematical compactness, including
12 picking up portions of Poinciana, and Polk, and
13 Osceola counties, including the lake that
14 essentially represents that piece of Polk County
15 that, otherwise, sticks into Osceola County.
16 District 9 also extends out slightly at the
17 northwest Osceola border utilizing Highway 27 Ronald
18 Reagan Parkway. This helps with statistical and
19 visual compactness of several districts in the
20 region.

21 These changes also helped create a visually
22 more compact District 11 by essentially turning the
23 wheel of the population. District 11 shifts from
24 the angle shape present in the previous legislative
25 version to a more circular shape, and in

1 combination, by reshaping Districts 7, 10, 11, and
2 12 allowed for a one less county split in Marion
3 County from three splits down to two splits within
4 the county.

5 District 6 through 11. The next slide
6 shows changes in district 6 through 11 found in the
7 Greater Orlando region. As described yesterday in
8 committee by the Governor's map drawer, these
9 changes return to House concepts found in Plan 8011
10 and also follow more closely with Senate concepts in
11 regards to CD 8.

12 For CD 8, instead of taking the district
13 into southern Volusia County to get the last bit of
14 population, District 8 instead goes into Eastern
15 County. This means this proposed plan only splits
16 Volusia County twice rather than three times. This
17 brings the configuration of District 7 down to the
18 Volusia Brevard County line without increasing the
19 number of districts in Orange County.

20 Essentially, there was a turning of the
21 population wheel in order to not have any negative
22 impact around Orange County while also decreasing
23 the amount of splits in Volusia County.

24 District 10 in this plan is similar to Plan
25 8011 that passed the Congressional redistricting

1 subcommittee and is very compact, keeping several
2 cities whole within either Districts 9, 10, or 11.
3 The City of Maitland is kept whole in District 10,
4 and the cities of Apopka and Winter Garden are kept
5 whole in District 11.

6 The boundaries between these districts are
7 very much defined by keeping the aforementioned
8 cities whole, utilizing county boundaries. For
9 example, District 10 uses a seminal Orange County
10 line or utilizes major well-recognized roadways and
11 waterways except where necessary to get equal
12 population. The western boundary of District 10
13 between Districts 10 and 11 is largely the Apopka
14 Vineland Road.

15 The borders between District 6 and 11 in
16 the Lake County area is mostly defined by city
17 boundaries and waterways with Lady Lake, Eustis,
18 Mount Dora entirely in District 6, and Fruitland
19 Park, Leesburg, and Tavares entirely in District 11.

20 Moving now over to the west coasts in
21 Districts 11 through 17. As described yesterday in
22 committee by the Governor's map drawer,
23 Congressional District 12 now includes all of Citrus
24 and Hernando Counties, which helps provide a much
25 more squared up shape, improving visual compactness.

1 District 12 is actually still the majority
2 of Pasco County, yielding about 141,000 Pasco County
3 residents in District 15. The boundaries between
4 Districts 12 and 15 are almost entirely defined by
5 state roads and municipal boundary lines.

6 Zephyrhills is entirely included in District 15 and
7 St. Leo, San Antonio, and Dade City are entirely
8 within District 12.

9 District 13 is wholly within Pinellas
10 County. Starting in the western part of the county
11 and working east, Districts 13 and 14 largely
12 utilize US 19 as a divider within Pinellas County
13 except where equal population is achieved in the
14 unincorporated Feather Sound area just north of St.
15 Pete.

16 District 14 starts eastward and moves
17 northward in Tampa Bay. The boundaries of the
18 district are defined by clear recognizable
19 boundaries like major roadways while trying to
20 maintain something of a square or rectangular shape
21 for District 13 to keep it visually and
22 mathematically compact. The linkage of districts in
23 this area are predominantly along roadways including
24 in the northern portion of Districts 14 and 15.

25 Similarly, District 12 and Pasco County

1 uses a large portion of the Suncoast Parkway squared
2 off at a county road that essentially takes the
3 Suncoast Parkway south before heading east over to
4 the municipality of Temple Terrace. Temple Terrace
5 is kept whole within District 15.

6 Districts 16 and 17 keep both Manatee and
7 Sarasota County's whole. District 16 uses State
8 Road 62 as a clear divider. That is also utilized
9 in Polk County where Districts 15 and 18 come
10 together. This also allows Plant City to be kept
11 whole in District 15. And despite going into three
12 counties, approximately two-thirds of district 15 is
13 populated by Hillsborough County residents.

14 Largely, due to the Tier 2 decision of
15 keeping Sarasota County whole and creating District
16 17 with all of Sarasota, all of Charlotte and
17 unincorporated portions of Lake Counties, the newly
18 composed District 17 required moving the entirety of
19 Hendry County in District 18 and then finding
20 approximately 4,500 residents elsewhere. This plan
21 equalizes the population of District 18 and Collier
22 County, which was already split once.

23 District 18 extends along State Road 82
24 down State Road 29 North, and then east along County
25 Road 46 to get those additional 3500 residents of

1 District 18 to balance out the population.

2 District 26 had to further extend the
3 western boundaries closer towards unincorporated
4 East Naples, utilizing roadways and waterways as
5 boundaries between 26 and 19 in order to balance the
6 population between all of these cities. Even though
7 Polk County is now split in this map, District 18 --
8 it's actually, about two-thirds of the residents are
9 from Polk and one-third from six rural counties.

10 Additionally, this bill appropriates \$1
11 million to the Department of State for expenses
12 related to litigation of the congressional map.
13 This bill also includes language relating to state
14 courts. It requires any state court challenge to
15 the congressional map to be filed in Leon County.
16 It requires all challenges based on state law to be
17 filed in state court rather than in federal court.

18 Under the 11th Amendment to the United
19 States Constitution, the State is immune from suit
20 and federal court on state law grounds. This
21 provision reaffirms the State's immunity under the
22 11th Amendment and makes clear that the State does
23 not waive that immunity. This provision also
24 permits any state court challenge to raise both
25 state law claims and to the extent the Circuit Court

1 has jurisdiction federal law claims. And finally,
2 it makes it explicit that nothing in the bill
3 precludes federal courts from deciding challenges
4 based on federal law.

5 Mr. Speaker, that is the bill.

6 MR. SPEAKER: Members, we are now in
7 questions on the bill. Questions on the bill.

8 Representative Willhite, you're recognized.

9 REPRESENTATIVE WILLHITE: Thank you,
10 Mr. Speaker. Would you recognize Representative
11 Geller?

12 MR. SPEAKER: Representative Geller? You're
13 recognized.

14 REPRESENTATIVE GELLER: Thank you,
15 Mr. Speaker, and thank you for recognizing the
16 motion before. I appreciate that.

17 Chair Leek, how are you this morning? I
18 have a number of questions, Chair. Let me ask you.
19 I understand this is not really necessarily for you
20 to answer, but do you know why we're not going
21 through the full committee?

22 MR. SPEAKER: Representative Geller, I
23 think you answered your own question by saying it's
24 probably not appropriate to ask. You're recognized.

25 REPRESENTATIVE GELLER: Thank you,

1 Mr. Speaker.

2 Chair, who drew this map?

3 MR. SPEAKER: Chairman Leek, you're
4 recognized.

5 REPRESENTATIVE LEEK: The Governor's
6 office.

7 MR. SPEAKER: Representative Geller, you're
8 recognized.

9 REPRESENTATIVE GELLER: Thank you,
10 Mr. Speaker.

11 And who specifically?

12 MR. SPEAKER: Representative Leek.

13 REPRESENTATIVE LEEK: Yesterday, in
14 committee, Mr. Alex Kelly said that he drew the map.

15 MR. SPEAKER: Representative Geller.

16 REPRESENTATIVE GELLER: Do you know with
17 whom Mr. Kelly consulted in the drawing of the map?

18 MR. SPEAKER: Representative Leek.

19 REPRESENTATIVE LEEK: Thank you.

20 Yesterday, Mr. Kelly said that he was the
21 only one who drew this map. I can't tell you who,
22 you know -- and let's talk about this generally.
23 You know, just like we couldn't speak to the Senate
24 process, I can't speak to the Governor's entire
25 process. I can only tell you what Mr. Kelly said.

1 MR. SPEAKER: Representative Geller.

2 REPRESENTATIVE GELLER: Thank you,
3 Mr. Speaker.

4 Did he acknowledge having consulted with
5 some out-of-state consultants who worked with other
6 states in map drawing?

7 MR. SPEAKER: Representative Leek.

8 REPRESENTATIVE LEEK: Thank you,
9 Mr. Speaker. Yes.

10 MR. SPEAKER: Representative Geller.

11 REPRESENTATIVE GELLER: Did he identify who
12 those people were?

13 MR. SPEAKER: Representative Leek.

14 REPRESENTATIVE LEEK: Yes.

15 MR. SPEAKER: I think we know the next
16 question. Representative Geller.

17 REPRESENTATIVE GELLER: Thank you,
18 Mr. Speaker. And I think I forgot my "Thank you,
19 Mr. Speaker" on the previous questions. So thank
20 you for both.

21 And who did he identify those people as
22 being by name, sir?

23 MR. SPEAKER: Representative Leek.

24 REPRESENTATIVE LEEK: Thank you,
25 Mr. Speaker.

1 I believe his name was Adam Foltz, who he
2 also explained had only ever drawn for state
3 governments.

4 MR. SPEAKER: Representative Geller.

5 REPRESENTATIVE GELLER: Do we have any
6 information that would lead us to know one way or
7 another whether or not, in that consultation or in
8 that drawing, our constitutional standards that the
9 map could not be drawn for the purposes of
10 protecting any incumbent or advancing the interests
11 of any political party were in fact observed?

12 MR. SPEAKER: Representative Leek.

13 REPRESENTATIVE LEEK: Thank you,
14 Mr. Speaker.

15 I'll do the best I can with the question.
16 I'm not sure I entirely understand. The evidence
17 that you have is before you in this map and in the
18 testimony that Mr. Kelly gave in committee.

19 MR. SPEAKER: Representative Geller.

20 REPRESENTATIVE GELLER: Thank you,
21 Mr. Speaker.

22 Well, of course, Chair Leek, I actually
23 don't have before me the testimony from the
24 subcommittee. I'm not a member. That's why I'm
25 asking you whether or not there was something

1 presented, since it was your bill, and you were
2 present.

3 MR. SPEAKER: Representative Leek.

4 REPRESENTATIVE LEEK: This was presented.
5 The testimony was presented. There is no testimony
6 that would make me conclude that what you're
7 suggesting happened.

8 MR. SPEAKER: Representative Geller.

9 REPRESENTATIVE GELLER: Thank you,
10 Mr. Speaker.

11 Looking at the map itself, what infirmity
12 in previous maps past led us to decide that changes
13 were necessary in Tampa Bay?

14 MR. SPEAKER: Representative Leek.

15 REPRESENTATIVE LEEK: Thank you,
16 Mr. Speaker.

17 I don't believe that's in the map before
18 you. So what we're going through today is the map
19 that's before you, not prior maps.

20 MR. SPEAKER: Representative Geller.

21 REPRESENTATIVE GELLER: Thank you,
22 Mr. Speaker.

23 But my question is: we had a map that we
24 deemed constitutional -- well, I did not, but the
25 Chamber apparently deemed it constitutional. As to

1 the Tampa Bay area, what required a change there?

2 MR. SPEAKER: Representative Leek.

3 REPRESENTATIVE LEEK: Thank you,
4 Mr. Speaker.

5 I don't know that anything required a
6 change. And as we have said many, many times
7 before, that there are innumerable number of maps
8 that can be illegally compliant. So this map is
9 simply different than the map that you saw before.

10 MR. SPEAKER: Representative Geller.

11 REPRESENTATIVE GELLER: Thank you,
12 Mr. Speaker.

13 Is there a theory at play here that since
14 two is twice the number of one, that Tier 2
15 standards have become twice as important as Tier 1
16 standards?

17 MR. SPEAKER: Representative Leek.

18 REPRESENTATIVE LEEK: Thank you,
19 Mr. Speaker.

20 No.

21 MR. SPEAKER: Representative Geller.

22 REPRESENTATIVE GELLER: Why then do we
23 constantly hear about Tier 2 standards as if
24 compactness or political boundaries mattered most
25 when we're flagrantly ignoring the requirement of

1 protecting minority districts and going against
2 explicit language?

3 MR. SPEAKER: Representative Geller --
4 Representative Geller, we're getting to your --
5 sounds like your debate for tomorrow. Do you have a
6 specific question about as it relates to aspects of
7 this map? You're recognized.

8 REPRESENTATIVE GELLER: Thank you,
9 Mr. Speaker.

10 Why are we not emphasizing the Tier 1
11 standards and seem to be ignoring them in favour of
12 Tier 2 standards?

13 MR. SPEAKER: I think it's going to be
14 difficult for Chairman Leek to answer that question,
15 Representative Geller. Can you point to a specific
16 part of the map that you're referencing?

17 REPRESENTATIVE GELLER: I'm done,
18 Mr. Speaker. Thank you very much.

19 MR. SPEAKER: Additional questions?
20 Representative Willhite.

21 REPRESENTATIVE WILLHITE: Thank you,
22 Mr. Speaker. Would you recognize Representative
23 Driskell?

24 MR. SPEAKER: Representative Driskell,
25 you're recognized.

1 REPRESENTATIVE DRISKELL: Thank you,
2 Mr. Speaker.

3 Good morning, Chair Leek. I had some
4 questions about Tampa Bay. So I was curious we
5 talked about it a little bit in committee yesterday,
6 but weren't really able to get into the details with
7 the time limits. But it looks like what we have in
8 this map actually follows a similar strategy that
9 was used about a decade ago that was -- resulted in
10 the maps being struck down in Tampa Bay, that the
11 Court determined it was a partisan gerrymander.
12 And I'm just looking at CD 14, and it looks like
13 there are so many democrats packed in there that it
14 could lead to the same partisan gerrymander. Could
15 you explain for me how we have arisen to the CD 14
16 that's now in the map before us today?

17 MR. SPEAKER: Representative Leek.

18 REPRESENTATIVE LEEK: Thank you,
19 Mr. Speaker.

20 I can't speak to the Governor's map
21 drawer's process. What I can tell you is the facts
22 that were, you know, unique to the case that
23 occurred many years ago are just that, unique to
24 that case. This map stands on its own.

25 MR. SPEAKER: Representative Driskell.

1 REPRESENTATIVE DRISKELL: Thank you,
2 Mr. Speaker.

3 I also wanted to try to understand because
4 in the intro to the presentation, we heard that the
5 -- I thought we heard that the county splits were
6 made better. But as best I can tell, looking at
7 8060 and 8019, it's the same number of county
8 splits. So how is this an improvement?

9 MR. SPEAKER: Representative Leek.

10 REPRESENTATIVE LEEK: By one less county
11 split.

12 MR. SPEAKER: Representative Driskell.

13 REPRESENTATIVE DRISKELL: Thank you,
14 Mr. Speaker.

15 And in terms of cities in the area of Tampa
16 Bay, your map adds or creates a new city split in
17 St. Pete and Lakeland but which were both kept hold
18 in 8019. Can you explain how this is more Tier 2
19 compliant?

20 MR. SPEAKER: Representative Leek.

21 REPRESENTATIVE LEEK: Thank you,
22 Mr. Speaker. No. I can't speak to why the
23 Governor's map drawer chose, you know, this road or
24 that river over another road or another river. What
25 I can tell you is that they are both equally Tier 2

1 compliant.

2 MR. SPEAKER: Representative Driskell.

3 REPRESENTATIVE DRISKELL: Thank you,
4 Mr. Speaker.

5 And given that the Legislature seems to be
6 following the Governor's direction at this, from
7 what I understood from the Governor, his only
8 complaints were about Northeast Florida, really
9 about CD 5 and maybe CD 4. That being the case, why
10 are we making adjustments to CD 14 and CD 15 in
11 Tampa Bay?

12 MR. SPEAKER: Representative Leek.

13 REPRESENTATIVE LEEK: Thank you,
14 Mr. Speaker.

15 Again, not speaking to the Governor's
16 process but I don't think that's a fair premise.
17 You know, if you looked back at the various maps
18 that have come through, they have changed over and
19 over and over again. And it is still true that you
20 cannot change one line without changing most lines.
21 And so in this instance, we were -- the Governor was
22 able to pick up ten of our districts that we had
23 drafted. So I don't think that it's fair to say
24 that the Governor's premise was only on CD 5 in the
25 northeast area. I think that what this map

1 represents is an entire improvement on the map.

2 MR. SPEAKER: Representative Driskell.

3 REPRESENTATIVE DRISKELL: Thank you,
4 Mr. Speaker.

5 So I noticed that here there's a lot of
6 talk about following county lines and trying to
7 minimize county splits, but how is following county
8 lines not just a pretext for partisan gerrymandering
9 here? 8019 splits pretty much just as many counties
10 as your map. So if 8060 were adapted to make CD 5
11 just in Duvall, it would actually split two fewer
12 counties than your map. So how is what we're seeing
13 today by following county lines not really just a
14 pretext for the partisan gerrymandering, as we see
15 that the map that the Governor has presented results
16 in a significant Republican advantage over the
17 benchmark maps?

18 MR. SPEAKER: Representative Leek.

19 REPRESENTATIVE LEEK: Thank you,
20 Mr. Speaker.

21 As is the case with the prior maps, I'm not
22 -- we haven't done a performance analysis to know
23 those types of things. Maybe you guys have, but we
24 have not, so I can't speak to the partisan
25 performance of it.

1 MR. SPEAKER: Representative Willhite.
2 Representative Brown, you're recognized.

3 REPRESENTATIVE BROWN: Thank you,
4 Mr. Speaker.

5 We heard yesterday there was a compromise
6 by -- that this was a compromising product. Can you
7 speak to that compromise? What were some of the
8 compromises?

9 MR. SPEAKER: Representative Leek.

10 REPRESENTATIVE LEEK: Thank you,
11 Mr. Speaker.

12 I want to make one thing clear. Governor's
13 office drew the map. Our folks did not draw the
14 map. It is apparent that the Governor's office drew
15 a map that was informed by the prior maps that we
16 have driven. You can see that because of the 10
17 exactly identical districts that we had in our prior
18 maps. I believe that that's what the Governor's
19 office meant by compromise.

20 MR. SPEAKER: Representative Willhite.

21 REPRESENTATIVE WILLHITE: Thank you,
22 Mr. Speaker.

23 Do you recognize Representative Davis?

24 MR. SPEAKER: Representative Davis, you're
25 recognized.

1 REPRESENTATIVE DAVIS: Thank you,
2 Mr. Speaker.

3 Representative, will either District 4 or 5
4 perform for black candidates of choice?

5 MR. SPEAKER: Representative Leek.

6 REPRESENTATIVE LEEK: Thank you,
7 Mr. Speaker.

8 No.

9 MR. SPEAKER: Representative Davis.

10 REPRESENTATIVE DAVIS: Thank you,
11 Mr. Speaker.

12 Has any analysis been done to prove yes or
13 no?

14 MR. SPEAKER: Representative Leek.

15 REPRESENTATIVE LEEK: Thank you,
16 Mr. Speaker.

17 Yes. Recall on the prior maps that we did
18 a functional analysis on CD 5.

19 MR. SPEAKER: Representative Davis.

20 REPRESENTATIVE DAVIS: Thank you,
21 Mr. Speaker.

22 So no analysis, again, just for clarity,
23 has been performed on these maps -- on this map?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 Yes. On CD 4, our staff did a functional
3 analysis and confirmed that it does not perform.

4 MR. SPEAKER: Representative Davis.

5 REPRESENTATIVE DAVIS: Thank you,
6 Mr. Speaker.

7 In terms of compactness, have you looked at
8 whether the Governor's version or the version where
9 Districts 4 and 5 stack up on top of each other with
10 the line going straight through Duvall, and would it
11 be better on compactness?

12 MR. SPEAKER: Representative Leek.

13 REPRESENTATIVE LEEK: Thank you,
14 Mr. Speaker.

15 I'm not sure I understand that question.
16 Can you rephrase it?

17 MR. SPEAKER: Representative Davis.

18 REPRESENTATIVE DAVIS: I would. And
19 looking at the Governor's versions of the map, the
20 version where CD 4 and CD 5 are stacked on top of
21 each other with the line going straight through,
22 would it be a difference if we reconfigured that for
23 compactness?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 We can't do that hypothetically, so we
3 would have to see an exact configuration. Remember,
4 each district will result in a unique compactness
5 score.

6 MR. SPEAKER: Representative Davis.

7 REPRESENTATIVE DAVIS: Thank you,
8 Mr. Speaker. I think this is my last question for
9 now.

10 When we were -- when we charged the
11 Governor's office with the ability to draw these
12 constitutional maps using the constitutional
13 criteria, do you have any idea of the hierarchy,
14 because these are the Governor's maps, with the
15 geographic boundaries? For example, did we say that
16 it was more important to follow the major roads and
17 highways as boundaries?

18 MR. SPEAKER: Representative Leek.

19 REPRESENTATIVE LEEK: Thank you,
20 Mr. Speaker.

21 I don't want to give the indication that
22 I'm accepting your premise, but I can tell you what
23 they told us yesterday in committee about the
24 hierarchy. And they said they came in more in
25 alliance with -- alignment with the House and

1 Senate's use of Tier 2 criteria than they had
2 previously.

3 MR. SPEAKER: Representative Davis.

4 REPRESENTATIVE DAVIS: Thank you,
5 Mr. Speaker. And last question.

6 Because the Governor drew -- Governor's
7 office drew these maps, were these maps ever
8 presented to you or your team prior to being here
9 today or prior to being in the committee room
10 yesterday?

11 MR. SPEAKER: Representative Leek.

12 REPRESENTATIVE LEEK: Thank you,
13 Mr. Speaker.

14 Yes. I believe, as has been indicated, I
15 got a preview of the maps, the map that you are
16 seeing today, the Governor's office explained those
17 maps to me, to Chair Seroy (phonetic), and to Ms.
18 Kelly. I think the Senate has also indicated that
19 that same week, they got the same briefing on those
20 maps, but it is the map that you see today without
21 changes.

22 MR. SPEAKER: Representative Willhite.

23 REPRESENTATIVE WILLHITE: Thank you,
24 Mr. Speaker. Would you recognize Representative
25 Williams?

1 MR. SPEAKER: Representative Williams,
2 you're recognized.

3 REPRESENTATIVE WILLIAMS: Thank you,
4 Mr. Speaker.

5 Chair Leek, when you spoke of the Tiers,
6 you said we're using Tier 2 now instead of Tier 1.
7 Could you tell why are we choosing to go to Tier 2
8 instead of Tier 1?

9 MR. SPEAKER: Representative Leek.

10 REPRESENTATIVE LEEK: Thank you,
11 Mr. Speaker.

12 No. I did not say that.

13 MR. SPEAKER: Representative Williams.

14 REPRESENTATIVE WILLIAMS: Are we using Tier
15 2 now instead of Tier 1?

16 MR. SPEAKER: Representative Leek.

17 REPRESENTATIVE LEEK: Thank you,
18 Mr. Speaker.

19 No.

20 MR. SPEAKER: Representative Williams.

21 REPRESENTATIVE WILLIAMS: You spoke of
22 unique compacts in each one of these districts. Can
23 you tell me why?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 Very simply, with the redrawing of any
3 district, it would likely result in a different
4 compactness score based on whichever test you use.

5 MR. SPEAKER: Representative Williams.

6 REPRESENTATIVE WILLIAMS: The difference
7 are -- what was the difference? I'm sorry, I didn't
8 understand.

9 MR. SPEAKER: Representative Leek.

10 REPRESENTATIVE LEEK: Thank you,
11 Mr. Speaker.

12 When you change the shape in any way of a
13 district, it can result in a different compactness
14 score. So any variation in a district may result in
15 a different compactness score. I hope that answers
16 your question.

17 MR. SPEAKER: Representative Williams.

18 REPRESENTATIVE WILLIAMS: Was it taken into
19 consideration that we would be eliminating a seat
20 that would usually be held by a black candidate?

21 MR. SPEAKER: Representative Leek.

22 REPRESENTATIVE LEEK: Thank you,

23 Mr. Speaker.

24 Was what taken into consideration and what?

25 MR. SPEAKER: Representative Williams.

1 REPRESENTATIVE WILLIAMS: When the decision
2 was made to use Tier 2 instead of Tier 1 and/or the
3 uniqueness of the compact in each one of the
4 districts.

5 MR. SPEAKER: Representative Leek.

6 REPRESENTATIVE LEEK: Thank you,
7 Mr. Speaker.

8 Those things aren't related.

9 MR. SPEAKER: Representative Williams?
10 Okay.

11 Representative Willhite.

12 REPRESENTATIVE WILLHITE: Thank you,
13 Mr. Speaker. Do you recognize Representative
14 Joseph?

15 MR. SPEAKER: Representative Joseph, you're
16 recognized.

17 REPRESENTATIVE JOSEPH: Thank you,
18 Mr. Speaker.

19 Chair Leek, the Latino Policy and Politics
20 Initiative at UCLA released a report analyzing
21 Latino voting patterns in South Florida,
22 specifically regarding redistricting. Are you
23 familiar with that report?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 No. I am not.

3 MR. SPEAKER: Representative Joseph.

4 REPRESENTATIVE JOSEPH: Would you happen to
5 know if the Governor's office is familiar with that
6 report?

7 MR. SPEAKER: Representative Leek.

8 REPRESENTATIVE LEEK: Thank you,
9 Mr. Speaker.

10 No. I do not.

11 MR. SPEAKER: Representative Joseph.

12 REPRESENTATIVE JOSEPH: Thank you,
13 Mr. Speaker.

14 So the report finds that a separate --
15 there are separate and distinct Latino voting blocks
16 in South Florida and throughout Florida that vary by
17 geography and ethnicity, and that it clearly shows
18 that Latino voters do not vote in the same way in
19 South Florida. Continuing to draw the lines based
20 on that faulty assumption denies all Latino voters
21 the ability to elect candidates of their choice --

22 MR. SPEAKER: Representative Joseph, do you
23 have a question about the map? You're recognized.

24 REPRESENTATIVE JOSEPH: Thank you, Mr.
25 Speaker. Yeah, it's coming. That's the next thing.

1 So right now, I want to draw your attention
2 to the maps that we have before us, specifically as
3 regards to CD 26, which I asked a little bit about
4 in committee yesterday. In committee, the
5 Governor's office testified that part of their
6 rationale in drawing that particular district, CD
7 26, was because they wanted to maintain Hispanic
8 voters there, and he had to go around and get
9 different population.

10 My question for you is, do you know -- so
11 knowing what I just said about the Latino report
12 that came out of the Latino Policy and Politics
13 Initiative at UCLA and the denial of Latino voters
14 of their voting rights, looking at CD 26, what would
15 you say would be the impact of that, had the
16 Governor's office had that information? Would we
17 have adjusted the map, or would we just leave it the
18 way it is?

19 MR. SPEAKER: Representative Joseph, I
20 think you're asking Representative Leek to comment
21 on the veracity of a report he's already said he
22 hasn't read. So do you have a question about that
23 specific district? You're recognized.

24 REPRESENTATIVE JOSEPH: Thank you, Mr.
25 Speaker.

1 I'm not asking for about the veracity of
2 the report.

3 Just knowing that you should not lump all
4 Latino voters together, which is the point of the
5 report, so forget the report for a second. But if
6 we're accepting the premise that not all Latino
7 voters, whether they're coming from Cuba, other
8 parts of Central and South America, they may not
9 vote the same way. Would it be appropriate to lump
10 them all into one congressional district such as CD
11 26, which is before us?

12 MR. SPEAKER: Representative Leek.

13 REPRESENTATIVE LEEK: Thank you,
14 Mr. Speaker.

15 I'll try. I think your premise is
16 accepting the veracity of the report, which I have
17 not read. And I think your question is asking the
18 hypothetical, what would someone else have done with
19 that information, which I cannot answer.

20 MR. SPEAKER: Representative Joseph.

21 REPRESENTATIVE JOSEPH: Mr. Speaker, let me
22 try to ask it a different way.

23 Would you acknowledge that not all Hispanic
24 voters vote consistently Republican or consistently
25 Democrat in the state of Florida?

1 MR. SPEAKER: Representative Leek.

2 REPRESENTATIVE LEEK: Thank you,
3 Mr. Speaker.

4 If you're asking me to get to the legal
5 conclusion about cohesion, I can't get there with
6 you, right. If you're asking me whether people vote
7 differently and race is not necessarily a
8 determinant on how they vote, I would agree with
9 that.

10 MR. SPEAKER: Representative Joseph.

11 REPRESENTATIVE JOSEPH: Thank you.

12 Yes. I was looking for the second answer
13 to the second question, not the first. Not looking
14 for a legal conclusion. Now, in terms of -- our
15 counsel, the House counsel, it's my understanding,
16 asked the Florida Supreme Court to overturn the
17 requirement that minority groups be politically
18 cohesive in order to be protected from diminishment.
19 And it's my understanding that the Supreme Court
20 declined to accept the House lawyer's invitation to
21 overturn that precedent. Is that correct? Did I
22 understand that correctly?

23 MR. SPEAKER: Representative Leek.

24 REPRESENTATIVE LEEK: Thank you,
25 Mr. Speaker.

1 I think you're talking about the Governor's
2 request for an advisory opinion in which the House
3 joined. And yes. The Supreme Court declined to
4 give an advisory opinion.

5 MR. SPEAKER: Representative Joseph.

6 REPRESENTATIVE JOSEPH: Thank you.

7 So going back to CD 26, let's focus on the
8 Tier 2 analysis and some of the drawbacks that we
9 see it because we identified some drawbacks in the
10 prior maps that the House had drawn for CD 26, which
11 we addressed in committee, and I think staff made an
12 attempt to address. But now, in the Governor's map,
13 we still have some Tier 2 deficiencies. So looking
14 at the map, I see that there is an additional split
15 of Collier, and it cuts the Immokalee community in
16 half following local streets like County Road 846,
17 which isn't our geographic boundaries database.

18 So considering those infirmities with the
19 current map that we have as it relates to CD 26,
20 have you or anybody concluded that those Tier 2
21 drawbacks are necessary to maintain Tier 1
22 compliance to keep that Hispanic voting group
23 together?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 Again, I can't tell you what the map drawer
3 was thinking when he chose this particular Tier 2
4 criteria over that particular Tier 2 criteria. I
5 can tell you a review of the map shows that it is --
6 this map is equally Tier 2 compliant.

7 MR. SPEAKER: Representative Joseph.

8 REPRESENTATIVE JOSEPH: Thank you,
9 Mr. Speaker.

10 When you say it's equally Tier 2 compliant,
11 tell me what analysis you're relying on to state
12 that answer here today.

13 MR. SPEAKER: Representative Leek.

14 REPRESENTATIVE LEEK: Thank you,
15 Mr. Speaker.

16 The review of the Governor's map by our
17 staff.

18 MR. SPEAKER: Representative Joseph.

19 REPRESENTATIVE JOSEPH: Thank you,
20 Mr. Speaker.

21 Because I just identified the deficiencies,
22 and I don't see anything to make sure that they're
23 equal because it looks like it's clearly deficient
24 under Tier 2, not even Tier 1 criteria.

25 MR. SPEAKER: Representative Leek.

1 REPRESENTATIVE LEEK: Thank you,
2 Mr. Speaker.

3 I suspect the answer lies that we don't
4 agree it's deficient.

5 MR. SPEAKER: Representative Joseph.

6 REPRESENTATIVE JOSEPH: Thank you,
7 Mr. Speaker.

8 So Section 7 of the bill at lines 36
9 through 27, and lines 36 through 47 limits venue for
10 actions challenging federal congressional districts
11 to state courts. Can you tell me what your
12 rationale was for that limitation and restriction of
13 venue?

14 MR. SPEAKER: Representative Leek.

15 REPRESENTATIVE LEEK: Thank you,
16 Mr. Speaker. Let me address the issue of venue
17 globally, and then we can get into the specifics.
18 You know, globally, the idea is that -- and first of
19 all, it's not new, right. Most actions against the
20 state have to come through Tallahassee. That is a
21 prerogative in this case would be the Department of
22 State that gets sued; that is the prerogative of the
23 state to have that done. This specifies that.
24 Also, we had a carve out, which we discussed
25 yesterday, that says any federal issue can be

1 brought in federal court.

2 MR. SPEAKER: Representative Joseph.

3 REPRESENTATIVE JOSEPH: Thank you,
4 Mr. Speaker.

5 Well, any federal issue can always be
6 brought in federal court. That's a matter for the
7 supremacy clause. I guess my question for you is
8 why specifically choose state courts as opposed to
9 federal courts as the venue for federal
10 congressional districts? And so that I ask -- maybe
11 flesh out the question a little bit more, why not
12 just leave it the way it is now? What's the impetus
13 for having to even make that specific restriction?

14 MR. SPEAKER: Representative Leek.

15 REPRESENTATIVE LEEK: Thank you,
16 Mr. Speaker.

17 The rationale for having the venue clause
18 is that all of the challenges should be brought
19 within the same court. And we believe that court
20 should be a state court as this is an act of the
21 State. The rationale for having them want to be
22 brought in the same state court is so you don't end
23 up with disparate decisions by different judges
24 across the state.

25 MR. SPEAKER: Representative Joseph.

1 REPRESENTATIVE JOSEPH: I agree that it
2 would be good to have one court manage most of those
3 claims, but there are going to be times where
4 specifically considering the fact that the
5 Governor's basis for drawing these maps as he's
6 espoused is to set up a challenge to the Voting
7 Rights Act based on the 14th Amendment, which is a
8 federal question. So knowing that, why not allow
9 federal courts to address that federal
10 constitutional issue as the primary basis? There's
11 always supplemental jurisdiction, as you're aware.
12 So why federal court as opposed to state court based
13 on your rationale?

14 MR. SPEAKER: Representative Leek.

15 REPRESENTATIVE LEEK: Thank you,
16 Mr. Speaker.

17 This language would allow precisely what
18 you're saying.

19 MR. SPEAKER: Representative Joseph.

20 REPRESENTATIVE JOSEPH: Thank you,
21 Mr. Speaker.

22 Yesterday, the presenter from the
23 Governor's office made reference to the
24 Legislatures' preferred approach to Tier 2
25 compliance, and I don't know where that came from.

1 I don't remember specifically hearing that in
2 committee, because in committee, we had talked about
3 the prioritization of Tier 1 versus Tier 2, and I
4 know staff had focused on Tier 2. So to the extent
5 that there is some kind of policy decision that was
6 made by the Congressional Redistricting Committee --
7 the larger Congressional Redistricting Committee
8 that I may not be aware of, can you espouse that for
9 us today? Like, what is the basis for the
10 preference of Tier 2 over Tier 1 to the extent it
11 even is a preference?

12 MR. SPEAKER: Representative Leek.

13 REPRESENTATIVE LEEK: Thank you,
14 Mr. Speaker.

15 First of all, there is no preference for
16 Tier 2 over Tier 1. What the Governor's office was
17 talking about was whether to use communities of
18 interest or what they call CDPs as opposed to Tier 2
19 standards. We have decided in our process to use
20 Tier 2 standards. And initially, I think the
21 Governor's map relied more on communities of
22 interest. And now, with the most recent map, they
23 rely on Tier 2 standards.

24 MR. SPEAKER: Representative Joseph.

25 REPRESENTATIVE JOSEPH: Thank you,

1 Mr. Speaker.

2 And thank you for the response. There's a
3 million-dollar allocation attached to this
4 particular item which was not in the maps we
5 previously considered. Can you tell me how that
6 million dollars was calculated? What's the basis
7 for that?

8 MR. SPEAKER: Representative Leek.

9 REPRESENTATIVE LEEK: Thank you,
10 Mr. Speaker.

11 The million dollars is -- well, first of
12 all, the state was always going to have to pay for
13 the litigation regardless of whether we put it in
14 this bill or not. The million dollars is a rough
15 estimate of what it would cost for this litigation.

16 MR. SPEAKER: Representative Joseph.

17 REPRESENTATIVE JOSEPH: Thank you.

18 In light of those anticipated litigation
19 costs, I guess I'm just wondering how that rough
20 estimate came about. You know, you and I both serve
21 as counsel for various government entities, and
22 sometimes we get a quote from outside counsel. Is
23 it based on particular billable hours? Like, what
24 is the basis for that estimate?

25 MR. SPEAKER: Representative Leek.

1 REPRESENTATIVE LEEK: Thank you,
2 Mr. Speaker.

3 I don't have the formula that was used, but
4 that's what the folks tell us.

5 MR. SPEAKER: Representative Joseph

6 REPRESENTATIVE JOSEPH: All right. Last
7 question on that point. It didn't go through
8 appropriations committee, so how are we coming at a
9 million? Like, why couldn't it be 500 -- and I'm
10 not trying to be facetious. I'm really just trying
11 to get a gauge as to how that number popped up. And
12 if there is no answer --

13 MR. SPEAKER: Representative Joseph, I
14 think it's asked and answered. Do you have an
15 additional question?

16 All right. Representative Willhite.

17 REPRESENTATIVE WILLHITE: Thank you,
18 Mr. Speaker. Do you recognize Representative
19 Alexander?

20 MR. SPEAKER: Representative Alexander,
21 you're recognized.

22 REPRESENTATIVE ALEXANDER: Thank you,
23 Mr. Speaker.

24 And thank you, Chairman Leek. In the
25 Governor's advisory opinion request to the Supreme

1 Court on February 1st, he spoke specifically to
2 geography as a justification for some of his
3 concerns. Am I correct in understanding that the
4 proposed CD 2 stretches 180 miles?

5 MR. SPEAKER: Representative Leek.

6 REPRESENTATIVE LEEK: Thank you,
7 Mr. Speaker.

8 That's not one of the measures that we
9 have. We don't measure that. So I can't answer
10 your question.

11 MR. SPEAKER: Representative Alexander.

12 REPRESENTATIVE ALEXANDER: Thank you,
13 Mr. Speaker.

14 Am I correct that the Governor is proposing
15 this map that we're going to be voting on tomorrow?

16 MR. SPEAKER: Representative Leek.

17 REPRESENTATIVE LEEK: Thank you,
18 Mr. Speaker.

19 Yes.

20 MR. SPEAKER: Representative Alexander.

21 REPRESENTATIVE ALEXANDER: Mr. Speaker.

22 So I'm speaking, Chairman Leek, to the
23 advisory opinion, which I think sets the predicate
24 and the premise for his proposed map. He spoke
25 specifically to geography, to the existing CD 5. So

1 I'm asking just for clarification in regards to the
2 actual size based off mileage -- of miles for the
3 proposed CD 2.

4 MR. SPEAKER: Representative Leek.

5 REPRESENTATIVE LEEK: Thank you,
6 Mr. Speaker.

7 I'll do the best -- I cannot -- I believe I
8 have heard the Governor say it's 180 miles. I
9 haven't validated that number. I don't know if it's
10 an estimate or how accurate it is.

11 MR. SPEAKER: Representative Alexander.

12 REPRESENTATIVE ALEXANDER: Thank you,
13 Mr. Speaker.

14 And based off, I think, the information
15 provided, I think you are correct. And I do believe
16 the existing CD 5 expands around about 198 miles, so
17 they're pretty similar. I'm going to continue on --
18 in reference to the proposed map, would you suggest
19 that it is a very unique situation in the 67
20 counties in Florida, that a county would have a
21 majority African American population?

22 MR. SPEAKER: Representative Leek.

23 REPRESENTATIVE LEEK: Thank you,
24 Mr. Speaker.

25 I actually don't know the answer to that

1 question.

2 MR. SPEAKER: Representative Alexander.

3 REPRESENTATIVE ALEXANDER: Thank you,
4 Mr. Speaker.

5 I'll try to ask it in a different way. In
6 regards to the proposed map, there is only one based
7 off what is been presented to us, one county in the
8 State of Florida that has a majority African
9 American population, Gadsden County. Based off of
10 that in the Tier 1 standard, does this proposed map
11 diminish those citizens from electing a
12 representative of their choice?

13 MR. SPEAKER: Representative Leek.

14 REPRESENTATIVE LEEK: Thank you,
15 Mr. Speaker.

16 And the diminishment question is one the
17 Court's ultimately going to have to answer.
18 However, I do not believe Gadsden County has
19 population sufficient to constitute a congressional
20 district without knowing for certain, but I don't
21 believe they do.

22 MR. SPEAKER: Representative Alexander.

23 REPRESENTATIVE ALEXANDER: Thank you,
24 Mr. Speaker.

25 And I recognize that aspect of it, Chairman

1 Leek. But what I'm trying to get an understanding
2 of is, the only majority county that is African
3 American in the State of Florida, will they have the
4 opportunity to elect the representative of their
5 choice, based off the proposed map?

6 MR. SPEAKER: Representative Leek.

7 REPRESENTATIVE LEEK: Thank you,
8 Mr. Speaker.

9 And I can't begin to speak to what the
10 citizens of Gadsden County -- who they will vote
11 for. I think somebody made the point earlier. You
12 can't assume by race they will vote the same. I
13 think that that's probably true. So I can't begin
14 to tell you what those citizens would do, given the
15 -- you know, the variations in candidates and the
16 like. There's just no way I can tell you that.

17 MR. SPEAKER: Representative Alexander.

18 REPRESENTATIVE ALEXANDER: Thank you,
19 Mr. Speaker.

20 And we won't get into that aspect of it.
21 And I do believe that is appropriate. Let's just
22 move on real quick so I can understand the proposed
23 map, because the premise -- and I'm having this
24 challenge here because on the state maps, we kept
25 talking about minority protected districts. We kept

1 talking about black protected districts. We're
2 talking about Tier 1 standard, and poof, it just
3 disappeared. And so I'm trying to wrap my mind
4 around that to understand the core essence of this.
5 And so based off of that methodology and that
6 perspective, the proposed map will have how many
7 minority access seats, since we've already
8 established that there are minority access seats in
9 the State of Florida?

10 MR. SPEAKER: Representative Leek.

11 REPRESENTATIVE LEEK: Thank you,
12 Mr. Speaker.

13 One, I have to dispute your premise. Tier
14 1 is still a viable option in here. There are
15 protected districts in here. It didn't disappear,
16 right. But your specific question is: under the
17 Governor's map, how many protected districts do we
18 have? We have two black and three Hispanic
19 protected districts.

20 MR. SPEAKER: Representative Alexander.

21 REPRESENTATIVE ALEXANDER: Thank you,
22 Mr. Speaker. So there are two black protected
23 districts, and so that was suggested. There is an
24 underlying rationale that there are and there is a
25 need to have those type of districts in the State of

1 Florida; is that correct?

2 MR. SPEAKER: Representative Leek.

3 REPRESENTATIVE LEEK: Thank you,
4 Mr. Speaker.

5 Yes.

6 MR. SPEAKER: Representative Alexander.

7 REPRESENTATIVE ALEXANDER: Thank you,
8 Mr. Speaker.

9 I'm going to try to wrap it up. And so
10 based off of that, let me get some clarification.
11 We are now currently at four black protected
12 districts. And so the Governor's proposed map will
13 decrease it to two; is that correct?

14 MR. SPEAKER: Representative Leek.

15 REPRESENTATIVE LEEK: Thank you,
16 Mr. Speaker.

17 Actually, we were at three in the House.
18 Then the Governor's map has two.

19 MR. SPEAKER: Representative Alexander.

20 REPRESENTATIVE ALEXANDER: Thank you,
21 Mr. Speaker.

22 I'm talking about currently in the State of
23 Florida, not in a proposal. I believe there are
24 four, correct?

25 MR. SPEAKER: Representative Leek.

1 REPRESENTATIVE LEEK: Thank you,
2 Mr. Speaker.

3 Actually, no. There are only three current
4 black protected districts.

5 MR. SPEAKER: Representative Alexander.

6 REPRESENTATIVE ALEXANDER: Thank you,
7 Mr. Speaker.

8 For the record, can you tell me what those
9 three are?

10 MR. SPEAKER: Representative Leek.

11 REPRESENTATIVE LEEK: Thank you,
12 Mr. Speaker.

13 In the benchmark map, it's 5, 20, and 24.

14 MR. SPEAKER: Representative Alexander.

15 REPRESENTATIVE ALEXANDER: Thank you,
16 Mr. Speaker.

17 Can we speak to the rationale? And I'm
18 almost done, Mr. Speaker. And thank you for your --
19 for the graciousness in the back and forth. I have
20 the utmost respect for Chairman Leek. What was the
21 premise of having racial or minority access
22 districts in the first place? Can you speak to
23 that?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 I want to be careful here because minority
3 access district is not a phrase used in the law.
4 It's commonly used by media. But I think the --
5 that premise is echoed in the Tier 1 standards.

6 MR. SPEAKER: Representative Alexander.

7 REPRESENTATIVE ALEXANDER: Mr. Speaker.

8 And the Tier 1 standards are in the
9 constitution, correct?

10 MR. SPEAKER: Representative Leek.

11 REPRESENTATIVE LEEK: Thank you,

12 Mr. Speaker.

13 They are in the Florida Constitution. They
14 are not of the United States Constitution.

15 MR. SPEAKER: Representative Alexander.

16 REPRESENTATIVE ALEXANDER: Thank you,

17 Mr. Speaker.

18 Are there any federal laws that speak to
19 this type of representation as well, like civil
20 rights act of anything?

21 MR. SPEAKER: Representative Leek.

22 REPRESENTATIVE LEEK: Thank you, Mr.

23 Speaker.

24 I think you're referring to the Voting
25 Rights Act. The Voting Rights Act does, and, of

1 course, the 14th Amendment that doesn't allow you to
2 discriminate on the basis of race.

3 MR. SPEAKER: Representative Alexander.

4 REPRESENTATIVE ALEXANDER: Thank you,
5 Mr. Speaker.

6 And so, based off of that -- I'm trying to
7 get clarification because I believe that history is
8 important. And I appreciate the time. So during
9 the period of reconstruction, how many black
10 representatives were there in the State of Florida?

11 MR. SPEAKER: Represent Leek.

12 REPRESENTATIVE LEEK: Thank you,
13 Mr. Speaker.

14 I don't know.

15 MR. SPEAKER: Representative Alexander.

16 REPRESENTATIVE ALEXANDER: Thank you,
17 Mr. Speaker.

18 And it was one. And from 1871, there was
19 only one. And then it took until 1992 to get three.

20 I'm done with my questions.

21 REPRESENTATIVE LEEK: All right.

22 MR. SPEAKER: Representative Willhite.

23 REPRESENTATIVE WILLHITE: Thank you,
24 Mr. Speaker. I'm sorry, where was I going next?

25 Representative Learned, I'm sorry.

1 MR. SPEAKER: Representative Learned,
2 you're recognized.

3 REPRESENTATIVE LEARNED: Thank you,
4 Mr. Speaker.

5 And thank you, Chairman Leek. That was an
6 enlightening series of questions. I wanted to ask
7 first, because earlier in one of your answers, you
8 were talking about how this map was better because
9 it divided one last county. But my understanding in
10 looking at it is it divides Saint Pete in the way
11 that Saint Petersburg has never been divided before;
12 is that correct?

13 MR. SPEAKER: Representative Leek.

14 REPRESENTATIVE LEEK: Thank you,
15 Mr. Speaker.

16 I don't know the history of the division of
17 Saint Pete.

18 MR. SPEAKER: Representative Learned.

19 REPRESENTATIVE LEARNED: Thank you,
20 Mr. Speaker.

21 So Saint Petersburg in the maps that we
22 passed and that, you know, we all agreed were good
23 at the time, was in one district. Now, it's in two.
24 And that's because this district appears to cross
25 Tampa Bay. I wanted to make sure that I understand

1 correctly that District 14, as you've drawn it in
2 this -- or that the Governor drew in this map, does,
3 in fact, cross Tampa Bay in a way that we all
4 collectively decided we didn't want to do with our
5 map.

6 MR. SPEAKER: Representative Leek.

7 REPRESENTATIVE LEEK: Thank you,
8 Mr. Speaker.

9 I'm sorry, I'm having a little trouble
10 here. I'm only used to talking to Representative
11 Learned on an amendment. So we've said it from the
12 beginning, there is no one single legally compliant
13 map. And the fact that a district looked different
14 in a prior map doesn't mean that it looks different
15 now is inappropriate. So I'm not sure the basis of
16 your question, but this map has Saint Pete drawn the
17 way you suggest.

18 MR. SPEAKER: Representative Learned.

19 REPRESENTATIVE LEARNED: Thank you,
20 Mr. Speaker.

21 My question really is getting at, you know,
22 I feel like there's a conflict in the logic that's
23 being applied to this process versus the process we
24 used, you know, just three weeks ago. So when we
25 were debating before, we were talking about Tier 1

1 and Tier 2, and the logic when it pertained to
2 Congressional District 5 was, well, we are adding
3 more black voters there. So we're more Voting
4 Rights Act compliant. And this district, the one
5 that I'm kind of focused on right now, District 14,
6 it appears that you're packing more people into that
7 district and packing more African American voters.
8 Is that because you're trying to be more Tier 1
9 compliant with District 14? Is that what you're
10 doing here?

11 MR. SPEAKER: Representative Leek.

12 REPRESENTATIVE LEEK: Thank you.

13 I'll do the best I can with that. Again, I
14 can't speak to the map drawers, you know, reason for
15 choosing this road and that waterway over that road
16 and the other waterway. So I can't speak to the
17 rationale of why it now goes across when we didn't
18 do it. When we did it before, we thought it was
19 legally compliant. And by legally compliant, we
20 thought also compliant with Tier 2. And what our
21 review of this one is that it is equally compliant
22 with Tier 2.

23 MR. SPEAKER: Representative Learned.

24 REPRESENTATIVE LEARNED: Thank you,
25 Mr. Speaker.

1 But that's not our charge here, right.
2 We're not charged to be Tier 2 compliant. We're
3 charged to be Tier 1 compliant. My question was
4 about Tier 1 compliance, which our understanding is
5 -- which what I understand is what makes this map
6 unconstitutional, right, because we are effectively
7 disenfranchising these voters. And my question
8 really is about this idea that if you can pack more
9 and more black voters into fewer and fewer
10 districts, is that Voting Rights Act compliant?
11 Because we are, in essence, increasing minority
12 population within those districts and those
13 districts alone.

14 MR. SPEAKER: There's a lot of conclusions
15 packed into that question. Do you have a question
16 about a specific district you'd like to ask
17 Representative Leek?

18 REPRESENTATIVE LEARNED: Yes, Mr. Speaker.
19 I mean, that's my question. Is this the intent that
20 we can pack more and more black voters into fewer
21 and fewer districts in order to maximize Voting
22 Rights Act compliance? Is that the logical
23 conclusion that I'm supposed to be drawing from
24 this?

25 MR. SPEAKER: Representative Leek.

1 REPRESENTATIVE LEEK: Thank you,
2 Mr. Speaker.

3 It's certainly not our intent, and we have
4 no reason to believe that was the Governor's map
5 drawer's intent.

6 MR. SPEAKER: Representative Learned.

7 REPRESENTATIVE LEARNED: Thank you,
8 Mr. Speaker.

9 What evidence are we using to understand
10 the Governor's intent if his actions are speaking
11 louder than words?

12 MR. SPEAKER: Representative Learned, you
13 would like to ask a question without making
14 conclusions.

15 Representative Willhite, you're recognized.

16 REPRESENTATIVE WILLHITE: Thank you,
17 Mr. Speaker. Will you recognize Representative
18 Campbell?

19 MR. SPEAKER: Representative Campbell,
20 you're recognized.

21 REPRESENTATIVE CAMPBELL: Thank you,
22 Mr. Speaker.

23 Representative Leek, as I understand it,
24 Alex Kelly was the person that drew these maps,
25 correct?

1 MR. SPEAKER: Representative Leek.

2 REPRESENTATIVE LEEK: Thank you,
3 Mr. Speaker.

4 Yes. That was his testimony yesterday.

5 MR. SPEAKER: Representative Campbell.

6 REPRESENTATIVE CAMPBELL: Thank you,
7 Mr. Speaker.

8 And, Representative, did he consult with
9 anyone else in the drawing of these maps?

10 MR. SPEAKER: Representative Campbell, I
11 believe that was answered previously, and I think
12 Representative Leek talked about Mr. Kelly's
13 testimony yesterday. Additional questions?

14 REPRESENTATIVE CAMPBELL: Thank you,
15 Mr. Speaker.

16 What was the methods that he used to
17 establish these maps?

18 MR. SPEAKER: Representative Leek.

19 REPRESENTATIVE LEEK: Thank you,
20 Mr. Speaker.

21 And I believe that question has also been
22 asked. But he used the Tier 1, Tier 2 standards,
23 and the United States Constitutional standards. I
24 believe that was his testimony.

25 MR. SPEAKER: Representative Campbell.

1 REPRESENTATIVE CAMPBELL: Hey, Mr. Speaker.
2 How was the census used in the development
3 of these maps?

4 MR. SPEAKER: Representative Leek.

5 REPRESENTATIVE LEEK: Thank you,
6 Mr. Speaker.

7 Again, didn't develop these maps but census
8 data is the fundamental underpinning of any map.

9 MR. SPEAKER: Represent Campbell.

10 REPRESENTATIVE CAMPBELL: Thank you,
11 Mr. Speaker.

12 Yesterday, we heard from Counsel yesterday
13 about strict scrutiny and the Gingles test. What
14 analysis did he use to determine whether or not the
15 Gingle tests were met?

16 MR. SPEAKER: Representative Leek.

17 REPRESENTATIVE LEEK: Thank you.

18 Again, I can't speak to his analysis other
19 than what he testified to yesterday. I will point
20 out that the Gingles test only comes into play upon
21 a challenge to the maps.

22 MR. SPEAKER: Representative Campbell.

23 REPRESENTATIVE CAMPBELL: Thank you,
24 Mr. Speaker.

25 Lastly, where can the public access the

1 data points to the development of these maps?

2 MR. SPEAKER: Representative Leek.

3 REPRESENTATIVE LEEK: Thank you,
4 Mr. Speaker.

5 There is a data packet in front of you now.
6 There's also a data packet on the website.

7 MR. SPEAKER: Representative Campbell.

8 REPRESENTATIVE CAMPBELL: Mr. speaker.
9 What website would that be?

10 MR. SPEAKER: Representative Leek.

11 REPRESENTATIVE LEEK: Thank you,
12 Mr. Speaker.

13 Floridaredistricting.gov.

14 MR. SPEAKER: Representative Campbell.

15 REPRESENTATIVE CAMPBELL: That's it.

16 MR. SPEAKER: Representative Willhite.

17 REPRESENTATIVE WILLHITE: Mr. Speaker,
18 would you recognize Representative Diamond?

19 MR. SPEAKER: Representative Diamond,
20 you're recognized.

21 REPRESENTATIVE DIAMOND: Thank you,
22 Mr. Speaker.

23 Good morning. I just wanted to follow up
24 on Representative Joseph's questions, specifically
25 with regard to CD 26. I want to further understand

1 this issue of establishing voter cohesion because my
2 understanding from the case law is that that's the
3 first step in any retrogression analysis. And,
4 specifically, the question is relating to Hispanic
5 voting cohesion in the South Florida. Given what
6 the Florida Supreme Court has said about that issue,
7 are we taking into account, in this map,
8 particularly around CD 26, how those Latinos -- the
9 voting cohesion of those Latino voters in that part
10 of the state?

11 MR. SPEAKER: Representative Leek.

12 REPRESENTATIVE LEEK: Thank you,
13 Mr. Speaker.

14 I believe you're talking about the Gingles
15 test, which, once again, is only performed upon a
16 challenge. So the Gingles test is a plaintiff's
17 obstacle declare to bring a claim.

18 MR. SPEAKER: Representative Diamond.

19 REPRESENTATIVE DIAMOND: But I just want to
20 understand that thinking. So, I mean, the Gingles
21 test, that is the law of the Supreme Court, right,
22 the United States Supreme Court. So, I mean, we
23 have to look at that and make certain that we are
24 meeting that test in producing this map. Do we not?

25 MR. SPEAKER: Representative Leek.

1 REPRESENTATIVE LEEK: Thank you,
2 Mr. Speaker.

3 It is the law of the Florida Supreme Court
4 for plaintiffs who are bringing a claim to challenge
5 the maps -- excuse me, US Supreme Court.

6 MR. SPEAKER: Representative Diamond.

7 REPRESENTATIVE DIAMOND: But I guess I'm
8 just trying to establish. I mean, as I understand
9 these cases, and you've studied them far more than I
10 have, Mr. Chairman, but we have to -- if we're going
11 to draw these districts in -- for instance, like CD
12 26, where we're making these assumptions about
13 Latino voting populations. Let me ask it this way.
14 Has there been any analysis done on CD 26, with
15 regard to the Latino voting population, that there
16 will be sort of a cohesiveness necessary in that
17 voting population in order to defend that district
18 under that test?

19 MR. SPEAKER: Representative Leek.

20 REPRESENTATIVE LEEK: Thank you,
21 Mr. Speaker.

22 Remember, the only analysis that we are
23 required to perform is the functional analysis,
24 which has been done. We have not performed the
25 analysis that you're talking about on the Governor's

1 test --

2 MR. SPEAKER: Representative Diamond.

3 REPRESENTATIVE DIAMOND: Mr. Speaker.

4 And do you know if the drafter has
5 performed that analysis? You've said earlier that
6 the drafter was in the Governor's office.

7 MR. SPEAKER: Representative Leek.

8 REPRESENTATIVE LEEK: Thank you,
9 Mr. Speaker.

10 No, I do not.

11 MR. SPEAKER: Representative Diamond.

12 REPRESENTATIVE DIAMOND: In terms of the
13 drafter, I mean, you know, when you established the
14 process that we used during regular session for the
15 drafting of the maps, you established certain
16 processes in terms of retention of records and, you
17 know, efforts to make certain that we were meeting
18 the Tier 1 compliance. What questions did you ask
19 of the drafters to build the same assurances in this
20 process?

21 MR. SPEAKER: Representative Leek.

22 REPRESENTATIVE LEEK: Thank you,
23 Mr. Speaker.

24 Recall that this map, as all of the other
25 Governor's maps, were submitted through the portal.

1 To get through the portal, you have to fill out a
2 form that requires you to answer those kinds of
3 questions.

4 MR. SPEAKER: Representative Diamond.

5 REPRESENTATIVE DIAMOND: So earlier you
6 mentioned that there had been a briefing -- a
7 private briefing for you and Chairman Seroy and your
8 staff from the Governor's office with regard to the
9 map that we're about to vote out today. Were any
10 questions asked in that private briefing about just
11 sort of to provide additional assurances in addition
12 to whatever that form may require?

13 MR. SPEAKER: Representative Leek.

14 REPRESENTATIVE LEEK: Thank you,
15 Mr. Speaker.

16 I mean, bluntly, the form asked the very
17 questions you're asking about. And so with that
18 form being filled out, we know the answer to those
19 questions. I can't recall whether we ask any
20 additional questions or whether there's any
21 additional flavor. But the form itself takes care
22 of what you're asking about.

23 MR. SPEAKER: Representative Diamond.

24 REPRESENTATIVE DIAMOND: Thank you,
25 Mr. Speaker.

1 And it's been reported that this map will
2 result in a congressional delegation from Florida of
3 20 Republican seats and 8 Democratic seats. Are you
4 aware of those reports?

5 MR. SPEAKER: Representative Leek.

6 REPRESENTATIVE LEEK: Thank you,
7 Mr. Speaker. I have heard the same because it's
8 hard to turn on the news and escape it. But I can
9 tell you that we can't validate those reports.

10 MR. SPEAKER: Representative Diamond.

11 REPRESENTATIVE DIAMOND: Do you know if the
12 drafter of this map is aware of those reports?

13 MR. SPEAKER: Representative Leek.

14 REPRESENTATIVE LEEK: Thank you,
15 Mr. Speaker.

16 No. I do not.

17 MR. SPEAKER: Representative Diamond.

18 REPRESENTATIVE DIAMOND: So I guess my
19 question, when I hear about those reports is, you
20 know, how can it not be evidence of partisan intent
21 if there is such a substantial difference between
22 the partisan configuration of the state and the
23 partisan effect of this map?

24 MR. SPEAKER: Representative Leek.

25 REPRESENTATIVE LEEK: Thank you,

1 Mr. Speaker.

2 Let me do the best I can with that. Of
3 course, the US Supreme Court has told us that the
4 mere fact that you have a map that produces -- you
5 know, that favors one party over another is not in
6 itself evidence of partisan intent. So I would say,
7 you know, as far as your premise is concerned, I
8 think you're off. I don't think that is the law.
9 And the fact that -- well, I guess you would have to
10 accept then the performance data that you're talking
11 about. But to do so, meaning that you know the
12 performance data, that your argument in and of
13 itself would be tainted in some way, because you
14 know the performance data. I'm not sure I accept
15 that premise either.

16 MR. SPEAKER: Representative Diamond.

17 REPRESENTATIVE DIAMOND: Thank you very
18 much, Mr. Speaker.

19 In your presentation of the map, you
20 mentioned waterways in different parts of the state.
21 Like for instance, in Northeast Florida, we use the
22 Saint John's River as a natural dividing line. In
23 our county, in Pinellas County, the dividing line
24 was not Tampa Bay, as you know, but was -- us was
25 34th Street, US-19. Can you speak to why the

1 drafter did not use Tampa Bay as the dividing line,
2 but instead chose to use a street?

3 MR. SPEAKER: Representative Leek.

4 REPRESENTATIVE LEEK: Thank you,
5 Mr. Speaker.

6 Again, and let me just say this again. If
7 the question begins with, "Why did the drafter do
8 this," the answer is always going to be I can't tell
9 you precisely why the drafter did this. But I can
10 tell you that the Tier 2 boundaries that the drafter
11 used are as legally compliant as the Tier 2
12 boundaries that we used in our prior maps.

13 MR. SPEAKER: Representative Willhite.

14 REPRESENTATIVE WILLHITE: Who did I say
15 next? I'm sorry. Mr. Speaker, do you recognize
16 Representative Humphrey?

17 MR. SPEAKER: Representative Humphrey,
18 you're recognized.

19 REPRESENTATIVE HUMPHREY: Thank you very
20 much, Mr. Speaker.

21 It's interesting to see you on the wall and
22 in person at the same time. But anyways, I have a
23 question for -- thank you for recognizing me,
24 Mr. Speaker.

25 And, Chair Leek, man, do I have to say I'm

1 sorry, and I'll explain that in debate tomorrow, and
2 not in regards to my questions, by the way. So we
3 have funds set aside in this bill to deal with any
4 legal matters that should come up in reference to
5 this bill. My question is: what happens when this
6 map is challenged?

7 My next question is: if you could just
8 detail the steps of what happens when this map is
9 challenged, and whether or not we'll have to have a
10 special election if the outcome is that these maps
11 are deemed invalid in areas.

12 My third question is --

13 MR. SPEAKER: My recommendation is let's
14 just take one at a time, if we can.

15 Representative Leek.

16 REPRESENTATIVE LEEK: Thank you,
17 Mr. Speaker.

18 I don't know that I can describe the
19 universe of things that could happen if these maps
20 are challenged because I think, you know, the
21 challenges are unknown at this point. But it will
22 go to court, and the Court will make a ruling on
23 whether the challenge is upheld or not.

24 MR. SPEAKER: Representative Humphrey.

25 REPRESENTATIVE HUMPHREY: Thank you,

1 Mr. Speaker.

2 Chair Leek, in the past, when the maps were
3 challenged, did we have to have a special election?

4 I wasn't here for it, and I'm not asking this
5 because I know the answer. I'm really asking
6 because I don't know.

7 MR. SPEAKER: Representative Leek.

8 REPRESENTATIVE LEEK: Thank you,
9 Mr. Speaker.

10 No. We didn't have to have a special
11 election.

12 MR. SPEAKER: Representative Humphrey.

13 REPRESENTATIVE HUMPHREY: Thank you,
14 Mr. Speaker.

15 Chair Leek, did the creators of the map
16 explain why the two seats that sit in South Florida,
17 the black protected seats, were not touched?

18 MR. SPEAKER: Representative Leek.

19 REPRESENTATIVE LEEK: Thank you,
20 . Speaker.

21 I'm trying to recall back to the testimony,
22 which is available. If you'd like -- I think you
23 might have actually been in the committee room as
24 well. But my recollection is they felt that those
25 seats were Tier 1, Tier 2 compliant, met a

1 compelling state need and were narrowly tailored.

2 MR. SPEAKER: Representative Humphrey.

3 REPRESENTATIVE HUMPHREY: Thank you very
4 much, Mr. Chair. Thank you, Mr. Speaker.

5 MR. SPEAKER: Representative Willhite.

6 REPRESENTATIVE WILLHITE: Will you
7 recognize Representative Gottlieb?

8 MR. SPEAKER: Representative Gottlieb,
9 you're recognized.

10 REPRESENTATIVE GOTTLIEB: Thank you,
11 Mr. Speaker.

12 I just have one question, Rep Leek, and
13 that is, having listened to your answers, which is
14 that the Governor's office drew these maps, and this
15 body did not. How does that not violate the
16 separation of powers?

17 MR. SPEAKER: Representative Leek.

18 REPRESENTATIVE LEEK: Thank you,
19 Mr. Speaker.

20 Of course, the Governor's always had a role
21 in it from day. And this narrative that we are
22 somehow abdicating our responsibility because the
23 Governor had no role in it is just plainly false.
24 So the Governor always had the opportunity to draw a
25 map, just like the ACLU, just like the League of

1 Women Voters, just like, you know, the hundreds of
2 citizens who drew maps. Looking at their maps, even
3 taking up their maps is not an abdication of our
4 responsibility, nor is it a violation of separation
5 of powers. It's just simply part of the process
6 that is permissible.

7 MR. SPEAKER: Representative Willhite.

8 REPRESENTATIVE WILLHITE: Mr. Speaker, will
9 you recognize Representative Smith?

10 MR. SPEAKER: Representative Smith, you're
11 recognized.

12 REPRESENTATIVE SMITH: Thank you,
13 . Speaker.

14 Chair Leek, are these maps race neutral as
15 the Governor has requested?

16 MR. SPEAKER: Representative Leek.

17 REPRESENTATIVE LEEK: Thank you.

18 I believe the Governor used the term, "race
19 neutral" as a counterbalance to predominantly based
20 upon race. And the maps are both race neutral in
21 areas, and, you know, protected -- also based on
22 race in the areas that are protected.

23 MR. SPEAKER: Representative Smith.

24 REPRESENTATIVE LEEK: So it's not one or
25 the other.

1 MR. SPEAKER: Representative Smith.

2 REPRESENTATIVE SMITH: Thank you,
3 Mr. Speaker.

4 So what is the distinction between which
5 areas of the state we've decided to have race
6 neutral and which areas of the state are not race
7 neutral?

8 MR. SPEAKER: Representative Leek.

9 REPRESENTATIVE LEEK: Thank you,
10 Mr. Speaker.

11 All of those protected districts are not
12 race neutral.

13 MR. SPEAKER: Representative Smith.

14 REPRESENTATIVE SMITH: The Governor's
15 counsel stated in his memo that equal opportunity
16 districts for minority voters are tantamount to
17 segregation. He used that argument to eliminate CD
18 5. Is it also the position of the House that equal
19 opportunity districts for minority voters are
20 tantamount to segregation?

21 MR. SPEAKER: Representative Leek.

22 REPRESENTATIVE LEEK: Thank you,
23 Mr. Speaker.

24 I don't recall hearing the Governor's
25 office say those words, but the answer is no. And

1 that's why these districts also contain protected
2 districts.

3 MR. SPEAKER: Representative Smith.

4 REPRESENTATIVE SMITH: Thank you,
5 . Speaker.

6 I'm hoping that you can explain a little
7 bit further the difference between these districts.
8 The Governor said that districts need to be compact,
9 and they shouldn't have tendrils or spill into other
10 -- or into the middle of other districts. If you
11 look at CD 20, can you explain why the tendrils of
12 CD 20 that extend eastward, especially the one that
13 cuts into the heart of CD 23, are acceptable in
14 South Florida if they are prohibited in North
15 Florida?

16 MR. SPEAKER: Representative Leek.

17 REPRESENTATIVE LEEK: Thank you,
18 Mr. Speaker.

19 You're overstating the law and letter.
20 Remember the first thing is population, right, plus
21 or minus one person. So you're necessarily going to
22 have to go different places to get to that zero
23 population, that equal population. And I think what
24 you're seeing is that one -- the CD 20 is certainly
25 more compact than CD 5 was.

1 MR. SPEAKER: Representative Smith.

2 REPRESENTATIVE SMITH: Thank you,
3 Mr. Speaker.

4 And I'm not trying to denigrate CD 20. I'm
5 just trying to get you to explain to us and explain
6 to me the inconsistency there. Why is that tendrill
7 cutting into CD 23? What is the purpose of that
8 tendrill?

9 MR. SPEAKER: Representative Leek.

10 REPRESENTATIVE LEEK: Thank you,
11 Mr. Speaker.

12 And again, Representative Smith, you're
13 putting too much emphasis on uniformity. The
14 purpose of that is equal population.

15 MR. SPEAKER: Representative Smith.

16 REPRESENTATIVE SMITH: Thank you,
17 Mr. Speaker.

18 So just to clarify, the purpose of that
19 tendrill is not to protect the strength of racial and
20 language minorities in that district?

21 MR. SPEAKER: You couldn't hear it?

22 REPRESENTATIVE LEEK: Yeah.

23 MR. SPEAKER: Representative Smith, can you
24 repeat the question.

25 REPRESENTATIVE SMITH: Thank you,

1 Mr. Speaker.

2 Chair Leek, you just stated that the
3 purpose of that tendril was to ensure equal
4 population. So what you're also saying is the
5 purpose of that tendril in Congressional District 20
6 is not to ensure the ability of racial or language
7 minorities to elect the candidate of their choice?

8 MR. SPEAKER: Representative Leek.

9 REPRESENTATIVE LEEK: Thank you,
10 Mr. Speaker.

11 No. I don't think you can draw all that
12 corollary. CD 20 is a protected district.

13 MR. SPEAKER: Representative Smith.

14 REPRESENTATIVE SMITH: Thank you,
15 Mr. Speaker.

16 I also want to jump back to the Governor's
17 office, and how they drew the map. I'm curious.
18 Did they keep records to prove they were not drawn
19 in a way that was driven by partisan intent? And
20 did you request that they keep records to prove that
21 or disprove it in a court of law?

22 MR. SPEAKER: I think Chairman Leek
23 answered that in response to Representative
24 Diamond's questions.

25 Is there any additional information you'd

1 like to add, Representative Leek?

2 REPRESENTATIVE LEEK: (Shakes head).

3 MR. SPEAKER: You have additional
4 questions, Representative Smith?

5 REPRESENTATIVE SMITH: No, nothing else.

6 MR. SPEAKER: Representative Willhite.
7 Yield back the 23 seconds?

8 REPRESENTATIVE WILLHITE: Yes, sir.

9 MR. SPEAKER: All right. Representative
10 Eskamani, you're recognized for your question.

11 REPRESENTATIVE ESKAMANI: Thank you,
12 Mr. Speaker.

13 Very quick question for you, Chair Leek. I
14 know that one of the arguments being made by the
15 Governor's office with CD 5 is that there is no
16 apparent state interest in keeping it to be minority
17 access, But the courts disagree with that. I mean,
18 does the weight of the courts not compel the state
19 to have an interest?

20 MR. SPEAKER: Representative Leek.

21 REPRESENTATIVE LEEK: Thank you,
22 Mr. Speaker.

23 Actually, there is no court opinion
24 precisely on that issue.

25 MR. SPEAKER: All right, members. Time

1 having expired in questions, we are in amendments.

2 Are there amendments?

3 THE CLERK: On the desk, Mr. Speaker.

4 MR. SPEAKER: Take up the First Amendment.

5 THE CLERK: Representative Jenne offered
6 the following amendment with title, Amendment,
7 Barcode 717833. Remove lines 95 through 3647 and
8 insert in amendment.

9 MR. SPEAKER: Leader Jenne, you're
10 recognized on your amendment.

11 REPRESENTATIVE JENNE: Thank you,
12 Mr. Speaker. Good to see you.

13 Members, essentially what this amendment
14 does is it adopts plan 80/60, which was the Senate
15 plan in place of this proposed map. This particular
16 plan has the following characteristics: divides the
17 state into 28 congressional districts with a
18 population of 769,221 people. Each district will
19 grow by 42,876 people, compared to the pre-existing
20 map.

21 It establishes four protected African-
22 America districts, CD 5, 10, 20, and 24. It
23 maintains the Gadsden to Duval configuration known
24 as CD 5. It establishes three protected Hispanic
25 districts, CD 25, 26, and 27. The plan, we believe,

1 improves on most Tier 2 metrics compared to the
2 underlying benchmark plan. It does also reduce city
3 splits and improves compactness.

4 Mr. Speaker, that is the amendment.

5 MR. SPEAKER: Are there questions on the
6 amendment? Are there questions?

7 Representative Robinson.

8 REPRESENTATIVE ROBINSON: Thank you,
9 Mr. Speaker.

10 Representative, I just wanted to ask. And
11 this particular map was drawn by who?

12 MR. SPEAKER: Representative Jenne. Leader
13 Jenne.

14 REPRESENTATIVE JENNE: The specific
15 individual, not sure, but I know this was the map
16 that was approved by the Senate and with bipartisan
17 support.

18 REPRESENTATIVE ROBINSON: Follow-up.

19 MR. SPEAKER: Representative Robinson.

20 REPRESENTATIVE ROBINSON: So this map was
21 draw by the Legislature as part of our duty,
22 correct?

23 MR. SPEAKER: Leader Jenne.

24 REPRESENTATIVE JENNE: Yes, it was. This
25 was crafted by our colleagues across the hall in the

1 Senate. And this was a plan that they did vote on
2 and overwhelmingly had bipartisan support.

3 MR. SPEAKER: Representative Geller.

4 REPRESENTATIVE GELLER: Thank you, Mr.
5 Speaker.

6 And thank you for this good amendment,
7 Leader. In addition to keeping the current
8 configuration from Gadsden to Duval, does this map
9 also provide for the continued election of an
10 African-American congressional representative in the
11 Orlando area?

12 MR. SPEAKER: Leader Jenne.

13 REPRESENTATIVE JENNE: Yes. Thank you,
14 Mr. Speaker.

15 And thank you, Representative Geller, for
16 that particular question. Yes, it does. And that
17 was a difference between the two chambers. I'm not
18 casting aspersions, but that was a difference. The
19 Senate treated CD 10 as a protected seat. The
20 House, we did not do so.

21 MR. SPEAKER: Representative Geller.

22 REPRESENTATIVE GELLER: Thank you,
23 Mr. Speaker.

24 Leader Jenne, does this map preserve the
25 previous configuration of what has been the existing

1 district that involves representation in Pinellas
2 County as opposed to the new map that we're looking
3 at today?

4 MR. SPEAKER: Leader Jenne.

5 REPRESENTATIVE JENNE: Yes, sir. It's much
6 closer.

7 MR. SPEAKER: Representative Geller.

8 REPRESENTATIVE GELLER: Thank you,
9 Mr. Speaker.

10 Does this map continue as the map in front
11 of us does to provide for the election of an
12 African-American representative to congress in
13 Broward in Palm Beach County, by making certain
14 deviations from compactness so that that protected
15 district can remain protected?

16 MR. SPEAKER: Representative Jenne.

17 REPRESENTATIVE JENNE: Yes, sir. It does.

18 MR. SPEAKER: Representative Geller.

19 REPRESENTATIVE GELLER: Thank you,
20 Mr. Speaker.

21 Do you know the vote by which this map
22 passed the Senate?

23 MR. SPEAKER: Representative Jenne.

24 REPRESENTATIVE JENNE: Yes, sir. I do. I
25 have it here. I believe the count was 36 to 4. 36

1 to 4.

2 MR. SPEAKER: Representative Geller.

3 REPRESENTATIVE GELLER: Thank you,
4 Mr. Speaker.

5 So in addition to having overwhelming
6 bipartisan support, in your estimation, Leader
7 Jenne, does the map that you are proposing as an
8 amendment comply with the Florida Constitution Fair
9 District's provision, as well as the Voting Rights
10 Act of 1965?

11 MR. SPEAKER: Leader Jenne.

12 REPRESENTATIVE JENNE: Thank you,
13 Mr. Speaker.

14 Representative Geller. Yes, it does. I
15 believe it does. I believe if you look at the
16 statistics of each of these districts, I believe you
17 will find that to be the absolute case.

18 MR. SPEAKER: Additional questions,
19 members? Additional questions? I see no additional
20 questions. We are in -- are there amendments to the
21 amendment?

22 THE CLERK: None on the desk, Mr. Speaker.

23 MR. SPEAKER: Are there substitutes?

24 THE CLERK: None on the desk, Mr. Speaker.

25 MR. SPEAKER: We are in debate. Members

1 who wish to be recognized in debate.

2 Representative Geller.

3 REPRESENTATIVE GELLER: Thank you,
4 Mr. Speaker. Members, I urge you to support this
5 map for a lot of reasons. This amendment is a
6 better plan. This amendment does not require a
7 million dollars to be appropriated in for
8 anticipated litigation. This amendment complies
9 with the Florida and Federal Constitution. This
10 amendment does not fly in the face of them. If
11 someone thinks that not only the Florida
12 constitution, but the Voting Rights Act of 1965, the
13 law for almost 60 years in this country, is
14 unconstitutional, they have a right to take that to
15 court.

16 If someone thinks that the 14th Amendment
17 prohibits anything race-based, which I heard today
18 and is wrong; if someone thinks that the 14th
19 Amendment does not have language that would, as
20 interpreted by the courts, allow consideration if
21 there is a compelling state interest, and you use
22 the most narrowly tailored means possible to achieve
23 the result, remembering that that amendment was
24 passed as a remedial measure and its very name says
25 it was equal protection. It's designed to protect.

1 But we should not ignore the constitution of the
2 state and federal law in anticipation that someone
3 might challenge those things and take them and maybe
4 get them reversed. We should comply with the law as
5 it exists, as it's been interpreted for almost 60
6 years. We should comply with it, and anyone who
7 doesn't agree is free to raise that challenge. We
8 should not ignore what 63 percent of the voters of
9 Florida said for us to do.

10 Members, this map, which passed the Senate
11 36 to 4, is -- doesn't that say something? Isn't
12 that a statement to all of us? Members, we should
13 adopt this amendment. We should comply with the
14 very clear dictates of Tier 1, which is more
15 important than Tier 2, and of the federal Voting
16 Rights Act. And if somebody wants to take those to
17 court, and say they're wrong, we've been wrong in
18 interpreting the 14th Amendment for 150 years, well,
19 by God, this is America. They have a right to do
20 that. God bless anybody who wants to raise a
21 challenge and get it determined. But until the
22 courts change that, we must comply with the law as
23 it is written, as our voters told us to do.

24 Please adopt this amendment. Thank you.

25 MR. SPEAKER: Additional debate?

1 Additional debate?

2 Seeing none, Leader Jenne. You're
3 recognized to close.

4 REPRESENTATIVE JENNE: Mr. Speaker, thank
5 you as always.

6 Members, it's a simple amendment. It's a
7 request to take the Senate plan. It is not my plan.
8 I do not claim any authorship over it. I claim
9 nothing other than someone who has to be anything
10 other than someone who has reviewed these maps.

11 I put this forward in the spirit of
12 compromise. Because, members, having been through
13 this redistricting process now for a second time, I
14 can tell you that it's very difficult, if not
15 outright impossible, to make a perfect map in which
16 every single line is in its proper place. But I
17 believe, and I think my caucus also believes, that
18 this is infinitely better than the map that is
19 actually in front of us today, especially in terms
20 of Tier 1.

21 But what about Tier 1? We spent months
22 discussing the maps. And Tier 1 was the absolute
23 apex of our guidelines. But now it has been cast
24 aside like democracy's detritus. Why? Because of
25 an abrupt change in philosophy. I will not condemn

1 that change. I will not comment on that change, but
2 it is due to an abrupt change in philosophy.

3 When we convened here earlier this year,
4 the VRA meant something. The Fair Districts
5 Amendment meant something. Tier 1 meant something.
6 These guided the entire process, and now they're
7 being tossed aside. Well, members, for me
8 personally, those things, the VRA, Fair Districts
9 Amendment, Tier 1, that still means something to me.
10 That still means something to a lot of members on
11 this floor today.

12 So I ask your favorable support of this.
13 Members, the car is not in neutral. The car is
14 speeding ahead. We have one last exit before we
15 ride over the cliff. I suggest we put on that turn
16 signal and get off right now. Thank you.

17 MR. SPEAKER: Members, Representative Jenne
18 having closed on his amendment, all in favor of
19 adoption of the amendment say yea.

20 (Multiple yeas)

21 MR. SPEAKER: All opposed, no.

22 (Multiple nos)

23 MR. SPEAKER: Show the amendment fails.

24 Read the next amendment.

25 THE CLERK: Representative Joseph offered

1 the following amendment with title, Amendment
2 Barcode 799545. Remove lines 3627 through 3647, and
3 insert in amendment.

4 MR. SPEAKER: Representative Joseph, you're
5 recognized to explain your amendment.

6 REPRESENTATIVE JOSEPH: Thank you,
7 Mr. Speaker.

8 Section 7 of the bill before us, there's a
9 couple of things. One of which is it selects venue
10 in Leon County, right here, and it presets that.
11 And I'm just going to read it. "An action
12 challenging the state's congressional districts on
13 state constitution or state law grounds must be
14 brought in state court."

15 And earlier during questioning, you heard
16 some of the rationale as to why. And the purpose of
17 this amendment is just to do what I think is more
18 appropriate, which is to allow litigants to choose
19 which venue is more appropriate depending on the
20 nature and the crux of their case. It is not
21 unusual to have questions of law that both involve
22 state and federal issues. That's why you have
23 supplemental jurisdiction. It's not complicated.
24 That is a decision that I believe should be made,
25 and we should allow for that flexibility,

1 considering that these are federal congressional
2 seats that we're talking about. We're not talking
3 about state House seats or state Senate seats.
4 We're talking about our federal congressional seats.
5 So I think it would be more than appropriate to
6 eliminate just that section. So the amendment is
7 really simple and straightforward. And all it does
8 is it removes lines 3627 through 3647 from the bill
9 and leaves the law in its place, and to the extent
10 that the bill sponsored talked about how federal
11 questions can be addressed in federal court. That's
12 always the case. That's the whole point of the
13 supremacy clause.

14 So that is the amendment. I ask that
15 members support it. There's a lot of things that
16 we're doing that are novel. There's no need to
17 introduce this additional component into the
18 process. And that is the amendment, Madam Speaker.

19 MADAM SPEAKER: Having explained the
20 amendment, are there questions of the sponsor? Are
21 there questions?

22 Seeing no questions, is there an amendment
23 to the amendment?

24 THE CLERK: None on the desk, Madam
25 Speaker.

1 MADAM SPEAKER: Is there a substitute
2 amendment?

3 THE CLERK: None on the desk, Madam
4 Speaker.

5 MADAM SPEAKER: And debate, is there a
6 debate on the amendment?

7 Representative Eskamani, you are
8 recognized.

9 REPRESENTATIVE ESKAMANI: Thank you so
10 much, Madam Speaker. I just want to say thank you
11 to the Representative for bringing forth this good
12 amendment. This is just an example of good
13 government. Let's ensure people have concerns, have
14 the time to make those concerns expressed. If folks
15 feel like these maps are in good legal standing,
16 they should not have an issue with this amendment.

17 Thank you, Madam Speaker.

18 MADAM SPEAKER: Additional debate?

19 Representative Driskell.

20 REPRESENTATIVE DRISKELL: Thank you, Madam
21 Speaker. And happy birthday to you -- or belated
22 birthday.

23 Members, this is a drum I'll continue to
24 beat in terms of thinking about how we use procedure
25 and making sure that we are not using procedure as a

1 weapon against the people of the State of Florida.
2 It's problematic, okay. There's procedure, and
3 there's substance in the law. Two distinct things.
4 But what happens sometimes -- what I'm noticing is a
5 dangerous trend in this Legislature, which is that
6 we are now amending legislation, or amending bills,
7 or adding procedural weapons to these bills, and I
8 really don't like it. We need to give the people
9 the opportunity to be heard in court. There's no
10 reason why this can't be heard in federal court.

11 And I understand there's a provision at the
12 end of 1(c) that talks about this does not preclude
13 any action being brought in federal court. But,
14 actually, it's internally inconsistent to me, that
15 provision of the bill and then the prior provision
16 saying that you can't bring this in federal court.
17 So I don't understand what we're doing here.

18 And I thank you, Rep Joseph, for this
19 amendment, because you really are trying to hold us
20 accountable and making sure that we are meeting with
21 due process in a procedural way that we need to for
22 the people of Florida.

23 So thank you for this. I'll be up on your
24 amendment today.

25 MADAM SPEAKER: Additional debate?

1 Members, additional debate?

2 Representative Joseph, you're recognized to
3 close on the amendment.

4 REPRESENTATIVE JOSEPH: Thank you, Madam
5 Speaker. So the portion of the House bill that's an
6 issue with the redistricting bill is it's a
7 jurisdiction of federal courts. And it conflicts
8 with the Voting Rights Act in 28 USC 1367, which
9 provides supplemental federal jurisdiction over
10 state law claims that are closely related to federal
11 claims. It takes precedent. So the supremacy
12 clause should control, and state law must concede to
13 federal law, which states that federal courts have
14 jurisdiction over these maps.

15 And as a practical matter, I know that
16 there are few attorneys in the room, but state
17 courts and federal courts are different. They just
18 are. In terms of their susceptibility to a number
19 of things -- and I'm not here to impugn the court,
20 but there's a reason that we have these things in
21 federal court. And as we're seeing these attacks
22 that are being mounted on, you know -- effectively
23 what we're complaining about, what the crux of a lot
24 of folks are complaining about, is the delusion of
25 these maps proposed by the Governor of black votes.

1 That's the underlying concern. So if we are
2 decreasing representation based on the 14th
3 Amendment -- so people may not be too familiar with
4 the 14th Amendment, and I want to keep it tied to
5 the reason for my amendment is there was a US
6 Supreme Court case called Dred Scott. Some of you
7 may not be familiar with it, but it held that the
8 black man had no right that the white man had to
9 accept. And that black people could never be
10 citizens of these United States. That was basically
11 the premise of that case. That led to the passage
12 of a couple of things. But after the 13th
13 Amendment, the United States thought that we were
14 good. Slaves are free. But it wasn't so because
15 the states who were resisting these new rights that
16 were being exercised and allotted to black people
17 were just not falling in line.

18 So Republicans, interestingly enough, led
19 by Thaddeus Stevens at the time, who proposed the 14
20 Amendment -- Republicans proposed the 14th Amendment
21 to ensure that black people had all the privileges
22 and immunities, had equal protection under the law
23 that other folks did. It was really that simple.
24 So the purpose of the 14th Amendment is to just make
25 sure that we're equal.

1 And many of you may be familiar with the
2 Three-fifths clause that exists in the Constitution,
3 which counted black people as three-fifth of a
4 person. Another thing the 14th Amendment did was
5 take care of that. It made us a full person. So
6 when I look at these maps who are trying to make
7 people, black people, count as less --

8 MR. SPEAKER: Representative Joseph, your
9 time has expired. I'll just give you a moment to
10 conclude.

11 REPRESENTATIVE JOSEPH: Mr. Speaker, that's
12 very kind. When I hear 14th amendment being used to
13 make our voices and our representation be slashed by
14 practically 50 percent, that's offensive to the
15 whole point of the 14th amendment. And that
16 Republican body recognizes it. And I hope at some
17 point, these Republicans are Republicans because I
18 don't think it's a Republican versus Democrat issue.
19 This is not and doesn't need to be.

20 With that, I ask for your favorable support
21 on this amendment to keep it in federal courts where
22 it actually belongs. Thank you.

23 MR. SPEAKER: Representative Joseph having
24 closed on her amendment, all in favor of adoption of
25 amendment, say yea.

1 (Multiple yeas)

2 THE COURT: All opposed, no.

3 (Multiple nos)

4 THE COURT: Show the amendment fails.

5 Read the next amendment.

6 COURT CLERK: None on the desk, Mr. Speaker.

7 MR. SPEAKER: Read the next Bill.

8 COURT CLERK: By Representative Fine and
9 others, House Bill 3C, a bill to be entitled "An Act
10 relating to independent special districts."

11 MR. SPEAKER: Representative Fine, you're
12 recognized to explain your bill.

13 REPRESENTATIVE FINE: Thank you,
14 Mr. Speaker, and thank you for acknowledging my
15 birthday earlier. Normally, I would be spending
16 today at Disney World. I don't think that's going
17 to be happening.

18 So with that, I'm pleased to present House
19 Bill 3C. This is a very simple bill that would
20 expire or sunset all special districts created
21 before 1968 when the Florida Constitution was
22 established on June 1st of next year. And that is
23 the bill.

24 MR. SPEAKER: Members, we are in questions.
25 Representative Willhite.

1 REPRESENTATIVE WILLHITE: Okay. Will you
2 recognize Representative Duran?

3 MR. SPEAKER: Representative Duran, you are
4 recognized.

5 REPRESENTATIVE DURAN: Thank you,
6 Mr. Speaker.

7 And, Representative, thank you for
8 introducing this simple bill. I wanted to kind of
9 ask you, give you just a little bit of insight into
10 the necessity of this bill. You know, this is a
11 special session. We are operating in -- not in
12 regular hours. We're not meeting during a regular
13 session. Oftentimes, when we use special sessions,
14 it's for issues of time-sensitive nature. For
15 instance, we just talked about congressional maps
16 and redistricting, the necessity for us to get here
17 to make sure that those maps are passed so that
18 something can be passed and used during the next
19 electoral cycle.

20 We have come here for COVID and to deal
21 with the issues of restriction, which folks believed
22 needed to be handled quickly. We've dealt with
23 issues of passing our budget. And so those are
24 critical issues with time-sensitive nature to them.

25 Can you, kind of, give me what is it about

1 HB 3C that makes it so important that we have to be
2 here for a special session and discuss this issue?

3 MR. SPEAKER: Representative Fine.

4 REPRESENTATIVE FINE: Thank you,
5 Mr. Speaker.

6 We didn't make the call for the special
7 session, so it wasn't up to me what issues we
8 discussed here in this session. But certainly, once
9 that call was amended, -- gosh, was it yesterday?
10 And then this became something that we were asked to
11 take a look at. We came up with this bill, and we
12 filed it.

13 Why, in general, is this a good idea to do
14 now? I think when you kick the hornet's nest,
15 sometimes issues arise, and we've seen that in other
16 issues that I've worked on. When the hornet's nest
17 got kicked, we realized that there were 133 special
18 districts that were created before the Florida
19 Constitution was passed in 1968. One hundred and
20 twenty seven of those special districts in the
21 previous 55 years did the right thing and chose to
22 update themselves to be consistent with that 1968
23 Constitution, which made some very large changes.
24 Six did not. And as we dug into those six, part of
25 the issue is those six special districts had all

1 sorts of wacky powers that none of us would ever
2 vote for today. In part, because the 1968
3 Constitution is what created -- which is something
4 that I'm not a huge fan of -- all of this home rule
5 power for local governments. And before that, local
6 governments had to come here in order to do just
7 about everything. And because of that, these very
8 long pre-1968 charters for these special districts
9 are constructed in a world that no longer exists.
10 These six districts had 55 years to come back and
11 get these things updated. Once we found the
12 problem, we've come, and we've addressed it.

13 MR. SPEAKER: Representative Duran.

14 REPRESENTATIVE DURAN: Thank you,
15 Mr. Speaker.

16 I appreciate that long extensive answer. I
17 think at the beginning of that answer, you had said
18 the Governor, I guess, made the call, and there is
19 some problem. I didn't hear in the answer that
20 there was a specific problem that was being --
21 that's impacting Floridians right now, an emergency
22 of some sort of situations or issue. But I did hear
23 something, and I want to explore it a little bit
24 with you.

25 You just sort of said that "when you poke"

1 -- I think you said yesterday, "When you poke the
2 bear," and I think today you just said it, "When you
3 kicked the hornet's nest." And I think yesterday,
4 you also said, "When you kicked the bee's nest."
5 What do you mean? What is that? Is that an action?
6 Is somebody taking a specific action or something
7 that I should -- you can elaborate a little bit more
8 in detail here?

9 MR. SPEAKER: Representative Duran, I'm
10 going to allow the question because Representative
11 Fine did say it, so I think it's fair game. But I
12 do want to keep our questions today on the substance
13 of the bill.

14 Representative Fine, you're recognized.

15 REPRESENTATIVE FINE: Thank you. I'd
16 answer it this way. Sometimes when an issue comes
17 to the fore, you identify problems. So let me give
18 you an analogy of something else that I worked on
19 which was somewhat similar.

20 Several years ago, we realized that a
21 university in the state of Florida had effectively
22 stolen \$85 million and used it to do something that
23 they shouldn't have done. As we dug into that
24 issue, something we didn't expect to be dealing
25 with, we learned the problem partly happened because

1 universities were sitting on billions of dollars of
2 excess cash. The hornet's nest had been kicked.
3 The issue arose to the service. We discovered a
4 problem, and then we came and tackled it. That's
5 what's happened here. The hornet's nest was kicked.
6 The bee's nest was kicked. The bear was poked, I
7 could probably come up with six or seven other
8 analogies. But that happened. An issue came to the
9 surface, we started taking a look at it, and we
10 identified this issue.

11 THE COURT: Representative Duran.

12 REPRESENTATIVE DURAN: All right. I'm not
13 trying to be cutesy here. I'm trying to understand
14 --

15 MR. SPEAKER: Let's ask a question on the
16 bill, okay?

17 REPRESENTATIVE DURAN: Thank you,
18 Mr. Speaker.

19 I'm trying to get an answer. I think
20 there's some level of specificity that I'm trying to
21 get at it. We are here in a special session about
22 special districts. Maybe that might be the reason
23 this is being discussed right now, but we are
24 eliminating specific special districts.

25 So let me do this. There are six special

1 districts that potentially will be eliminated
2 because of the bill that you're proposing, the
3 legislation that's in front of us. Can you walk me
4 through what each one of these special districts'
5 actions, may have been the emergency, or some
6 situation of time-sensitive nature, maybe, you can
7 identify as to why we need to take action right now,
8 today?

9 MR. SPEAKER: Representative Fine.

10 REPRESENTATIVE FINE: Thank you. We don't
11 have to take action today. We could choose to vote
12 down the bills, but this was brought up in the call
13 by the Governor as something that he wanted us to
14 address. We are not targeting six special
15 districts. We're actually targeting 100 percent of
16 the special districts that failed over the last 55
17 years to update themselves in order to be consistent
18 with the 1968 Constitution.

19 I will tell you, again, as you kick the
20 hornet's nest, one of those six districts was
21 required by law to do that at some point in the last
22 20 years and chose not to do that. It is not Reedy
23 Creek, which would be your obvious question, but
24 they were all asked to do it. And, interestingly,
25 in the case of Reedy Creek, because you're

1 interested in that, I believe, they have, multiple
2 times, gone out for special debt financing and other
3 things where they've had multiple opportunities to
4 do what 127 other special districts chose to do,
5 which is update to that post 1968 constitutional
6 world, and they did not.

7 Again, you kick the hornet's nest, issues
8 rise up. I'm glad we're dealing with it right now.

9 MR. SPEAKER: Representative Duran.

10 REPRESENTATIVE DURAN: Thank you,
11 Mr. Speaker.

12 So when I listened to your explanation
13 yesterday and your answers right now, we keep
14 saying, "When you kicked the hornet's nest" Who is
15 "you" in this situation that we were talking about?

16 MR. SPEAKER: All right. Members, I'm
17 going to -- Representative Fine, you can answer that
18 question. We're six minutes inward, we are yet to
19 get to the substance of the bill.

20 Representative Fine.

21 REPRESENTATIVE FINE: Sure. I'm not
22 tending to be evasive. I mean, I think the issue of
23 special districts arose around all of the media
24 tension and subject to when Disney began speaking
25 about bills that we actually hadn't passed in this

1 Legislature. And so I think that arose the issue of
2 special districts. People went and started taking a
3 look at them and they discovered these sorts of
4 issues. I think that's what happens. When an issue
5 rises to the surface, as I mentioned in the case of
6 UCF, sometimes problems are found that should then
7 be tackled. And obviously, in this case, the
8 Governor of the state of Florida said, go and fix it
9 this session, and this is our solution to do it.

10 MR. SPEAKER: Representative Duran.

11 REPRESENTATIVE DURAN: Thank you,
12 Mr. Speaker.

13 All right. So let me ask you a question
14 that I think will kind of helped me understand this.
15 So the hornet's nest in the situation we're talking
16 about, you keep explaining the reason why is, I
17 guess, us or you. And what we're going to do here
18 is eliminate -- what we're proposing to do is by
19 June next year, if we do not take any other action
20 and the Governor signs this bill, there will be six
21 districts potentially who will be removed, special
22 districts that will be eliminated. And I think if
23 you could elaborate on what is the process then
24 between now and then for those districts? Do you
25 have any idea? Has there been any discussion

1 between you and the Governor's office as to what
2 needs to be done or what the impact might be for
3 those special districts in preparation for being
4 dissolved?

5 MR. SPEAKER: Representative Fine.

6 REPRESENTATIVE FINE: Thank you.

7 And that is a great question relevant to
8 the substance of the bill. So the bill says that
9 these six special districts will be sunsetted on
10 June 1st of next year. If they don't do something
11 that frankly they should have done a long time ago,
12 which is become consistent with the 1968
13 Constitution, the process to do that -- some of them
14 may say, look, we're good. We were created 55-plus
15 years ago. No one's ever really thought about it.
16 Maybe we don't need it anymore. That's certainly a
17 possibility.

18 In the case of others, if they wanted, they
19 can come to us. They would have a local bill
20 filled. That local bill could be filed by any
21 member of the Legislature. So I could, for example,
22 file the bill to reconstitute the Reedy Creek
23 Improvement District or any of the other ones. And
24 then that bill would go through the local bill
25 process, where the delegation in which that special

1 district would have to decide if they wanted it
2 brought to the Legislature as a local bill. If they
3 vote yes, it would come as a local bill, and then it
4 would go through our legislative process the same
5 way as any other local bill would. If it passed the
6 House and the Senate, it would go to the Governor,
7 and the Governor would sign it. That is the process
8 to reconstitute these districts, as has been done
9 127 other times over the past 55 years.

10 MR. SPEAKER: Representative Duran.

11 REPRESENTATIVE DURAN: Thank you,
12 Mr. Speaker.

13 I just have one last final question, and I
14 think in both your explanation yesterday, I heard
15 you -- and I think, also in social media, you were
16 kind of explaining the necessity for this bill. You
17 had mentioned that Disney is a guest of the state.
18 And set aside Disney, this idea of a company being a
19 guest of state, can you explain to me what that
20 means? Because I'm just kind of looking up the
21 definition of guest, and understanding --

22 MR. SPEAKER: Representative Duran, can we
23 ask the question on the substance of the bill?

24 You're recognized.

25 REPRESENTATIVE DURAN: Mr. Speaker -- yeah

1 -- and in all due respect, yes. And I think this is
2 a part of the substance of the bill because we are
3 taking action because of a particular company's
4 actions, I would propose, and it's being promoted
5 that way on social media. And I think if you are a
6 company operating in the state of Florida, this
7 potentially can impact your -- the way you operate,
8 the way you decide to speak out or conduct
9 yourselves. And so to my -- I'm just trying to get
10 to the core essence of what we're dealing with here,
11 and that's really why I'm trying to get him to give
12 me some more information for it.

13 MR. SPEAKER: I totally understand,
14 Representative Duran, why you're asking the
15 question. I think, obviously, I expect you're going
16 to address that issue eloquently in debate tomorrow.
17 Today, in questions, we've got 34 minutes, and I
18 want to have opportunities for folks to ask
19 questions like the one you just asked, which is
20 about the mechanics of this bill and how it impacts
21 special districts and so forth. You're recognized.

22 REPRESENTATIVE DURAN: Back to
23 Representative Willhite.

24 MR. SPEAKER: Representative Willhite,
25 you're recognized.

1 REPRESENTATIVE WILLHITE: Mr. Speaker,
2 would you recognize Representative Hinson?

3 MR. SPEAKER: Representative Hinson, you're
4 recognized.

5 REPRESENTATIVE HINSON: Thank you,
6 Mr. Speaker. I was a little surprised and caught
7 off guard, but thank you.

8 Representative Fine, we're back at it again
9 today. How many jobs will be lost by the
10 elimination of this district?

11 MR. SPEAKER: Representative Fine.

12 REPRESENTATIVE FINE: Thank you,
13 Mr. Speaker.

14 That will be a decision of the local
15 governments that get the districts, should that
16 happen, using their home rule authority, which is
17 something I've thought, in the back rows, you all
18 seem to like.

19 MR. SPEAKER: Representative Hinson.

20 REPRESENTATIVE HINSON: I think, yesterday
21 you said 80,000. Part of those job losses will
22 include the Reedy Creek firefighters. What will
23 happen to them, do you know?

24 MR. SPEAKER: Representative Fine.

25 REPRESENTATIVE FINE: Thank you,

1 Mr. Speaker.

2 I'm going to do many things today. I'm not
3 going to allow my words to be misstated. What I
4 said yesterday, when you incorrectly asked how many
5 jobs worked for Disney and said 10,000, and I
6 corrected you. And I said 80,000. None of those
7 80,000 work for the Reedy Creek Improvement
8 District.

9 That said, to try to answer your question,
10 there are 382 employees of the Reedy Creek
11 Improvement District, and what happens to those
12 employees will be the decision of the local
13 governments using their home rule powers to do what
14 they think best.

15 MR. SPEAKER: Representative Hinson.

16 REPRESENTATIVE HINSON: Thank you so much
17 for that final answer. We have to wait for the
18 different counties to decide, the local authority?
19 By that, you mean the two counties or three counties
20 that these areas govern?

21 MR. SPEAKER: Representative Fine.

22 REPRESENTATIVE FINE: Ah, there we go.
23 Some of you might have been happy about that. So
24 that will be a decision -- first off, there's many
25 decisions. The folks behind Reedy Creek may seek to

1 bring their charter up into compliance with the 1968
2 constitution. If they do that, that will be a
3 discussion that happens, you know, over the next
4 year or so. Should that not happen, should they not
5 seek to renew or should the Legislature and the
6 Governor not renew it, under Florida law, those
7 assets and liabilities and everything else would
8 transfer to those local governments.

9 In this specific case of Reedy Creek,
10 because I know that's the one you're interested in -
11 - and I'm happy to talk about any of the six. Reedy
12 Creek actually is spread across four local
13 governments. There is a portion South of Osceola
14 Orange County line, and then there's a portion north
15 of the Osceola Orange County line. That portion
16 north of the Osceola Orange County line actually has
17 unincorporated Orange County, as well as two cities,
18 the City of Bay Lake, Florida, and the City of Lake
19 Buena Vista, Florida. It will be up to Orange
20 County again, using those glorious home rule powers
21 to make a decision about how they split that between
22 them and those two cities?

23 MR. SPEAKER: Representative Hinson.

24 REPRESENTATIVE HINSON: Thank you so much.
25 Thank you so much for that answer.

1 Yesterday, you had not talked to any of
2 those counties, but you said you would do it right
3 after the meeting. Have you had an opportunity to
4 talk to those counties?

5 MR. SPEAKER: Representative Fine.

6 REPRESENTATIVE FINE: Thank you,
7 Mr. Speaker.

8 Again, that was not what I said yesterday.
9 I think I was asked have I spoken to voters and
10 things like that. I had spoken to -- prior to the
11 meeting, a representative of one of the two counties
12 had reached out to me prior to the meeting to ask
13 questions. I had that conversation yesterday. I've
14 not had any additional conversation since.

15 MR. SPEAKER: Representative Hinson.

16 REPRESENTATIVE HINSON: Thank you,
17 Mr. Speaker.

18 Does this movement require a referendum?

19 MR. SPEAKER: Representative Fine.

20 REPRESENTATIVE FINE: Thank you,
21 Mr. Speaker.

22 It does not.

23 MR. SPEAKER: Representative Hinson.

24 REPRESENTATIVE HINSON: I believe it does,
25 and I believe this violates the Constitution.

1 However, from the proclamation, it says it is
2 necessary to review such independent special
3 districts to ensure that they are appropriately
4 serving the public interest. So what example do you
5 have that this special district is not appropriately
6 serving the public interest?

7 MR. SPEAKER: Representative Fine.

8 REPRESENTATIVE FINE: Thank you,
9 Mr. Speaker.

10 I reject the premise of the question. That
11 is not what the statute says.

12 MR. SPEAKER: Representative Hinson.

13 REPRESENTATIVE HINSON: Repeat that,
14 please?

15 MR. SPEAKER: I think he said it's not what
16 the statute says.

17 REPRESENTATIVE HINSON: I'm sorry, sir?

18 MR. SPEAKER: He said it's not what the
19 statute says.

20 REPRESENTATIVE HINSON: It's not what the
21 statute said. I heard.

22 So one final question. We have kicked the
23 bear or kicked the hornet's nest. Someone has. Do
24 we care about the consequences of this action we're
25 taking today?

1 MR. SPEAKER: Representative Fine.

2 REPRESENTATIVE FINE: Thank you,
3 Mr. Speaker.

4 We do, which is why these aren't sunsetted
5 immediately. They're sunsetted in June 1st of next
6 year. So there's the ability to have a discussion
7 about how to deal with this over the next year. It
8 also provides those local governments, if they
9 choose not to get these special districts
10 reinstated, time to come up with a plan for how to
11 handle it. If it was a knee-jerk reaction, we would
12 just say they're gone today. So people have between
13 now and June 1st, which I would note is after next
14 year's regular session, to figure out those things.

15 MR. SPEAKER: You have a follow up,
16 Representative Hinson?

17 REPRESENTATIVE HINSON: My final question
18 and comment is I believe it is a knee-jerk reaction.
19 I came back here to deal with constitutional maps.

20 Thank you, Mr. Speaker.

21 MR. SPEAKER: Members, just as a reminder,
22 tomorrow is debate on this bill. I'd ask you not to
23 have biting comments in your responses to questions,
24 or in your questions, or in your responses to
25 answers to questions. I'm sure we'll have a great

1 opportunity for all of us to do that tomorrow to
2 your heart's content. However, today is about
3 questions on the substance of the bill.

4 Representative Willhite.

5 REPRESENTATIVE WILLHITE: Thank you,
6 Mr. Speaker. Will you recognize Representative
7 Thompson?

8 MR. SPEAKER: Representative Thompson,
9 you're recognized.

10 REPRESENTATIVE THOMPSON: Thank you,
11 Mr. Speaker.

12 Representative Fine, you indicated a few
13 minutes ago that the responsibilities of the special
14 districts would then move to local government. And
15 in the case of Reedy Creek, they manage flood
16 control, utilities, roadways, emergency services,
17 pest control, parking, conservation, they build
18 public roads, transportation, bridges. What is the
19 cost to local government now to support those kind
20 of operations?

21 MR. SPEAKER: Representative Fine.

22 REPRESENTATIVE FINE: Thank you,
23 Mr. Speaker.

24 I'm going to try to answer that question in
25 a different way. Last year, Reedy Creek spent about

1 \$178 million operating itself, raising the money
2 from Reedy Creek. One of the options that will be
3 available to those local governments, should they
4 choose to do that using their home rule authority,
5 would be to create an MSTU that would purely
6 replicate this exact same structure at no cost to
7 the taxpayers. They could redo it exactly how it's
8 being done today, except they would have the home
9 rule control. We would be de-preempting effectively
10 this special district from being under the auspices
11 of those two counties and those two cities.

12 MR. SPEAKER: Representative Thompson.

13 REPRESENTATIVE THOMPSON: Thank you,
14 Mr. Speaker.

15 Representative Fine, speaking of the
16 taxpayer, what would be the cost, the additional
17 cost for Floridians and taxpayers if Reedy Creek did
18 not fund the kind of services that I described
19 earlier?

20 MR. SPEAKER: Representative Fine.

21 REPRESENTATIVE FINE: Thank you,
22 Mr. Speaker.

23 I mean, that's sort of a hypothetical
24 question, but I would answer with a hypothetical
25 answer. If the four local governments using their

1 home rule authority wish to continue having those
2 functions, continue using the funds that exist
3 today, they would be able to do that. And so the
4 answer would be zero.

5 MR. SPEAKER: Representative Thompson.

6 REPRESENTATIVE THOMPSON: Thank you,
7 Mr. Speaker. And this is my final question.

8 We many times give incentives for companies
9 to move to Florida. Do you perceive this to be a
10 disincentive for Reedy Creek, for Disney to stay in
11 Florida rather than move someplace else?

12 MR. SPEAKER: Representative Fine.

13 REPRESENTATIVE FINE: Thank you,
14 Mr. Speaker.

15 I don't mean to be flippant, but I don't
16 think it'd be really easy to put, you know,
17 Cinderella's Castle on a truck and drive it
18 somewhere else. That said, I don't think this
19 Legislature would ever allow another company to
20 independently govern itself as Disney was allowed in
21 1967. So as the universe of companies that are
22 allowed to self-govern is one, and it hasn't
23 happened in the last 55 years. And I don't see it
24 happening again. I don't think so. In fact, I
25 think one could argue it could be good from a

1 business development perspective.

2 So, for example, Disney has competitors
3 that do not enjoy these same special privileges -for
4 example, Universal. Disney has four theme parks;
5 Universal has three. Universal doesn't get to
6 create the Jurassic Park Improvement District to
7 govern itself. They have to abide by the laws of
8 the cities and the counties where they exist.

9 So to some degree, outside companies might
10 say, oh, good, a special privilege that's extended
11 to one of my competitors no longer exists. We're
12 all on the exact same playing field.

13 MR. SPEAKER: Representative Thompson.

14 REPRESENTATIVE THOMPSON: Thank you,
15 Mr. Speaker.

16 And Representative Fine, Cinderella's
17 Castle has existed. They just celebrated 50 years,
18 and bring people from throughout the world to
19 Central Florida. And the example that you used is
20 that you don't have other districts that govern
21 themselves; is that correct?

22 MR. SPEAKER: Representative Fine.

23 REPRESENTATIVE FINE: Thank you,
24 Mr. Speaker.

25 No. That was not what I said. This Reedy

1 Creek Improvement District is the only example where
2 we effectively allow a company to self-govern. We
3 don't say to Harris Corporation, which is one of the
4 larger employers in my district, you can have the
5 Harris Corporation Improvement District and govern
6 yourself. We don't say to Amazon or we don't say to
7 Universal or any other large employer, you can
8 create your own self-governing unit. This is a
9 unique situation for a single company that has
10 competitors that do not benefit from those same
11 provisions that they do.

12 MR. SPEAKER: Representative Thompson.

13 REPRESENTATIVE THOMPSON: Thank you,
14 Mr. Speaker.

15 I represent the area where Disney is
16 located. It's the largest employer in Central
17 Florida. Is this a job-killing bill?

18 MR. SPEAKER: Representative Fine.

19 REPRESENTATIVE FINE: Thank you,
20 Mr. Speaker.

21 I don't believe so. I mean, the services,
22 the functions will still continue. They'll just be
23 part of the local government. Again, I would
24 believe that those advocates of home rule would
25 think that this would be a real big benefit.

1 Because now, instead of some big faceless company
2 being able to govern itself, we'd have local control
3 and local politicians who know their communities
4 best, who would be able to really make sure things
5 are being governed in the best way possible.

6 So for those advocates who constantly come
7 in here talking about the benefits of home rule, I
8 would think this would be a huge benefit for the
9 area, because now we would be giving a whole lot of
10 power back to those four municipalities to govern
11 appropriately.

12 MR. SPEAKER: Representative Thompson.

13 REPRESENTATIVE THOMPSON: Thank you,
14 Mr. Speaker.

15 And, Representative Fine, how long, in your
16 understanding, would it take for a local government
17 to figure all of this out, whereas Disney's had over
18 50 years to perfect the operations that they
19 currently are responsible for?

20 MR. SPEAKER: Representative Fine.

21 REPRESENTATIVE FINE: Thank you,
22 Mr. Speaker.

23 And sort of not to be nuanced about it, but
24 Reedy Creek Improvement District is separate.
25 Disney doesn't run it. It is an independent

1 district. You're talking about 382 employees, the
2 overwhelming majority, which by the way work for the
3 fire department. So the amount of things that would
4 have to be figured out over the next year is truly
5 not all that great. I believe a year would be
6 certainly adequate in order to do that.

7 MR. SPEAKER: Representative Willhite.
8 Representative Willhite.

9 REPRESENTATIVE WILLHITE: Thank you,
10 Mr. Speaker. Do you recognize Representative
11 Gottlieb?

12 MR. SPEAKER: Representative Gottlieb,
13 you're recognized. Any questions?

14 REPRESENTATIVE GOTTLIEB: Thank you,
15 Mr. Speaker.

16 Rep Fine, I just have one question. Can
17 you tell me who authored this bill?

18 MR. SPEAKER: Representative Fine.

19 REPRESENTATIVE FINE: Thank you,
20 Mr. Speaker.

21 It's my name on the top. It's my bill.

22 MR. SPEAKER: Representative Willhite.

23 REPRESENTATIVE WILLHITE: Would you
24 recognize Representative Smith?

25 MR. SPEAKER: Representative Smith.

1 REPRESENTATIVE SMITH: Thank you,
2 Mr. Speaker.

3 Chair Fine, yesterday you said in committee
4 on your closing remarks, you got me on one thing.
5 This bill does target one company, well, Disney
6 World.

7 So my question is: why not just name the
8 Reedy Creek District in the bill since they are the
9 target. Is that not legal? And did you have to
10 write it as a general law to void your bill being
11 declared invalid?

12 MR. SPEAKER: Representative Fine.

13 REPRESENTATIVE FINE: Thank you,
14 Mr. Speaker.

15 The reason for that -- the reason I made
16 that statement in committee is because this bill
17 does affect 100 percent of the companies that are
18 allowed to self-govern in the state of Florida.
19 There is only one. There's not one of ten. There's
20 one of one, so 100 percent of the companies in that
21 situation are being affected. I think the issue is
22 this pre 1968 issue is a legitimate issue.

23 One of these other five special districts
24 has the right to tell property owners that live five
25 miles outside the border of their special district

1 what they can do with their land. I mean, I want
2 you to understand that you don't live in the special
3 district. You don't have any say. You don't pay
4 taxes. You don't get to vote for the people that
5 are in charge. But because you live 4.7 miles away,
6 that special district can tell you what you can do
7 with your land. That's not in Reedy Creek. That's
8 in another one of these. So there are odd things
9 that exist in all six of these pre-constitution
10 charters that we are saying need to be taken a look
11 at over the next year.

12 MR. SPEAKER: Representative Smith.

13 REPRESENTATIVE SMITH: Thank you,
14 Mr. Speaker.

15 Chair Fine, you disacknowledged that the
16 other six special districts are caught up in it.
17 Are they just, I guess, a casualty of this vendetta
18 against Disney? Or did they also kick a hornet's
19 nest as well, and that's why we're targeting them in
20 general law?

21 MR. SPEAKER: I think the last answer is
22 responsive to that. Do you have additional --

23 Representative Fine, you're recognized.

24 REPRESENTATIVE FINE: Thank you,
25 Mr. Speaker.

1 I reject the premise of the question.
2 Again, what we were looking into were special
3 districts, and we found that there were issues in
4 all of them. The analogy I would use again -- I've
5 used the UCF analogy. I will use it again. When we
6 had the issue with the misappropriation of \$85
7 million at UCF, we recognized that this was a
8 problem at all 12 of our state universities and 28
9 colleges. So we didn't just address the funding
10 issues that we found at UCF. We addressed them in
11 all of them.

12 That hornet's nest, again, the theft of \$85
13 million kicked a hornet's nest that made us
14 recognize there was an issue that was broader, and
15 we went and tackled it. We're doing the same thing
16 here.

17 MR. SPEAKER: Representative Smith.

18 REPRESENTATIVE SMITH: Thank you,
19 Mr. Speaker.

20 Thank you, Chair Fine, for explaining it in
21 that way because you're mentioning UCF and the
22 justification there. What did Disney do? Did they
23 violate any kind of state-issued guidance? Did they
24 break the law, or did they just hurt your feelings?

25 MR. SPEAKER: You don't have to answer

1 that, Representative Fine.

2 Representative Smith, do you have a
3 question on the bill? You're recognized.

4 REPRESENTATIVE SMITH: Thank you,
5 Mr. Speaker.

6 And with all due respect, this is crafted
7 specifically on the bill which has been declared
8 repeatedly as being motivated by political
9 retaliation and retribution.

10 So my question here, Chair Fine, is you
11 mentioned before, Harris Corporation, you know, the
12 reason we're not going after them is they don't
13 govern themselves. Fair, but also I suppose they
14 didn't kick the hornet's nest. So if the Harah's
15 Corporation begins standing up for trans-kids, would
16 you craft a bill to punish them as well?

17 MR. SPEAKER: Representative Smith, that is
18 not on the substance of the bill. I anticipate that
19 you're going to have opportunity tomorrow to debate
20 and raise all the issues that you'd like to raise,
21 but today, this is about questions on the substance
22 of the bill. Do you have a question on the
23 substance and mechanics of the bill? You're
24 recognized.

25 REPRESENTATIVE SMITH: No. Thank you,

1 Mr. Speaker. The answers are very clear. No
2 further questions.

3 MR. SPEAKER: Representative Willhite

4 REPRESENTATIVE WILLHITE: Do you recognize
5 Representative Bartleman?

6 MR. SPEAKER: Representative Bartleman,
7 you're recognized.

8 REPRESENTATIVE BARTLEMAN: Thank you,
9 Mr. Speaker.

10 I have a serious concern about the \$2
11 billion worth of debt that this special district
12 has. Will that debt then be passed on to the two
13 counties that are taking over this special
14 district's responsibilities?

15 MR. SPEAKER: Representative Fine.

16 REPRESENTATIVE FINE: Thank you,
17 Mr. Speaker.

18 As I've reviewed their financial statements
19 of \$1.1 billion in debt but to answer your specific
20 question, this is what happens in statute when a
21 special district is dissolved. We have 1800 of
22 them, and what happens is all assets and all
23 liabilities are given back to the local governments,
24 but as is the ability to raise the revenues that
25 those special district previously had done.

1 So, yes, they will assume -- somehow those
2 four districts will assume that \$1.1 billion, but
3 they will also have the ability to gain and recoup
4 the revenues that previously were paying for that
5 debt. And in theory, they will be made whole.

6 MR. SPEAKER: Representative Bartleman.

7 REPRESENTATIVE BARTLEMAN: Thank you,
8 Mr. Speaker.

9 Are you concerned about compounding that
10 debt unto those counties' existing debt and how that
11 will impact the bond rating of those counties and
12 their ability to go forth with other projects that
13 are important to their citizens?

14 MR. SPEAKER: Representative Fine.

15 REPRESENTATIVE FINE: Thank you,
16 Mr. Speaker.

17 I'm not, and this actually goes to -- I
18 actually know something about it instead of
19 politics. The revenue stream it uses to support
20 those bonds is very stable, and so any bond rating
21 agency would acknowledge that when they're thinking
22 through the bond. These bonds do not have a lot of
23 risk in general.

24 MR. SPEAKER: Representative Bartleman.

25 REPRESENTATIVE BARTLEMAN: Thank you,

1 Mr. Speaker.

2 Hypothetically, is it possible that Disney,
3 who you claim clicked the hornet's nest, could, like
4 any other industry in Florida, be afraid to operate
5 in Florida now because of retribution, because they
6 believe something different, and pack up their toys
7 and walk away, thus leaving --

8 There are many scenarios. They could stop
9 investing in that area. They could build another
10 park somewhere else that would be their main park.
11 Then they leave, and the revenues are not there,
12 thus strapping those taxpayers with a private
13 companies' debt. And we're on the hook for
14 everything because if I was a company like Disney,
15 if there was a way, I would find a way to pack up my
16 toys and walk away after this.

17 MR. SPEAKER: Representative Fine.

18 REPRESENTATIVE FINE: Thank you,
19 Mr. Speaker.

20 Again, I think in the case of the situation
21 you're talking about, this is sort of an
22 impossibility to do. However, again, what I would
23 note is if it requires special treatment, the
24 ability to self-govern in order to recruit a company
25 to operate in Florida, I think we have much bigger

1 problems. As I said before, by eliminating, should
2 that be what happens, special privileges from one
3 company to operate in a competitive marketplace,
4 you're actually opening up the market for the
5 existing competitors and potentially new ones.

6 I would argue you could make a case that
7 other theme park companies might go great. The
8 deck's not stacked against me. I'm going to build a
9 theme park in Florida. So I think you could make
10 the argument the other way just as well because
11 again, what we're talking about are special
12 privileges that no other company in the state of
13 Florida enjoys.

14 MR. SPEAKER: Representative Willhite

15 REPRESENTATIVE WILLHITE: Do you recognize
16 Representative Arrington?

17 MR. SPEAKER: Representative Arrington,
18 you're recognized.

19 REPRESENTATIVE ARRINGTON: Thank you,
20 Mr. Speaker.

21 Chair Fine, do you know how many active
22 construction projects are currently going in Reedy
23 Creek?

24 MR. SPEAKER: Representative Fine.

25 REPRESENTATIVE FINE: Thank you,

1 Mr. Speaker.

2 I don't know the exact number, but I know
3 that it is substantial.

4 MR. SPEAKER: Representative Arrington.

5 REPRESENTATIVE ARRINGTON: Thank you,
6 Mr. Speaker.

7 And, Chair Fine, do you know what will
8 happen to these jobs and these projects if this bill
9 passes?

10 MR. SPEAKER: Representative Fine.

11 REPRESENTATIVE FINE: Thank you,
12 Mr. Speaker.

13 Nothing for the next year, but then it will
14 be up to those, you know, great in-touch-with-the-
15 community local politicians who will use their home
16 rule authority to manage things best as opposed to
17 this unaccountable-to-voter special district where
18 the Legislature has preempted those outstanding
19 local elected officials from doing their jobs.

20 MR. SPEAKER: Representative Arrington.

21 REPRESENTATIVE ARRINGTON: Thank you,
22 Mr. Speaker.

23 And I believe you answered those before but
24 I just want to check. So those local governments
25 that are so excited to take on these projects, have

1 you spoken to them, and have they voiced those
2 opinions to you?

3 MR. SPEAKER: Representative Fine.

4 REPRESENTATIVE FINE: Thank you,
5 Mr. Speaker.

6 As I said before, one of the four
7 municipalities has reached out to me, and I have
8 spoken to them.

9 MR. SPEAKER: Representative Arrington.

10 REPRESENTATIVE ARRINGTON: Thank you,
11 Mr. Speaker.

12 And, Chair Fine, do you mind sharing that
13 conversation or what their feedback was. Were they
14 in support of this legislation?

15 MR. SPEAKER: Representative Fine.

16 REPRESENTATIVE FINE: Thank you,
17 Mr. Speaker.

18 I don't mind sharing it. It was a lobbyist
19 for one of the four, and they really were just
20 calling to ask questions. I mean, it wasn't the
21 elected officials themselves. And, again, there's
22 opportunity over the next year to have those
23 discussions. The idea isn't -- half the bill speaks
24 to the idea of re-chartering should these local
25 elected officials in these special districts wish to

1 continue to go down this path.

2 MR. SPEAKER: Representative Arrington.

3 REPRESENTATIVE ARRINGTON: Thank you,
4 Mr. Speaker.

5 So I just want to clarify then. So our
6 local governments elected officials or the folks
7 that are employed there, they have not been reached
8 out to or that have not discussed this with you?

9 MR. SPEAKER: Representative Arrington, I
10 think he's now answered that several times. You
11 have additional questions?

12 REPRESENTATIVE ARRINGTON: Thank you,
13 Mr. Speaker. I just have one more, please.

14 Then, Chair Fine, do you know would these
15 roads then, should this bill pass, will they become
16 county or state roads that are inside of Reedy
17 Creek?

18 MR. SPEAKER: Representative Fine.

19 REPRESENTATIVE FINE: Thank you,
20 Mr. Speaker.

21 As would happen in any dissolution of a
22 special district, those assets would be transferred
23 to those four municipalities. All of the roads that
24 will be south of the Osceola-Orange County line
25 would become Osceola County roads. All of the roads

1 north of the Osceola-Orange County line would be up
2 to Orange County, using their home rule powers to
3 decide whether they want them to be county roads, or
4 in the case of the roads in Bay Lake, Florida, and
5 Lake Buena Vista, Florida, do they want those roads
6 to become city roads. But that will be one of great
7 home rule decisions that they get to make.

8 MR. SPEAKER: Representative Willhite.

9 REPRESENTATIVE WILLHITE: Could you
10 recognize Representative Daley.

11 MR. SPEAKER: Representative Daley, you're
12 recognized.

13 REPRESENTATIVE DALEY: Thank you,
14 Mr. Speaker.

15 And good afternoon, Representative Fine, I
16 think you know or may know over the last couple of
17 years, I've actually worked pretty extensively -- I
18 know Chair Toledo knows this -- on reforming special
19 districts particularly as it relates to four of my
20 districts.

21 As a matter of fact, one of those four is
22 on the chopping block here. So I guess what I ask
23 is, you know, you keep mentioning, well, this has,
24 you know, happened since the whatever it is, 1968.
25 So if that's the case and it's been going on for

1 that long, why the urgency? Is the urgency is
2 simply because the hornet's nest was kicked that all
3 of a sudden, we've have this brainstorm of good
4 idea, and we need to ram it through during the
5 special session so much so we added it to the call?
6 And now we're before special session?

7 MR. SPEAKER: Representative Daley,
8 Representative Fine has already answered that
9 question a number of times specifically from
10 Representative Duran. You're recognized.

11 REPRESENTATIVE DALEY: Thanks, Mr. Speaker,
12 and so that's fine.

13 So to go in that same direction then, I
14 guess, what did the Sunshine Water Control District
15 do to kick the hornet's nest? Was that just
16 collateral damage?

17 MR. SPEAKER: Representative Fine has also
18 answered that question, but since it was specific to
19 a particular district, do you want to say anything
20 about that particular district, Representative Fine?

21 REPRESENTATIVE FINE: Thank you.

22 I think the issue for that district would
23 be, again, over the last 55 years. And I should
24 check. They may be the one that broke the law. One
25 of the other five did. I just don't remember which

1 one. But they haven't done what a 127 other special
2 districts have done, which is modernize their
3 charter to be consistent with that constitution of
4 1968. That is the issue that we uncovered.

5 Again, the hornet's nest is kicked. You
6 say what's going on? You start taking a look, and
7 you go, oh, my gosh. There is an issue. I don't
8 subscribe to the notion that you should kick the can
9 down the road when you find a problem. We found a
10 problem. The Governor wanted to address in a call,
11 so we're getting it done. And by the way, by doing
12 it now, we're giving them more time to figure out
13 how to resolve this before June 1st of next year.

14 MR. SPEAKER: Representative Daley.

15 REPRESENTATIVE DALEY: Thank you,
16 Mr. Speaker.

17 And thank you for that answer. You know,
18 Chair Fine, quick question. And it goes, you know,
19 based on the substance of the bill and based on your
20 own explanation, if this body doesn't act, if this
21 bill goes through and passes and this body doesn't
22 act -- or the local bill, they get filed and
23 everybody doesn't move for one reason or another.
24 Maybe it's politics. Maybe it's policy, whatever
25 the reason. If that plays out, you've already said

1 that all of the assets and the liabilities will be
2 transferred to the local government. So based on
3 the substance of the bill, have you considered
4 renaming this bill The Central Florida Tax Increase
5 Act Of 2022?

6 MR. SPEAKER: The question about the
7 substance of the bill. The question about renaming
8 it is not about the substance of the bill. You have
9 a question?

10 REPRESENTATIVE DALEY: Well, I have five
11 other name ideas, Mr. Speaker, but I guess I'll hold
12 them for later.

13 MR. SPEAKER: I'm sure we'll hear them in
14 debate.

15 Additional questions?

16 Representative Willhite.

17 REPRESENTATIVE WILLHITE: Thank you,
18 . Speaker.

19 Do you recognize Representative Woodson?

20 MR. SPEAKER: Representative Woodson, you
21 are recognized.

22 REPRESENTATIVE WOODSON: Thank you,
23 Mr. Speaker.

24 Chair Fine, I know you answered some of my
25 questions yesterday, but I have one for point of

1 clarification, actually. Regarding the \$1.1 billion
2 debt that Rep Bartleman mentioned, you stated that
3 government has the ability to pick that up, right,
4 if they picked up the services; is that correct?

5 MR. SPEAKER: Representative Fine.

6 REPRESENTATIVE FINE: Thank you.

7 On the Florida statute, any assets and any
8 liabilities of the special district that is
9 dissolved get reverted to the local governments
10 where the special districts are. In the case of
11 Reedy Creek, that \$1.1 billion would be allocated to
12 those two counties and those two cities.

13 MR. SPEAKER: Representative Woodson.

14 REPRESENTATIVE WOODSON: Thank you,
15 Mr. Speaker.

16 And you also mentioned that they have the
17 ability to raise the revenues; is that correct?

18 MR. SPEAKER: Representative Fine.

19 REPRESENTATIVE FINE: Thank you,
20 Mr. Speaker.

21 Sure. They could create a municipal --
22 MSTU that would replicate the revenue structure that
23 Reedy Creek is doing right now and generate those
24 revenues that are necessary to handle that debt
25 obligation. Again, we're going to trust those great

1 local officials to use their home rule powers to run
2 this territory, that the Legislature had prevented
3 them from doing, preempting their ability to do that
4 for 55 years.

5 MR. SPEAKER: Representative Woodson.

6 REPRESENTATIVE WOODSON: Thank you,
7 Mr. Speaker.

8 And, Rep Fine, if they raised the revenues,
9 who do you anticipate to pick up those revenues, if
10 not the taxpayers?

11 THE SPEAKER: Representative Fine.

12 REPRESENTATIVE FINE: Thank you,
13 Mr. Speaker.

14 There are taxpayers that are paying the
15 revenues today. If they structured the MSTU in a
16 certain way, it would be the same taxpayers that are
17 paying those taxes today. Those monies aren't
18 generated, like out of the air. There are taxpayers
19 that are paying the taxes to the Reedy Creek
20 Improvement District today. Again, if using their
21 home rule powers, these local politicians who've
22 been preempted for more than 50 years thought this
23 was the right thing to do. They could set up the
24 MSTU to have those same taxpayers continue to pay
25 those same taxes.

1 MR. SPEAKER: Rep Woodson.

2 REPRESENTATIVE WOODSON: And thank you,
3 Mr. Speaker, for the indulgence. I really
4 appreciate this.

5 Rep Fine, my question to you. At this time
6 now where we have people in our communities,
7 taxpayers in our communities who can't afford to
8 even put food on their table, is that the right
9 thing to do at this time?

10 MR. SPEAKER: Representative Fine.

11 REPRESENTATIVE FINE: Thank you,
12 Mr. Speaker.

13 There's nothing about this bill that would
14 require assuming, again, any of these special
15 districts were not renewed. They would require a
16 different taxpayer to begin to be paying anything
17 again. If you believe, as I hear all the time, that
18 we should trust local elected officials to do what's
19 best for their local communities, they will make
20 those decisions for what is best, again, getting rid
21 of the yoke of 50 years of preemption by the state
22 of Florida.

23 MR. SPEAKER: Representative Woodson.

24 REPRESENTATIVE WOODSON: Thank you,
25 Mr. Speaker, and this would be my last question.

1 In light of the fact, Chair Fine, that this
2 was done so quick -- we got the bill yesterday, and
3 no one had the time to really vet anything in the
4 bill -- would that be fair to us to really take the
5 time to give the taxpayers more time to vet this
6 process in order for you to come up with this bill?

7 Thank you, Mr. Speaker.

8 MR. SPEAKER: Representative Fine.

9 REPRESENTATIVE FINE: Thank you,
10 Mr. Speaker.

11 The bills aren't very long, so it doesn't
12 take very long to read. Again, what I would say is
13 the half of the bill deals with the explicit notion
14 of seeking reauthorization prior to June 1 next
15 year. You can make -- you can have the belief,
16 because it's true that there will be an ongoing
17 discussion over the next year, I would presume, with
18 these six special districts and their legislators
19 and the Legislature in general about the right path
20 forward. It does not say these are going to be
21 sunsetted, and there is nothing that can be done
22 about it. It says these 6 are going to do the exact
23 same thing the 127 have done before it, which is
24 come into consistency with the 1968 constitution.

25 MR. SPEAKER: Representative Willhite.

1 REPRESENTATIVE WILLHITE: Do you recognize
2 Representative Learned?

3 MR. SPEAKER: Representative Learned,
4 you're recognized.

5 REPRESENTATIVE LEARNED: Thank you,
6 Mr. Speaker.

7 And thank you, Representative. You know, a
8 couple of months ago, three weeks, I guess, we
9 passed the Local Business Protection Act. And if I
10 remember quoting the bill sponsored that day, he
11 said that it was passed because of punitive actions
12 and overreaches of big government. And it basically
13 says, when a government -- a big government does
14 something that punishes a business or hurts a
15 business, they're able to sue and recoup 15 percent
16 of their business losses. My question is: are we
17 going to be liable for 15 percent of Disney's global
18 losses if that happens?

19 MR. SPEAKER: Representative Fine.

20 REPRESENTATIVE FINE: Thank you,
21 Mr. Speaker.

22 I'm not familiar enough with that bill that
23 you're describing and how it would relate in this
24 instance. However, if memory does serve -- and that
25 was a discussion, again, about those great local

1 politicians and not what we do here at the state
2 level.

3 MR. SPEAKER: Representative Learned.

4 REPRESENTATIVE LEARNED: Thank you,
5 Mr. Speaker.

6 And you're correct. The bill said that the
7 state government's actions aren't -- we're holding
8 local government to a different standard than we
9 hold ourselves. That is true. But since we're
10 defaulting this to a local government --

11 MR. SPEAKER: Representative Learned, you
12 can save your debate comments for debate tomorrow.
13 You can ask your question. Your recognized.

14 REPRESENTATIVE LEARNED: Thank you,
15 Mr. Speaker. And I'm sorry. I'm not trying to
16 debate. I'm just trying to clarify with, you know,
17 the answer here.

18 So if this is saying that the local
19 government is liable for these losses, and we are
20 putting all the responsibility, the debts onto that
21 local government. So now, that local government,
22 the middle class, you know, taxpayers of Orange
23 County are liable for Disney's global losses? Is
24 that because of this Twitter fight with the
25 Governor?

1 MR. SPEAKER: Representative Learned,
2 Representative Fine already answered your question.
3 Do you have additional question?

4 REPRESENTATIVE LEARNED: I'm sorry,
5 Mr. Speaker. I'm sorry. I did not hear him
6 actually answer.

7 So we're transferring Disney's global
8 losses to a local government?

9 MR. SPEAKER: No, sorry. He did not say
10 that. You asked him a question about the bill that
11 was passed previously during session. He said that
12 he wasn't familiar that much with the process, but
13 if he recalled, it applied to local government.

14 Do you have an additional question? You're
15 recognized.

16 REPRESENTATIVE LEARNED: Thank you,
17 Mr. Speaker. And, you know, I guess not answer
18 aside.

19 So Disney Corporation is the largest
20 taxpayer of Reedy Creek Special District; is that
21 correct?

22 MR. SPEAKER: Representative Fine.

23 REPRESENTATIVE FINE: Thank you,
24 Mr. Speaker.

25 I believe that is the case.

1 MR. SPEAKER: Representative Learned.

2 REPRESENTATIVE LEARNED: Thank you,
3 Mr. Speaker.

4 So the premise that I heard in your answers
5 to other people was that their continued tax
6 payments are servicing Reedy Creek's billions of
7 dollars of debt. So if that debt is now being
8 transferred to Orange County, is Disney still -- is
9 Disney now paying Orange County? Is that --

10 MR. SPEAKER: Representative Fine.

11 REPRESENTATIVE FINE: Thank you.

12 Talking to the logistics of it, that \$1.1
13 billion would be transferred to those four
14 municipalities. They could choose to create an MSTU
15 that would tax the current taxpayers in the same
16 way, generating those revenues from those taxpayers,
17 in this case, largely Disney, that could be used to
18 service that debt.

19 MR. SPEAKER: Follow-up.

20 REPRESENTATIVE LEARNED: Thank you,
21 Mr. Speaker.

22 So I guess my understanding is that the
23 premise for how we are not going to saddle middle
24 class taxpayers of Orange County with a billion
25 dollars of new debt, \$2 billion of new debt,

1 depending on which one you're looking at, the
2 premise is because we assume that Orange County is
3 going to do something. It is not done by default,
4 right. We are assuming they are going to take an
5 action based on what we're doing here today. Do I
6 understand that correctly?

7 MR. SPEAKER: Representative Fine.

8 REPRESENTATIVE FINE: Thank you,
9 Mr. Speaker.

10 I understand your reluctance to trust local
11 politicians to do the right thing. However, yes.
12 We are assuming that these local politicians will
13 use their home rule authority to create an MSTU to
14 replicate the revenues that they would then use to
15 pay for these debts.

16 MR. SPEAKER: Representative Learned.

17 REPRESENTATIVE LEARNED: Last question,
18 Mr. Speaker.

19 And I'm sorry. You keep saying this, but
20 you're saying to replicate the revenues. What
21 you're saying is raising taxes, correct?

22 MR. SPEAKER: Representative Fine.

23 REPRESENTATIVE FINE: Thank you,
24 Mr. Speaker.

25 No. I am not saying that at all. I want

1 to be clear about this. If Disney is paying a
2 million dollars to Reedy Creek, and instead of
3 paying that million dollars to Reedy Creek, they're
4 paying that same million dollars to the MSTU that
5 these local governments have created, it is still
6 \$1,000,000. It is not a tax increase. That's
7 simple math.

8 MR. SPEAKER: Representative Willhite, we
9 have time for one more question.

10 REPRESENTATIVE WILLHITE: Thank you,
11 Mr. Speaker. Do you recognize Representative
12 Joseph?

13 MR. SPEAKER: Representative Joseph.

14 REPRESENTATIVE JOSEPH: Thank you, |
15 Mr. Speaker.

16 As I mentioned in committee yesterday,
17 Florida Statute 189.072 governs the dissolution of
18 independent special districts. And at that time,
19 you acknowledge that that law was law. But it seems
20 that none of the requirements, in order to dissolve
21 a special district by the Legislature, have been
22 followed. And I wanted to know if you had anything
23 you wanted to add for the good of the body as to why
24 you're not following Florida law?

25 MR. SPEAKER: Representative Fine.

1 REPRESENTATIVE FINE: Thank you,
2 Mr. Speaker.

3 As you chose to remind me yesterday, I'm
4 not an attorney, so I decided to go and learn
5 something that turns out you don't have to be an
6 attorney to understand the law. 189.072, says, "In
7 order for the Legislature to dissolve an active,
8 independent special district, created an operating
9 pursuant to a special act, the following things have
10 to be done." The bill that we're proposing today is
11 not a special act. Maybe they don't teach what
12 special acts are in law school. I don't know. But
13 there's nothing inconsistent with this bill today.

14 MR. SPEAKER: Representative Joseph, one
15 follow-up. You're recognized.

16 REPRESENTATIVE JOSEPH: Thank you,
17 Mr. Speaker.

18 So it's your position that the reason
19 you're not following the law that applies for the
20 dissolution of special districts is because, this --
21 your position is this particular law does not apply
22 because it's created by a special act. Is that my
23 understanding?

24 MR. SPEAKER: Representative Fine, brief
25 answer.

1 REPRESENTATIVE FINE: Thank you,
2 Mr. Speaker.

3 No, it's not. The law that we're passing
4 is entirely consistent. If you read, which I
5 presume they teach, it says, if you're going to
6 dissolve a special district pursuant to a special
7 act using a special act. We are not proposing to
8 pass a special act today. We are passing a general
9 bill. This is not simply a matter of
10 interpretation. This is simply how the law works.

11 MR. SPEAKER: Time having expired, we're in
12 amendments. Are there amendments?

13 COURT CLERK: On the desk, Mr. Speaker.

14 MR. SPEAKER: Pick up the first amendment.

15 COURT CLERK: Representative Eskamani
16 offered the following amendment with title,
17 Amendment Barcode 189965. Remove lines 23 through
18 31 and insert an amendment.

19 MR. SPEAKER: Representative Eskamani,
20 you're recognized to explain your amendment.

21 REPRESENTATIVE ESKAMANI: Thank you so
22 much, Mr. Speaker.

23 Members, you all know that I have always
24 been one of the most vocal voices when it comes to
25 corporate accountability. And I have filed other

1 amendments that unfortunately were out of order
2 around taxes issues, and maybe one day we'll get to
3 them. But I did sit in on the committee yesterday
4 and shared a lot of the concerns made by those who
5 are speaking to what dissolution would mean for
6 Orange, Osceola County of the Reedy Creek district,
7 in particular around the transfer of debt, also
8 around the fact that this is a independent district,
9 not a dependent district, which means the ad valorem
10 taxes that are collected to Reedy Creek disappear.
11 They're not transferred despite misinformation out
12 there.

13 And so hearing the concerns made by my
14 Republican colleagues, specifically, they pointed
15 out some powers of the special district that do seem
16 inappropriate. And so that speaks to the nuclear
17 fission power plant, which back in the 60s, I feel
18 like that was probably a very popular concept as it
19 was, you know, shining anew, but we have other types
20 of energy production today that have grown in
21 Florida. So this would strike that.

22 It would also strike eminent domain powers
23 that are outside of the district boundaries. It
24 would strike the ability to construct roads are
25 exclusive and that supersede the authority and

1 jurisdiction of FDOT. It would strike the ability
2 to build infrastructure projects outside of the
3 district boundaries, and you will not be able to
4 change the boundaries of the district without
5 another special act.

6 And, again, this is a scalpel approach
7 versus a sledgehammer. And I do think it's
8 important to examine all the special districts,
9 community development districts, but we should do so
10 with more public input.

11 To add this to a special session order, an
12 hour before some of us even got here, myself as an
13 example, is not good government. And so I do think,
14 especially, as a member of the Joint Legislative
15 Audit Committee, we audit special districts all the
16 time. We look at their finances. We decide if they
17 are problematic or not. And so for me, in bringing
18 this forward as an effort to hear what those
19 concerns were, what I've heard from the Governor,
20 and what I've heard from committee members, and to
21 do a scalpel instead of a sledgehammer.

22 Thank you, Mr. Speaker.

23 MR. SPEAKER: Are there questions on the
24 amendment? Are there questions on the sponsor?

25 Seeing none, are there amendments to the

1 amendment?

2 Representative C. Smith, any questions?

3 REPRESENTATIVE SMITH: Thank you,
4 Mr. Speaker.

5 Representative Eskamani, you mentioned in
6 your presentation of the amendment that rather than
7 taking a sledgehammer, like Chair Fine is doing by
8 abolishing the Reedy Creek District, you're taking a
9 scalpel.

10 Are you essentially, with your amendment,
11 cutting to the chase and putting forward thoughtful,
12 researched reforms that are really the result of
13 community input and lots of stakeholders who have
14 voiced these concerns over many years; and kind of
15 cutting to the chase so that we don't have to deal
16 with this back and forth between the Governor and
17 Disney for the next year, which we know is political
18 theatre?

19 MR. SPEAKER: Representative Smith, I'm
20 confident that you can ask those questions without
21 mentioning other members or making comments about
22 other people that are irrelevant to the substance of
23 the bill.

24 Representative Eskamani, would you like to
25 answer that leading question? You're recognized.

1 REPRESENTATIVE ESKAMANI: Thank you,
2 Mr. Speaker.

3 So, yes, Representative Smith. To some of
4 your questions, I just want to add that I don't
5 think even I can be as thoughtful as I want to be,
6 candidly, because, you know, this is not been on a
7 lot of our radars for a while now. Now, there are a
8 lot of other issues that I've given a lot of thought
9 to around combined reporting, looking at Chair
10 Payne.

11 And so, you know, I think there are so many
12 other concepts that we can, as a body, vet and
13 debate and understand. But I have to tell you that
14 even Orange, Osceola counties have not been able to
15 give us an analysis of the impact of this bill. I
16 just spoke to our tax collector this morning. It's
17 been really difficult to get specifics, to the point
18 where we're hearing rumors online, and it's not
19 actually speaking to what would dissolution look
20 like. But what I have heard are these shared
21 concerns about some of these authorities that are
22 granted that people don't like. And I feel like,
23 consistently, hearing those same concerns that would
24 apply equally to every special district is something
25 that we could consider in the short period time that

1 we have.

2 I don't think it's good government to
3 exercise punitive powers on one institution because
4 you're upset of what they did. If there are serious
5 concerns about some of these specifics in this
6 amendment, then let's address that. And let's not
7 exercise the bully pulpit for just punitive
8 measures.

9 MR. SPEAKER: Additional questions?

10 Representative Smith, I give you one
11 follow-up. You're recognized.

12 REPRESENTATIVE SMITH: Thank you,
13 Mr. Speaker.

14 Thank you, Representative Eskamani. Have
15 you heard from any Reedy Creek workers, any Disney
16 workers who are concerned they might be losing their
17 job? My understanding is that abolishing the Reedy
18 Creek District means abolishing the jobs of 356
19 people who work for the District and 400 utility
20 employees of Reedy Creek. So would your amendment,
21 at least, help them sleep at night and alleviate
22 their concerns that their job would be gone next
23 year when the district is abolished?

24 MR. SPEAKER: Representative Eskamani.

25 REPRESENTATIVE ESKAMANI: Thank you,

1 Mr. Speaker.

2 Yes. And just to add to that, there is
3 also 2000-plus contract workers with the Reedy Creek
4 Improvement District. So though as we heard during
5 the earlier debate, there is, you know, 80,000-plus
6 jobs at Walt Disney World and many who are our
7 constituent. But the Reedy Creek District
8 specifically has, you know, 350 sum employees, and
9 then they have the utility at 400. And they have
10 2000 plus contractor workers.

11 And I have constituents who work at Reedy
12 Creek, and we also have firefighters who are with
13 the Reedy Creek Improvement District. That's about
14 200 firefighters. To be clear, members, these are
15 not firefighters that are with the County. They're
16 firefighters that have a Reedy Creek Improvement
17 District. These are very cool firefighters. They
18 are trained to know the theme parks. They're
19 trained to know how to deliver emergency services in
20 very crowded environments. They also are proud to
21 say that there has never been any life loss at Reedy
22 Creek due to fire. And that's because of the
23 strength of the team, but also of the building
24 permit, or actually, the building code in Reedy
25 Creek is stronger than that in the state of Florida.

1 And so we have heard a lot of these
2 concerns. And so in order to alleviate those
3 concerns -- because what this bill does is create a
4 lot of uncertainty, especially for those workers.
5 And so what my amendment does is it eliminates some
6 of the wacky stuff that was mentioned in this
7 process, but it doesn't create the uncertainty of
8 job loss, doesn't create panic among Orange and
9 Osceola counties and surrounding areas. And it
10 doesn't allow government to be used as a tool of
11 punishment.

12 And so that's the point of this amendment
13 and I do hope folks take it seriously.

14 MR. SPEAKER: Representative Fine, time has
15 expired, but I want to give you -- you've had your
16 mic up. So you have an opportunity to ask a
17 question. You're recognized.

18 REPRESENTATIVE FINE: Thank you,
19 Mr. Speaker.

20 Can you explain to me what the first line
21 or the first -- the six words of your bill means --
22 your amendment, "Notwithstanding any law to the
23 contrary?" Can you explain what that might mean to
24 the substance of your amendment?

25 MR. SPEAKER: Representative Eskamani.

1 REPRESENTATIVE ESKAMANI: Thank you, sir,
2 Mr. Speaker.

3 This was delivered to me from bill
4 drafting, and we asked them to draft an amendment
5 under very short notice to reflect our desire to
6 remove those pieces. If there's a correction you
7 want to make, if you agree with the substance, have
8 a correction you want to make, I encourage you to
9 file an amendment to the amendment. I would accept
10 it.

11 MR. SPEAKER: Yeah. One follow-up.

12 REPRESENTATIVE FINE: Thank you.

13 I will get to the broader point in debate.
14 Are you aware that your amendment -- since it says,
15 "a special district," you said -- but I heard this
16 is a scalpel not a club. Are you aware that your
17 amendment would affect 1843 special districts?

18 MR. SPEAKER: Representative Eskamani.

19 REPRESENTATIVE ESKAMANI: Mr. Speaker,
20 thank you.

21 I don't think any special district should
22 have these powers.

23 MR. SPEAKER: All right. Are there
24 amendments to the amendment?

25 SECRETARY: None on the desk, Mr. Speaker.

1 MR. SPEAKER: Are there substitute
2 amendments?

3 SECRETARY: None on the desk, Mr. Speaker.

4 MR. SPEAKER: We are in debate. Members
5 which to be recognized in debate. Representative
6 Fine.

7 REPRESENTATIVE FINE: Thank you,
8 Mr. Speaker.

9 I make two comments. This amendment does
10 nothing. That was the purpose of my -- actually,
11 literally, it accomplishes nothing. It says
12 notwithstanding any law to the contrary, you can't
13 do these seven or eight things. The six charters
14 for those special districts are laws to the
15 contrary. So it doesn't change any powers of any of
16 those six special districts. It accomplishes
17 nothing. But what it could do to a special district
18 that might not have a charter, including 22 in
19 Central Florida, is it might -- and actually, it
20 might. It would. it would affect their ability to
21 do eminent domain even with permission of the
22 landowners and surrounding counties.

23 It would actually do other things that are
24 good. It would say that they can't change the
25 boundary. If you are in a special district right

1 now or you're next to a special district and you buy
2 a piece of property and you want to move into that
3 special district, you can say, hey, take me in. And
4 if you can work that out with everybody, you can do
5 that. It would take that power away.

6 So the amendment does nothing to solve the
7 claim. And by the way, whereas what we're doing
8 goes after a class of 6 special districts out of
9 1800, this would target 1800 special districts.
10 With that, I ask you to vote it down.

11 MR. SPEAKER: Representative C. Smith in
12 debate.

13 REPRESENTATIVE SMITH: Thank you,
14 Mr. Speaker.

15 Since this is debate, I think it's
16 important to correct the record on what the sponsor
17 has just mentioned that the amendment accomplishes
18 nothing. I think what he meant to say is that the
19 amendment does not accomplish his stated goal of
20 punishing corporation --

21 MR. SPEAKER: Representative Smith --
22 Representative Smith, you can debate on your own
23 behalf. You don't have to attack your colleagues in
24 debate. By all means, you can get to the point of
25 what you're saying without doing that.

1 You're recognized, Representative Smith.

2 REPRESENTATIVE SMITH: Thank you,
3 Mr. Speaker.

4 Again, I will restate that the reality is
5 that this bill -- this amendment, unfortunately, is
6 not targeting Walt Disney World and, therefore, must
7 be rejected. And I think it's important to clarify,
8 not to impugn anyone's character, that that is the
9 point of the underlying bill. That's not a
10 subjective statement. These are statements that
11 have been made by writers of the bill, that the
12 point is to attack Disney.

13 So, folks, if you are surprised by the fact
14 that Rep Eskamani's amendment impacts 1800 special
15 districts, oh, my God, how can we do that? Well,
16 that's because it's crafted in a way to really
17 address that these special districts shouldn't have
18 special privileges in a way that doesn't target
19 anyone or single them out. Isn't that what we
20 should be doing? Shouldn't we be writing policy
21 based on what we know is good for Floridians as
22 opposed to writing policy based on retribution
23 against people who spoke out against legislation?

24 I think Representative Eskamani's amendment
25 is a very good one. And if you actually believe

1 that special districts shouldn't get these special
2 favors, you will vote for Representative Eskamani's
3 amendment so that you can defend that it was not
4 targeted against any particular corporation that
5 kicked a hornet's nest. Thank you.

6 MR. SPEAKER: Additional debate?
7 Additional debate?

8 Representative Davis.

9 REPRESENTATIVE DAVIS: Thank you,
10 Mr. Speaker.

11 Just don't want to say much. But I will
12 add that I serve on that committee with
13 Representative Eskamani when it comes to auditing,
14 and this legislative body does have a process. It
15 has a process where stakeholders are able to come
16 and speak. We can hear both sides in that
17 committee. We know what's happening, when it's
18 coming to that community. And I think the sponsor
19 of this bill has actually brought a community before
20 us to be audited maybe not this year, but some years
21 back.

22 But special district with a charter,
23 special district without a charter, there is still a
24 process in place that this body holds dear. There
25 is a committee that deals with this. And we do have

1 a procedural process. So to have this before us --
2 and I will not allow the reason why we should be
3 here to go awry. I am angry that we are even
4 dealing with something other than the congressional
5 districts, that we're even talking about something
6 other than black representation. But we're here.
7 So I'm going to say this body has a process, and the
8 process is not being adhered to. We serve on
9 committees to help our communities come before us to
10 give their input. But when the process is not
11 convenient to us, then we find ourselves adding
12 things to an agenda that shouldn't be there.

13 So, again, there's a process in place.
14 Thank you, Representative, for bringing this
15 amendment forth. I encourage you all to stop
16 playing the games that we are playing. There is a
17 process for this in place. Please vote for this
18 amendment.

19 MR. SPEAKER: Time having expired for
20 debate, Representative Eskamani, you're recognized
21 in closing your amendment.

22 REPRESENTATIVE ESKAMANI: Thank you so
23 much, Mr. Speaker.

24 I just want to provide clarity for the
25 record that "notwithstanding" in that context means

1 no matter what any other law says. And I thank bill
2 drafting for their assistance, and I trust bill
3 drafting to help us when we have these amendments,
4 even when they're under such intense pressure.

5 With that said, I have many reasons that I
6 could also be angry or be mean, Mr. Speaker, but I
7 choose joy as my response. And I offer this
8 amendment full of joy, because I agree there are
9 some dynamics with special districts that don't make
10 sense, and you can quote me on that. And so what
11 we're doing is -- I pulled this from comments made
12 by the bill sponsor. I pulled this from comments
13 made by Governor Ron DeSantis, that it's not
14 appropriate for these type of powers to be granted
15 to special districts, no matter who is the special
16 district's beneficiary, right.

17 And so with that, I encourage folks to put
18 politics aside for a hot minute. Don't be petty,
19 and support this good amendment that is trying to
20 address the concerns that we've heard consistently
21 as legitimate concerns we've heard instead of being
22 punitive because you don't like something a company
23 said.

24 Thank you, Mr. Speaker.

25 MR. SPEAKER: Members, Representative

1 Eskamani having closed the bill, all in favor of
2 adoption of the amendment say, yea.

3 (Multiple yeas)

4 MR. SPEAKER: All oppose, no.

5 (Multiple nos)

6 MR. SPEAKER: Show the amendment fails.

7 Read the next amendment.

8 THE CLERK: None on the desk, Mr. Speaker.

9 MR. SPEAKER: Read the next bill.

10 THE CLERK: By Representative Andrade,
11 House Bill 5C, a bill to be entitled "An act
12 relating to social media platforms."

13 MR. SPEAKER: Representative Andrade,
14 you're recognized to explain your bill.

15 REPRESENTATIVE ANDRADE: Thank you,
16 Mr. Speaker.

17 And by deleting four lines in Florida
18 Statute House Bill 5C, removes from Florida law the
19 exemption from consumer protections on social media
20 platforms for companies that happen to own theme
21 parks in Florida.

22 MR. SPEAKER: Representative Willhite,
23 questions.

24 REPRESENTATIVE WILLHITE: Thank you,
25 Mr. Speaker, as you recognize Representative

1 Learned.

2 MR. SPEAKER: Representative Learned, you're
3 recognized.

4 REPRESENTATIVE LEARNED: Thank you,
5 Mr. Speaker.

6 And thank you, Representative, for the
7 bill. I know yesterday we talked a little bit about
8 this. I just wanted to follow-up. Can you tell me
9 the reason this carve-out was placed in the bill in
10 the first place?

11 MR. SPEAKER: Representative Andrade.

12 REPRESENTATIVE ANDRADE: Thank you,
13 Mr. Speaker.

14 Representative Learned, the short answer is
15 no.

16 MR. SPEAKER: Representative Learned.

17 REPRESENTATIVE LEARNED: Thank you,
18 Mr. Speaker.

19 In testimony on the House floor last year
20 when we were debating this, it was said it was to
21 protect children, specifically children on the
22 Disney Plus platform from predators and pedophiles
23 and comments, and so they can moderate their space.

24 So my question is: by removing this carve-
25 out, are we in any way putting kids in danger?

1 MR. SPEAKER: Representative Andrade.

2 REPRESENTATIVE ANDRADE: Thank you,
3 Mr. Speaker.

4 Representative Learned, I don't recall that
5 comment being made on the floor. I might be
6 incorrect after reviewing the discussion on the
7 floor about the amendment. But not to sound like a
8 broken record on this, had you just read the
9 underlying bill, you'd see the two carve-outs and
10 exceptions to say, "Any restrictions on censorship
11 do not apply when a social media platform censors
12 based on obscenity, as defined by Florida Statute,
13 which is in line with the Communications Decency
14 Act, Section 230".

15 MR. SPEAKER: Representative Learned.

16 REPRESENTATIVE LEARNED: Thank you,
17 Mr. Speaker.

18 And thank you, Representative. Again, you
19 know, we're sitting here debating a carve-out from a
20 bill that is not enforceable because it's been found
21 unconstitutional by federal court. Can you help me
22 understand how -- what this amendment does if the
23 underlying bill doesn't seem to exist?

24 MR. SPEAKER: Representative Andrade.

25 REPRESENTATIVE ANDRADE: Thank you,

1 Mr. Speaker.

2 And, Representative Learned, we went over
3 this yesterday, and I was a little bit confused just
4 because Judge Hinkle's order, the title is not a
5 final order determination of constitutionality. The
6 title of his order is Preliminary Injunction. And I
7 know we discussed this yesterday, but preliminary
8 injunction is not a final decision at all. And if
9 you go to the Governor's special call, the call for
10 this special session, it lays out specifically why
11 this carve-out needed to be pulled out prior to oral
12 arguments on April 28th, regarding the underlying
13 bill, which is designed to protect Florida consumers
14 against unfair censorship by social media platforms.

15 MR SPEAKER: Representative Learned.

16 REPRESENTATIVE LEARNED: Thank you,
17 Mr. Speaker.

18 And thank you. I have no idea what any of
19 that means because I didn't go to law school. And
20 preliminary injunction, I don't fully understand.
21 So is the law enforceable?

22 MR. SPEAKER: Representative Andrade.

23 REPRESENTATIVE ANDRADE: Thank you,
24 Mr. Speaker.

25 Representative Learned, the law currently,

1 is not enforceable because it is currently
2 preliminarily enjoined. But if you have read Judge
3 Hinkle's preliminary injunction order, it said,
4 "This is simply a preliminary injunction, because
5 the ultimate facts have not been considered. And
6 with further analysis, my analysis might change."
7 And so even the judge who issued this order
8 acknowledged that with more facts and with a further
9 vetting of this case, his analysis might change
10 about exactly what would occur if he had to review
11 the statute for full constitutionality before being
12 enforced.

13 MR. SPEAKER: Representative Learned.

14 REPRESENTATIVE LEARNED: Thank you,
15 Mr. Speaker.

16 And I want to go back to a line of
17 questions I had on the last bill about the Local
18 Business Protection Act. So would that apply -- so
19 in that act that we passed a couple weeks ago, we
20 said that if a business had more than a 15 percent
21 reduction to their business revenue, that that
22 business is liable -- is able to sue. So if Disney
23 Plus, because of this dangerous behavior that can
24 now happen on their platform, because we repeal this
25 law, if they have a 15 percent reduction, can they

1 sue the State of Florida for their money?

2 MR. SPEAKER: Representative Andrade.

3 REPRESENTATIVE ANDRADE: Thank you,
4 Mr. Speaker.

5 And, Representative Learned, forgive my
6 incredulity, but the line of questions about some
7 conspiracy that suddenly pedophiles can run rampant
8 online is just apparently ridiculous. We have
9 Section 230. The Communications Decency Act already
10 prohibits obscenity, and Florida's Statue 847.001
11 also defines obscenity, and includes, child
12 pornography, and predatory behavior.

13 And the statue without the carve-out -- the
14 bill without the carve-out, applies to every other
15 social media platform. And so when this bill
16 passed, every other social media platform was
17 already relieved of any responsibility regarding the
18 prohibitions on censorship, if they were doing it to
19 sensor obscene comments and behavior.

20 So this carve-out was absolutely not
21 necessary for that purpose. And again, I'll also
22 cite on the Business Protection Act question portion
23 of your comment, part of the concern that Judge
24 Hinkle had, there were two causes findings out of
25 five related to this carve-out.

1 And one was related to a violation of what
2 he called the "dormant commerce clause," which is
3 blatantly protectionist behavior, benefiting, you
4 know, home companies in your state. States are not
5 allowed to impermissibly do this. That's the
6 premise of the dormant commerce clause. It's like
7 the reverse of commerce clause. By doing this and
8 putting every single social media platform on the
9 exact same playing field, the bill becomes more
10 constitutional and absolutely does not affect any
11 kind of business protection act, issue or concern.

12 MR. SPEAKER: Representative Learned.

13 REPRESENTATIVE LEARNED: Thank you,
14 Mr. Speaker.

15 And thank you, Representative. You know,
16 it's funny, I was reading a lot. I was doing some
17 research for this, and I saw a lot of tweets from
18 colleagues of yours from the other side of the
19 aisle, trying to repeal Section 230. But now you
20 seem to be saying that Section 230 is the saving
21 grace here and it's going to protect us from
22 ourselves. So my question is: can Florida have a
23 law that protects kids online so that we have extra
24 protection, in case you guys have it your way and
25 you repeal Section 230?

1 MR. SPEAKER: Representative Andrade.

2 REPRESENTATIVE ANDRADE: Thank you,
3 Mr. Speaker.

4 Representative Learned, I hate to sound
5 like a broken record, but Florida Statue 847.001
6 already prohibits obscenity and the underlying bill,
7 772, which says social media platforms can unfairly
8 censor, says you can absolutely censor in the event
9 of obscenity. So the level of kind of -- at this
10 point, it's become like a QAnon level of conspiracy
11 about like pedophile assets because of this type of
12 law. And it's getting a little bit frustrating to
13 keep trying to address and just ask you to read the
14 underlying bill. And I'll cite line 540 and 555
15 over the underlying bill. If you read it, address
16 your concerns completely.

17 MR. SPEAKER: Representative Learned.

18 REPRESENTATIVE LEARNED: Yeah, Mr. Speaker.
19 Thank you, Mr. Speaker.

20 And, you know, it's a little frustrating,
21 because, you know, as the firestorm around us has
22 erupted around us in the last 48 hours, I have
23 personally been called a groomer on Twitter by
24 dozens and hundreds of people. So I'm sitting here
25 trying to protect kids in the State of Florida from

1 predatory behavior online, and it's from the other
2 side where I'm told we can't do more, right. So why
3 can't we do more to protect these kids? Why are we
4 even removing a layer of protection that exist to
5 keep kids safe? I understand your point. I get it.
6 Like, I hear you saying like we don't need it. But
7 it doesn't mean that it's bad, right. It doesn't
8 mean that having that protection isn't helpful.

9 So I guess the final question here is, is
10 this bill in anyway -- does this carve-out in any
11 way hurt kids? Can we just leave it in place and
12 then let the constitution of this law be debated in
13 the courts?

14 MR. SPEAKER: I think that's how you
15 started out this category of questions.

16 If you have something to additional to add,
17 Representative Andrade, you're recognized.

18 REPRESENTATIVE ANDRADE: Thank you,
19 Mr. Speaker.

20 Representative Learned, unless you are
21 saying that the Disney Cooperation does not
22 understand the definition of obscenity like Facebook
23 and Twitter and YouTube we assume already do.
24 You're treating them differently for no apparent
25 reason, and actually, for an unconstitutional

1 reason.

2 MR. SPEAKER: Additional question?

3 Representative Willhite.

4 REPRESENTATIVE WILLHITE: Do you recognize
5 Representative Woodson?

6 MR. SPEAKER: Represent Woodson, you're
7 recognized in questions?

8 REPRESENTATIVE WOODSON: Thank you,
9 Mr. Speaker.

10 Rep Andrade, I know we have heard several
11 discussions about other bills, but I need some
12 clarification on this bill. Is it a follow-up to
13 Senate Bill 90? Not 90. 7072. I'm sorry, I
14 apologize. Is it a follow-up to Senate Bill 7072?

15 MR. SPEAKER: Representative Andrade.

16 REPRESENTATIVE ANDRADE: Thank you,
17 Mr. Speaker.

18 And, Representative Woodson, thank you for
19 that question. I wouldn't say it's necessarily a
20 follow-up. The amendment, this carve-out that says
21 the social media platform that happens to own a
22 theme park in the State of Florida is suddenly
23 exempt from the censorship restrictions that we're
24 trying to provide to Florida residence, it was a
25 carve-out that I didn't like at that time. So I

1 wouldn't say that this is somehow a follow-up. I
2 would say that this just an improvement to the bill
3 and a correction to a portion of the bill that I
4 didn't like in the first place.

5 MR. SPEAKER: Representative Woodson.

6 REPRESENTATIVE WOODSON: Thank you,
7 Mr. Speaker.

8 Thank you, Rep Andrade. I know you didn't
9 like it, but we did pass that bill here. Now,
10 what's the status? Do you know the status of that
11 litigation on that bill?

12 MR. SPEAKER: Representative Andrade.

13 REPRESENTATIVE ANDRADE: Thank you,
14 Mr. Speaker.

15 And, Representative Woodson, thank you for
16 that question as well. Because if you go the
17 Governor's special -- the Governor's amended call
18 explaining why this bill was needed now, there was a
19 preliminary injunction, which, again, is not a
20 finding of constitutionality or a final order. The
21 preliminary injunction was issued last summer. That
22 means that now, it's on an appeal in the federal
23 court. It is on appeal in Alabama, and it's coming
24 up oral argument on April 28th. So in eight days.

25 So if we don't correct this issue today, we

1 will conflate the concerns that we have about big
2 tech censorship with this kind of 14th Amendment
3 equal protection dormant commerce clause questions
4 that are far less important. They're not protecting
5 Florida residence from the big tech unfair
6 censorship.

7 MR. SPEAKER: Representative Woodson.

8 REPRESENTATIVE WOODSON: Thank you,
9 Mr. speaker.

10 And thank you for your response as well.
11 So based on what you're saying, we're trying to
12 correct part of it, right, that is unconstitutional
13 right; is that correct?

14 MR. SPEAKER: Representative Andrade.

15 REPRESENTATIVE ANDRADE: Thank you,
16 Mr. Speaker.

17 I would challenge the premise slightly. I
18 don't believe that what we did, as far as protecting
19 consumers who were using social media platform, is
20 unconstitutional. And I look forward to that oral
21 argument, and I look forward to the decision being
22 made. Because I do believe that the underlying bill
23 related to big tech censorship and the way that we
24 approached it is constitutional.

25 The one concern that I had was the putting

1 different companies on a different playing field
2 like a carve-out. We all understand what a carve-
3 out here is on this floor. The one concern that I
4 had was treating companies in the same circumstances
5 differently, simply by virtue of the fact that they
6 owned a theme park within our jurisdiction.

7 MR. SPEAKER: Representative Woodson.

8 REPRESENTATIVE WOODSON: Thank you,
9 Mr. Speaker.

10 And based on your response, if we are
11 trying to correct part of it, basically, based on
12 what you just sent us, how about the other part?
13 Why don't we correct the whole thing?

14 MR. SPEAKER: Representative Andrade.

15 REPRESENTATIVE ANDRADE: Thank you,
16 Mr. Speaker.

17 And, Representative Woodson, I might have
18 not been clear. What I'm saying is the other part
19 doesn't need correcting. This is a consumer
20 protection bill. It protects Florida consumers and
21 the residence from unfair trade -- the Florida
22 Deceptive and Unfair Trade Practices Act is already
23 a Florida law and protects Florida residence.
24 Applying FDUTPA, which I like to often call it, in
25 this circumstance, I think it's a valid pursuit.

1 And also making sure that big tech social media
2 platforms are not unfairly discriminating based on
3 viewpoint, it's also a critical concern for me and I
4 believe for many residents in the State of Florida.

5 MR. SPEAKER: Representative Woodson.

6 REPRESENTATIVE WOODSON: Thank you,
7 Mr. Speaker.

8 And I'm just trying to get clarification on
9 a lot of these things and the bill. Do you agree
10 with the federal court that this bill implicate the
11 First Amendment right of the social media companies?

12 MR. SPEAKER: Representative Andrade.

13 REPRESENTATIVE ANDRADE: Thank you,
14 Mr. Speaker.

15 Representative Woodson, yes, absolutely.
16 The whole point of this bill today is to eliminate
17 all the distracting components so we can have that
18 First Amendment argument in front of the appellate
19 panel on April 28.

20 MR. SPEAKER: Additional questions?

21 Representative Willhite.

22 REPRESENTATIVE WILLHITE: Thank you,
23 Mr. Speaker. Rep Smith is next on our list.

24 MR. SPEAKER: Representative C. Smith,
25 you're recognized.

1 REPRESENTATIVE SMITH: Thank you,
2 Mr. Speaker.

3 Representative Andrade, are you saying that
4 the reason you're removing this carve-out has
5 nothing to do with Disney's opposition to don't say
6 gay?

7 MR. SPEAKER: Representative Andrade?

8 REPRESENTATIVE ANDRADE: Thank you,
9 Mr. Speaker.

10 Representative Smith, I would have to cite
11 to the Governor's amended call for this special
12 session and the explicit reasons why this is
13 necessary right now prior to our April 28 oral
14 arguments regarding the underlying bill.

15 MR. SPEAKER: Representative C. Smith.

16 REPRESENTATIVE SMITH: Thank you. So what
17 you're saying is this has nothing to do with the
18 fact that this was a carve-out requested by Walt
19 Disney World itself?

20 MR. SPEAKER: Representative Andrade.

21 REPRESENTATIVE ANDRADE: Thank you,
22 Mr. Speaker.

23 Representative Smith, again, I was not -- I
24 did not participate in the drafting or filing of the
25 amendment last year, so I cannot tell you exactly

1 who brought it in the first place because I didn't
2 have any firsthand experience or knowledge about it.
3 What I can tell you is in eight days, there should
4 be an oral argument, and this one distracting carve-
5 out portion of it should not distract from the far
6 more important attempts that we did last year to
7 protect Florida residents from unfair and deceptive
8 and biased censorship by big tech platforms.

9 MR. SPEAKER: Representative Smith.

10 REPRESENTATIVE SMITH: Thank you,
11 Mr. Speaker.

12 And thank you. And I had concerns about
13 this carve-out as well when we saw it on the floor
14 in the previous session. Can you tell us what was
15 the legislative intent of the carve-out so that we
16 can fully evaluate whether or not it makes sense for
17 us to repeal it?

18 MR. SPEAKER: Representative Smith, I
19 believe he just answered that. You have an
20 additional question?

21 REPRESENTATIVE SMITH: Thank you,
22 Mr. Speaker.

23 So for clarification, the bill that
24 Representative Andrade is carrying that repeals a
25 law we passed or part of the law, you have no idea

1 why it was placed there in the first place? Is that
2 is that your position?

3 MR. SPEAKER: Didn't he just answer that
4 question, Representative Smith? You're recognized.

5 REPRESENTATIVE SMITH: Thank you,
6 Mr. Speaker.

7 Okay. So I guess that's a no. You have no
8 idea. So have you reviewed any other carve-outs
9 that are existing in any other law, or is it just
10 this one?

11 MR. SPEAKER: Representative Andrade.

12 REPRESENTATIVE ANDRADE: Thank you,
13 Mr. Speaker.

14 Representative Smith, I have a very
15 consistent and healthy aversion and dislike for
16 carve-outs in general. I've been very consistent in
17 that position. What I will say is that this is the
18 only carve out that's going to be the subject of an
19 oral argument in federal court in eight days.

20 MR. SPEAKER: Representative Smith.

21 REPRESENTATIVE SMITH: Thank you,
22 Mr. Speaker.

23 Now, who wrote this bill that is in front
24 of us today that you're presenting?

25 MR. SPEAKER: Representative Andrade?

1 REPRESENTATIVE ANDRADE: Thank you,
2 Mr. Speaker.

3 Representative Smith, I enjoy that question
4 because I don't know on a definitional level if we
5 can say that striking out four lines and adding none
6 would meet the definition of "wrote."

7 MR. SPEAKER: Representative Smith.

8 REPRESENTATIVE SMITH: Thank you,
9 Mr. Speaker.

10 Thank you, Representative Andrade. You've
11 just spoken to the easy magic that is lawmaking.

12 I suppose no further questions,
13 Mr. Speaker. Thank you.

14 MR. SPEAKER: Representative Gottlieb.

15 REPRESENTATIVE GOTTLIEB: From Willhite --
16 there we go.

17 REPRESENTATIVE WILLHITE: Thank you,
18 Mr. Speaker. I yield the floor to Representative
19 Eskamani.

20 MR. SPEAKER: Representative Eskamani,
21 questions.

22 REPRESENTATIVE ESKAMANI: Thank you so
23 much, Mr. Speaker.

24 Representative, I heard that you were
25 inspired by your colleagues yesterday, including me,

1 from -- I guess it was two sessions ago. So I'm just
2 curious, why were you not inspired last regular
3 session because this has been in the books for a
4 while? So what is the new inspiration?

5 MR. SPEAKER: Representative Andrade.

6 REPRESENTATIVE ANDRADE: Thank you,
7 Mr. Speaker.

8 Representative Eskamani, yes. You
9 absolutely inspired me. I agree with you. This was
10 a laughable carve-out, and I appreciated how heavily
11 you opposed it as did Representative Learned on the
12 floor when it was presented initially.

13 What I would say is I had seven bills that
14 were priorities of mine. Unfortunately, only one of
15 them passed. I hope to improve that record next
16 year. But when opportunities present themselves,
17 like when the Governor amends his special call and
18 says this is a present need because in eight days we
19 have an oral argument and the underlying bill is
20 more important, I will jump at that opportunity when
21 that opportunity presents itself to go correct an
22 issue with a bill that while I overarchingly
23 wholeheartedly supported, gave me slight heartburn
24 about this one carve-out.

25 MR. SPEAKER: Representative Eskamani.

1 REPRESENTATIVE ESKAMANI: Thank you,
2 Mr. Speaker.

3 I remember a year ago and having the back
4 and forth with the bill sponsor, I believe one of
5 his responses to me of why the carve-out was
6 necessary was that the platforms like Disney Plus --
7 and I gave a long list of potential other dynamics,
8 would not be in a position to deplatform someone.
9 Has that changed for you? Can you explain this
10 operationally because that was the answer given to
11 me before? What's different now?

12 MR. SPEAKER: Representative Andrade.

13 REPRESENTATIVE ANDRADE: Thank you,
14 Mr. Speaker.

15 Representative Eskamani, no. There's no
16 technical change to how any platform individually
17 works, right. And I believe the other example you
18 provided, I think, was like maybe Hulu or Peacock on
19 the House floor. And it was, fun fact, 11 months
20 and 22 days ago, that we had this discussion on the
21 floor. So on the anniversary actually, the day
22 after the anniversary of this amendment being put on
23 this bill, the oral arguments will occur.

24 What I would say is no. At the end of the
25 day, this was an unfair carve-out, impermissible

1 under the analysis of a far more important bill,
2 that I'm happy that we're pulling out because I have
3 a healthy aversion for carve-outs in general.

4 MR. SPEAKER: Representative Eskamani.

5 REPRESENTATIVE ESKAMANI: Thank you so
6 much, Mr. Speaker, the time that I have left.

7 I'm curious. Have you spoken to the
8 original bill sponsor? And does he -- has he
9 changed his perspective on his original defense of
10 the carve-out?

11 REPRESENTATIVE ANDRADE: Thank you,
12 Mr. Speaker.

13 Representative Eskamani, the original bill
14 sponsor on the House side was not the drafter of the
15 amendment. It came over from the Senate. So while
16 I enjoy speaking with him, I didn't believe he was
17 going to provide any argument to change my mind
18 about my dislike for this carve-out and the pressing
19 need to have the oral argument specific topics
20 clarified prior to April 28.

21 MR. SPEAKER: All right. Members, time
22 having been expired for questions, are there
23 amendments?

24 THE CLERK: None on the desk, Mr. Speaker.

25 MR. SPEAKER: Read the next bill.

1 THE CLERK: None on the desk, Mr. Speaker.

2 MR. SPEAKER: All right. Members, we're
3 going get a set up with a procedural motion. We've
4 got the bills over from the Senate to set us up for
5 third reading tomorrow. Hopefully, by late
6 afternoon, early evening at the latest, we're able
7 to conclude our business tomorrow to get you all
8 home.

9 Representative Renner, you're recognized
10 for a motion.

11 REPRESENTATIVE RENNER: Mr. Speaker, I move
12 that the rules be waived to read the messages for SB
13 2C, 4C, and 6C, to read the bills twice by title and
14 to substitute them for their identical House
15 companion bills.

16 MR. SPEAKER: Members, Representative
17 Renner moves that the rules be waived that read
18 messages for Senate Bills 2C, 4C, 6C to be read the
19 bills twice by title and to substitute them for
20 their identical House companion bills. All in favor
21 say aye.

22 (Multiple yeas)

23 MR. SPEAKER: All opposed, no.

24 (Multiple nos)

25 MR. SPEAKER: Show the motion is adopted.

1 Read the Senate bills for Senate Bills 2C,
2 4C, and 6C and the bills twice by title and show
3 them substituted for their identical House companion
4 bills.

5 THE CLERK: The Honorable Chris Sprowls.
6 Speaker, I'm directed to inform the House of
7 Representatives that the Senate has passed SB 2C as
8 amended and request the concurrence of the House.
9 Debbie Brown, Secretary. By Senator Rodriguez,
10 Senate Bill 2C, a bill to be entitled, "An act
11 establishing the congressional districts of the
12 state." By Senator Rodriguez, Senate Bill 2C, a
13 bill be entitled, "An act establishing the
14 congressional districts of the state."

15 The Honorable Chris Sprowls, Speaker. I'm
16 directed to inform the House of Representatives that
17 the Senate has passed SB 4C and request the
18 concurrence of the House. Debbie brown, Secretary.
19 By Senator Bradley, Senate Bill 4C, a bill to be
20 entitled, "An act relating to independent special
21 districts." By Senator Bradley, Senate Bill 4C, a
22 bill to be entitled, "An act relating to independent
23 special districts."

24 The Honorable Chris Sprowls, Speaker, I'm
25 directed inform the House of Representatives that

1 the Senate has passed SB 6C and request the
2 concurrence of the House. Debbie Brown, Secretary.
3 By Senator Bradley, Senate Bill 6C, a bill to be
4 entitled, "An act relating to social media
5 platforms." By Senator Bradley, Senate Bill 6C, a
6 bill to be entitled, "An act relating to social
7 media platforms."

8 MR. SPEAKER: All right. Show Senate Bills
9 2C, 4c, and 6C rollover for third reading.

10 Are there resolutions on the desk?

11 THE CLERK: None on the desk, Mr. Speaker.

12 MR. SPEAKER: All right. Members, we're
13 going see you back here tomorrow at 10:00 a.m.

14 Representative Randy, you're recognized for
15 a motion.

16 REPRESENTATIVE RANDY: Mr. Speaker, I move
17 that the House, after receiving reports adjourn to
18 reconvene Thursday, April 21, 2022, at 10:00 a.m. or
19 upon the call of the chair.

20 MR. SPEAKER: All in favor, say Aye.

21 (Multiple ayes)

22 MR. SPEAKER: All opposed, no.

23 (No audible response)

24 MR. SPEAKER: Show the motion is adopted.

25 The House is adjourned. (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.



Julie Thompson, CET-1036

A	accountability 153:25	Adam 25:1	adjusted 42:17	Alabama 178:23
a.m 1:13 191:13	accountable 98:20	adapted 32:10	adjustments 31:10	Alex 23:14 66:24
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EXHIBIT 13

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TRANSCRIPTION OF VIDEO RECORDING
SENATE SESSION
APRIL 20, 2022

DIGITAL EVIDENCE GROUP
1730 M Street, NW, Suite 812
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(202) 232-0646

1 APRIL 20, 2022

2 UNIDENTIFIED FEMALE: All unauthorized
3 persons will please leave the chamber. All Senators
4 and guests in the gallery, please silence all
5 electronic devices.

6 All Senators, please indicate your
7 presence.

8 A quorum is present, Mr. President.

9 PRESIDENT SIMPSON: The Senate will be in
10 order. The Senators and guests in the gallery will
11 please rise for the opening prayer to be given by
12 the Senator of the 8th District, Senator Perry.

13 SENATOR PERRY: Good morning. If you would
14 bow your heads and pray with me.

15 Father God, we come before you today and
16 acknowledge your sovereignty and your goodness to
17 each of us and collectively to our state. We know
18 from scripture that you ordained the institutions of
19 the church, the family, and the government. We are
20 humbled that we have the opportunity to serve in the
21 government of this great state.

22 Thank you for the collective experience,
23 talent, and diversity represented by the men and
24 women serving here today. Each of us has a unique
25 story that has led us here and we are strengthened

1 by the gifts that each legislator brings to this
2 body. We acknowledge that even with our individual
3 successes we have blind spots. We ask that in spite
4 of our biases, our backgrounds, and our politics
5 that you bless the work that we do here, that you
6 use each of us to bring about your purpose in our
7 state.

8 In Proverbs, it says that, "The king's
9 heart is a stream of water in the hand of the Lord;
10 he turns it wherever he will." We ask that you
11 direct our hearts that we can make decisions, that
12 we are wise, and that we truly serve the communities
13 of this state; that we represent and promote liberty
14 and justice for all and allow for all the citizens
15 of this state to have an opportunity to live lives
16 full of your blessings.

17 Grant us unity in spite of our diversity,
18 humility in spite of our successes, clarity in spite
19 of the many distractions, and wisdom in spite of our
20 humanity. I pray in the name of Jesus, all these
21 things. Amen.

22 PRESIDENT SIMPSON: Amen. Please remain
23 standing for the Pledge of Allegiance to be led
24 today by the Senator of the 33rd District, Senator
25 Osgood.

1 SENATOR OSGOOD: Good morning.

2 (Pledge of Allegiance)

3 PRESIDENT SIMPSON: We will now continue
4 with the order of business. Are there reports of
5 committees?

6 THE SECRETARY: None on the desk,
7 Mr. President.

8 PRESIDENT SIMPSON: Are there motions
9 relating to committee reference?

10 THE SECRETARY: None on the desk,
11 Mr. President.

12 PRESIDENT SIMPSON: Are there messages from
13 the Governor or other executive communications?

14 THE SECRETARY: None on the desk,
15 Mr. President.

16 PRESIDENT SIMPSON: Are there messages from
17 the House of Representatives?

18 THE SECRETARY: None on the desk,
19 Mr. President.

20 PRESIDENT SIMPSON: Are there matters on
21 reconsideration?

22 THE SECRETARY: None on the desk,
23 Mr. President.

24 PRESIDENT SIMPSON: Take up the bills on
25 third reading. Read the first bill.

1 THE SECRETARY: Senate Bill 2-C, A bill to
2 be entitled "An act establishing the congressional
3 districts of the state."

4 PRESIDENT SIMPSON: Senator Rodrigues, you
5 are recognized to explain the bill.

6 SENATOR RODRIGUES: This is the bill that
7 creates the congressional map that we discussed
8 yesterday.

9 PRESIDENT SIMPSON: Are there amendments?

10 THE SECRETARY: None on the desk,
11 Mr. President.

12 PRESIDENT SIMPSON: Is there debate on the
13 bill? Seeing none --

14 PRESIDENT SIMPSON: Senator Bracy, you're
15 recognized in debate.

16 SENATOR BRACY: Thank you, Mr. President.

17 Yesterday we had a committee, and we had
18 Mr. Kelly, the Governor's attorney, present the
19 maps. And I must say that his presentation was
20 comical at many times. He said that he had no idea
21 that he was drawing a map that gave Republicans the
22 largest advantage possible. He said that he had no
23 idea that he was putting a swath of black folks into
24 a district with The Villages to dilute their vote.
25 He just was drawing, had no idea, didn't look at any

1 data. And I find it comical that he would even say
2 that.

3 And the fact that this chamber would agree
4 with that I find it disappointing, just --
5 especially when three weeks ago we basically said
6 that his map was unconstitutional. Now, we've
7 totally reversed course. I would rather us just say
8 the Governor holds all the cards, he's threatened a
9 primary opponent from your party, he's going to veto
10 projects in the budget. At least I could respect
11 that. But the fact that we all were here and agreed
12 to a map just three weeks ago, and now you all are
13 telling me that what we passed three weeks ago is
14 unconstitutional I think is ridiculous.

15 And I'll just say this, you know. He's a
16 bully. And bullies don't respect weakness; they
17 only respect power and strength. And if we continue
18 to do this, it's only going to get worse.

19 I remember in the 6th grade there was a
20 young man who bullied me. His name was Olleen
21 (phonetic). He was from a place -- I grew up in
22 Philadelphia, and he was from the worst part of
23 Philadelphia, north Philly. And he would always
24 threaten me to get all his older cousins and come
25 and jump me. And it scared me. He would call me

1 after school, and it worked. I'd get to school.
2 Sometimes I'd hide in the bathroom because I thought
3 he'd have all of north Philly coming to beat me up.

4 And finally I said, you know what, bring
5 it. Bring it. You know what, if I get beat up, so
6 be it. And I told him that. And I never had any
7 problems with this kid again.

8 And I say that to say that this will
9 continue. It will get worse. He will continue to
10 threaten to primary endorse candidates from the
11 leadership of this chamber. If you think that he's
12 going to endorse anybody's candidacy because we're
13 doing his bidding, it's not going to happen. It's
14 going to be something else. Okay. Let's see how
15 you do in the next special session. Oh, well, let
16 me just wait and see until qualifying in June.
17 That's how they work.

18 And you're going to continue to play this
19 game with him. And before you know it, we're not
20 going to have --

21 PRESIDENT SIMPSON: Senator Bracy, please
22 stay on the content of the bill and not the
23 Governor. Thank you.

24 SENATOR BRACY: I think I made my point.
25 If we continue to go down this road, it will not be

1 well for this chamber. And I say all of this out of
2 respect for everyone - for you, Senate President,
3 for every member of this chamber. I love this
4 chamber.

5 I came from the House, and when I came to
6 the Senate I was so proud to be here. I got a
7 chairmanship. I couldn't even get a bill heard over
8 there. In my first year I got a chairmanship, I got
9 onto props, vice chairman. I mean, I really
10 appreciate how we do business in this Senate. And
11 so I don't mean to call out my colleagues and my
12 friends, but I don't like how this process has been
13 going, and I wouldn't be myself and I didn't say it.
14 And so I say it out of love and respect for every
15 member. So with that, I will oppose this map.
16 Thank you.

17 PRESIDENT SIMPSON: Thank you. Is there
18 any additional debate? Leader Gibson, you're
19 recognized in debate.

20 LEADER GIBSON: Thank you, Mr. President.

21 In November 2010, as is printed in the
22 Florida redistricting 2022 information that we
23 received when we started this process, in November
24 2010 Florida voters added amendments to the State
25 Constitution in Article 3 Sections 20 and 21.

1 These amendments prohibit line drawing that
2 intentionally favors or disfavors a political party
3 or an incumbent. The amendments also afford
4 protection of racial and language minorities.
5 Districts may not be drawn with the intent of
6 denying or abridging the equal opportunity of racial
7 or language minorities to participate in the
8 political process or to diminish their ability to
9 elect representatives of their choice.

10 The maps that we have -- I think it's 109 -
11 - are certainly counter to this information and the
12 Florida Constitution. Period. There's no question
13 about that. The secondary map that came to us from
14 the House before the end of session has a
15 configuration of District 5 that is very similar,
16 almost identical, to what the courts drew in 2016.
17 In the secondary map that we received, the black
18 voting age population is at 43 percent. Even in the
19 primary -- the secondary -- the primary map that we
20 received from the House has 35 percent BVAP.

21 And so when I look at the information that
22 we received and heard yesterday in the committee,
23 the BVAP in -- there are two districts now split
24 Jacksonville in half pretty much. Or maybe not half
25 because the percentages aren't really half. So in

1 the District 5 -- in the District 4 configuration in
2 Duvall, the black voting age population is 30
3 percent. In the District 5 configuration of the map
4 that also includes Duvall, it's 12 percent. I call
5 that diminishment by any means.

6 And so the other situation with this map is
7 that an entire swath of this state, there will be no
8 African American -- no African American member of
9 Congress. And likely no African American member
10 could be elected, while thousands of African
11 Americans live in this entire swath of the state. I
12 call that taxation without representation. And that
13 should be a compelling interest of this state.

14 Thank you, Mr. President.

15 PRESIDENT SIMPSON: Thank you. Senator
16 Stewart, you are recognized in debate.

17 SENATOR STEWART: Thank you, Mr. President.

18 I served on the reapportionment committee,
19 and I do want to say -- and I know I've said it over
20 and over again, Senator Rodrigues was an excellent
21 chairman. He listened to everybody. The audience
22 would come, he would listen. We made changes to the
23 Senate map based on input. Some were accepted, some
24 weren't. That's the process. And we had a nearly
25 perfect map when we brought this to you. I was very

1 proud of that. I was very proud of the process.

2 And it just hurts me to see that we have

3 now come full around to a map that was not really

4 discussed in the public, and that the public has no

5 input. And then when we hear from the person who

6 did the map from the Governor's office, it was

7 explained to us that they worked really hard on Tier

8 2, which they did. It's compact, it's, you know,

9 all that. But they didn't even look at Tier 1. And

10 Tier 1 is to me the more important part of the

11 process. And since that wasn't even considered, and

12 they were using roadways to determine the lines, and

13 that they had -- very well they said they did not

14 want to look at Tier 1 because they didn't think it

15 applied. And I have to disagree. I think that that

16 number -- Tier 1 is the most important aspect of any

17 map that we draw. And that is why I can't support

18 this, because I don't think that they've looked at

19 everything. And I think that the constituents

20 probably are not going to be particularly happy with

21 the outcome of this map, and I'm sure we're going to

22 march ourselves off to court, and everybody here I

23 think agrees to that. But that's not what we --

24 that's not what our role should be is pass something

25 that goes to court. So I'm just not going to be in

1 a position to support this, because I really think
2 we did a good job the first time. Thank you.

3 PRESIDENT SIMPSON: Senator Jones, you're
4 recognized in debate.

5 SENATOR JONES: Thank you, Mr. President.

6 Members, just three weeks ago this body --
7 we came together and we argued and we defended a map
8 that we said was constitutional. Yesterday my good
9 friend, Senator Rodrigues, made it clear that the
10 Governor's office said that this map was now
11 unconstitutional and it was gerrymandering. Do you
12 all know how many black members have ever served in
13 Congress since reconstruction in the State of
14 Florida? I'll tell you -11.

15 Now we have five black members of Congress.
16 And of those five black members of Congress in a
17 state with 22 million people, where black people
18 make up 16 million -- I mean 16 percent of this
19 state, we now run the risk of only having two black
20 members of Congress; that's Byron Donalds and
21 Frederica Wilson. Two.

22 After Governor DeSantis made the veto of
23 the maps, which we know -- which we knew he was
24 going to do because he tweeted about it during the
25 time when we were in session, this body, we said

1 that it didn't matter and we were going to do the
2 right thing. We voted for it, we went home with the
3 understanding what the Governor was going to do.
4 But what I did not think was going to happen was
5 that we were going to acquiesce to the Governor and
6 allow him to hijack this process.

7 I think Senator Bracy made it clear a few
8 minutes ago that a lot of this stuff that I see now
9 in the Senate, we used to see in the House, to where
10 there was no say. It was a top-down approach on how
11 things are done. And when we came up to the Senate,
12 for those of us who served in the House together,
13 whether Democrat or Republican, we used to be happy
14 when bad bills came over to the Senate, because we
15 knew where bad bills came to die. Because we are an
16 independent body.

17 But in this instant I ask all of us in this
18 chambers, who are we? Are we the Senate, or are we
19 going to allow this process to be hijacked in the
20 way that it's being hijacked in -- right now? And
21 it's clear -- and I don't want to spend time talking
22 about the Governor, because I think we see that in
23 the news and all this other stuff. But I even think
24 that while we are here in this chamber and we know -
25 - we know -- that what we are doing right now is not

1 right. We know it's going to court, because
2 yesterday we put an amendment in place that is a
3 total violation of the law as it pertains to
4 separation of powers. But yet still we moved on and
5 we did it anyway.

6 There's an old saying that when people show
7 you who they really are, believe them. Yesterday on
8 the steps of the old Capitol over 200 black leaders
9 from across this state came together to make it
10 clear that what we were doing in this chamber is
11 wrong. It's wrong. There's no need for me and the
12 other members to get up here and scream and yell and
13 all this other stuff.

14 But my dad used to always say we -- I hope
15 you get convicted by words. So it's my hope that
16 you recognize that when you begin to trample on
17 marginalized people in the manner that you're doing
18 when you know it's wrong, that's when you have to do
19 some self-reflection on whether or not we are doing
20 the right thing, which it's not.

21 And I'll end with this. If we are going to
22 go down this road and we're going to set this new
23 norm to where we allow the executive branch to play
24 the Legislature at the same time, there is no need
25 for all of us to show up. Let the executive branch

1 do what they want to do. But when we know for a
2 fact that we are an independent body that every last
3 one of us have been elected by somebody -- or
4 people, excuse me -- to come up here and do the
5 right thing, I think we should do that. Thank you,
6 Mr. President.

7 PRESIDENT SIMPSON: Thank you. And I think
8 Leader Gibson had one more sentence she wanted to
9 add. And you are recognized.

10 LEADER GIBSON: Thank you, Mr. President.
11 It is a very important one. I didn't flip my page
12 up trying to be brief.

13 But I wanted everyone in this chamber to
14 know that I was the only Democrat before we left the
15 Senate that voted for the two maps that left this
16 chamber. And that has come up in the media. And it
17 was all about Jacksonville, because Jacksonville was
18 front and center. And so I just wanted for the
19 record to make sure this chamber knows that in
20 Jacksonville the totality of our people is bigger
21 than discriminatory maps. Thank you, Mr. President.

22 PRESIDENT SIMPSON: Thank you. Senator
23 Osgood, you're recognized in debate.

24 SENATOR OSGOOD: Thank you.

25 Good morning again. You know, as I looked

1 at what you all did a couple of weeks ago, what the
2 House did, the maps went to the Governor, the
3 Governor vetoed the maps and declared that they were
4 unconstitutional, yesterday we were told that the
5 House maps, that some of the methods that they used
6 was then used again to create the Governor's maps.
7 We had long conversations and presentations about
8 the intent, the interests of the state.

9 And I just want to be clear today that
10 black people are in this state. They make up a
11 large portion or sector of the state, and they're
12 not going away. And right now the people that I
13 represent are hurting. They feel disrespected.
14 They feel that we're not even allowing the process
15 that works with the three branches of government to
16 be played out. They feel like we're just caving in,
17 we're just giving in.

18 And we can make our legal arguments, but at
19 the end of the day people matter. And for people of
20 color, a lot of times the law works against us. And
21 when we bring out maps in this way that clearly,
22 clearly targets people of color, clearly puts people
23 of color at a disadvantage, we're taking a step
24 back.

25 We've had many constitutional amendments.

1 We've had amendments to the state constitution. And
2 as we look at this state as a whole, how do we build
3 consensus, even when we don't always agree, where
4 people at least feel like they have an equal
5 opportunity in this process. I came here to work,
6 to represent the people that elected me, regardless
7 of their race, their religious background, their
8 sexual orientation.

9 And when it's being displayed that we're
10 not doing our jobs, that we're giving in -- Senator
11 Bracy talked about bullying. And you know, I'll
12 just say in certain neighborhoods we just don't
13 tolerate that. We take a stand, and we're willing
14 to pay whatever consequence. I think that we all
15 have a moral obligation to be accountable to the
16 people that elect us and to be accountable to a
17 higher being.

18 And as we sit here today, if we lived in
19 District 5 or if we lived in District 10 and we were
20 people of color, how would feel about this major
21 injustice? How do we balance the love for this
22 great nation, this great state? All we're asking
23 for, as people of color, in the words of Aretha
24 Franklin, just a little respect.

25 When I go home to my district, I want the

1 Senate to be respected. I don't want us to be seen
2 as a body that just kowtows and just rolls over.
3 And I can tell you as a person of color who believes
4 in democracy, who spent their career in formal
5 training in public administration, who has taken the
6 time to be theologically trained, this hurts. It
7 kind of puts all of my moral beings, all of my
8 theological perspectives -- it's a major dichotomy
9 now because government is for the people, by the
10 people. And we're supposed to take care and look
11 out and create opportunities for people, not take
12 them away.

13 So let's think about that real hard today.
14 And we don't have to be afraid of any person or
15 anything, because, ultimately, there is a higher
16 being that we, ultimately, have to give an
17 accountable to. And for me when it's a choice, I'm
18 going to always look to do what's going to put me in
19 the best light with that higher being.

20 So I ask you today to just imagine you were
21 in one of these districts, and these maps were being
22 pushed on you. How would that impact you, your
23 children, your grandchildren for the next 10 years?
24 Thank you.

25 PRESIDENT SIMPSON: Thank you. Is there

1 any additional debate? Yeah. Senator Berman,
2 you're recognized.

3 SENATOR BERMAN: Thank you, Mr. President.

4 So if we were truly doing a race-neutral
5 map, we'd start in the panhandle, and we'd have a
6 series of squares and it would go all the way down
7 the state. But we know we're not doing that. We're
8 doing a gerrymandered map based on the Governor's
9 directions. We all know that Florida is a state
10 where elections are decided by margins of three
11 percent or less. Yet we've created a congressional
12 map where there are probably 20 Republicans and 8
13 Democrats.

14 You know, I went to law school so I didn't
15 have to do math, along with Senator Burgess. But
16 that's clearly not a three percent differential. We
17 are creating a map which doesn't reflect the
18 electorate of Florida. And the changes to the map
19 are telling. We reduced the number of African
20 American majority minority seats from four to 2.
21 The Voting Rights Act was put in place to ensure
22 minority representation, and we are destroying it
23 with the action today.

24 In 2010 over 60 percent of Floridians
25 supported fair districts, which clearly provided for

1 Tier 1 minority representation. There is no
2 justification for not following fair districts. We
3 have seats that go almost 200 miles in the present
4 map, so that's clearly not a justification for
5 eliminating minority representation. We also have
6 seats that cross the Everglades to assure
7 minority/majority Hispanic representation, so that's
8 not a basis for eliminating it -- African American
9 districts. There really is none, other than the
10 fact that, that is our Governor's direction.

11 I want to talk a little bit about the
12 timing of this also. We are one of only three
13 states in the country that do not have a
14 congressional map as of this date. This could and
15 should have been done a long time ago, and I
16 understand that the Governor's veto resulted in
17 where we are today. But I'm worried that we haven't
18 given the courts enough time. We know that there
19 are people who want to challenge this map.

20 And what's probably going to happen,
21 because we have qualifying in June, is that we are
22 going to be stuck with a map that hasn't been
23 adjudicated. And I believe that it's very likely
24 that the court system would put a new map in place,
25 just as they did in the previous maps that we put in

1 place. And in that situation we had the same thing,
2 where we had a map for several years that was
3 unconstitutional. And I really feel that this is --
4 I worry that we're not going to have enough time
5 before the November election to have it be reviewed
6 before we have this map put into place.

7 Some of the amendments that we put on the
8 bill yesterday were really troubling. The issue of
9 where you can bring a lawsuit is not one that we
10 should be deciding here in this Legislature. And
11 then the money for legal fees, we have seen so many
12 times that this Legislature has passed bills that
13 the courts have deemed unconstitutional. And yet
14 we're spending our taxpayer dollars to go and defend
15 those actions, and we're doing the same thing here
16 with this map. And I really find it unfair to our
17 citizens, and I'm outraged that this is another case
18 where we would have to do this.

19 You know, as I was coming here yesterday in
20 the airport, a gentleman stopped me as I was coming
21 through in Miami. And he could see that I was
22 heading toward the plane from Tallahassee.

23 And he said to me, "Are you going to
24 Tallahassee?" And I said, "Yes." And he said, "Can
25 I ask you a favor?" And I said, "Sure."

1 And he said, "Can you make sure that my
2 vote and my voice is heard in Tallahassee?" And I
3 turned to him and I said, "I absolutely will."

4 And I want you to know that this was just
5 an employee working in the airport who understood
6 what was going on here in this state. So I want you
7 to know that people are watching. People are aware.
8 So make sure when you vote today that you remember
9 that the people in the state of Florida are
10 watching. We were put here to do fair maps. This
11 is our responsibility once every 10 years. And I
12 don't believe we're doing it with this map, and I
13 ask you to vote it down today. Thank you.

14 PRESIDENT SIMPSON: Thank you. Is there
15 any additional debate? Senator Cruz, you're
16 recognized.

17 SENATOR CRUZ: Thank you, Mr. President.

18 Of course I oppose this map, because on its
19 face I believe it violates the fair district
20 amendments in the Florida Constitution. Instead of
21 keeping the south portion of Pinellas County whole
22 it splits this community, taking the eastern portion
23 and jumping the bridge -- is what we call it -- and
24 putting it in Tampa and other sections of
25 Hillsborough County. Looking at this map, one

1 cannot even say that it works to respect
2 geographical boundaries. Section of the Pinellas
3 portion of the map appear to cut neighborhoods in
4 half, and in one instance even appears to cut a
5 building in half.

6 Publicly available performance data
7 suggests that these changes were made to create a
8 South Pinellas seat that significantly favors a
9 Republican. Because of these gerrymanders in the
10 obvious partisan favoritism in this map, it's really
11 very unconstitutional. And Senators, ignoring fair
12 districts -- which oh, by the way, is an amendment
13 to the Florida Constitution, which oh, by the way,
14 happened because the people had to go around this
15 body and put an amendment to our Constitution in an
16 effort to force fair districts -- totally, in my
17 opinion, being ignored.

18 What I'm really worried about is this
19 persistent abuse of power and a total and complete
20 disregard for the laws. You know what this is?
21 This is a stage 4 malignancy, and this will be the
22 death of democracy. Thank you.

23 PRESIDENT SIMPSON: We are in debate. We
24 are in debate. let's go to the Senator of the 3rd,
25 Senator Ausley, followed by the Senator of the 38th,

1 Senator Pizzo. Senator Ausley, you are recognized
2 in debate.

3 SENATOR AUSLEY: Thank you, Mr. President.

4 And I want to start out by echoing my --
5 the sentiments of my colleagues. Senator Rodrigues,
6 I have nothing but respect for you. Since I moved
7 to this side of the floor I've been able to see you
8 up close and personal, and I've watched you
9 patiently and stoically answer our questions. And
10 we were proud, most of us, to support your work on
11 the House and the Senate maps. But I for one did
12 not support the congressional map because I believed
13 it violated fair districts and drawing a Duvall only
14 seat that clearly disfavored Congressman Al Lawson,
15 the current incumbent in House District 5.

16 Now, in the Governor's veto message he
17 describes District 5 and secondary map as this
18 sprawling district that stretches approximately 200
19 miles from east to west and cuts across 8 counties
20 to connect a minority population in Jacksonville
21 with a separate and distinct minority population in
22 Leon and Gaston Counties, suggesting that House
23 District 5 is only about connecting Jacksonville and
24 Tallahassee. And members, that is not true.

25 I am very familiar with these counties

1 across north Florida. I've lived here my entire
2 life. The current House District 5 includes all or
3 part of eight counties. My Senate district shares
4 five of these counties. On average these counties
5 or the part of the counties that make up House
6 District -- current Congressional District 5 have an
7 average African American population of 25 percent or
8 more, making up a cohesive community of urban and
9 rural voters, many of whom have lived in these
10 communities since the 1800's.

11 While this body has not provided us with
12 partisan performance data, the publicly available
13 data shows that in the current version of the 5th
14 District this cohesive community of black urban and
15 rural voters makes up a Democratic primary that is
16 70 percent black. In fact, all of the counties in
17 this district but one are majority black in the
18 Democratic primary, allowing the historic African
19 American community of north Florida to elect the
20 candidate of their choice.

21 As I said, I voted against our
22 congressional map because I believed it violated the
23 fair districts, but this map goes even farther than
24 that. This map shows us that it's not about
25 compactness. This is about limiting minority

1 access. To be clear, under this map north Florida
2 black voters will not have a district that
3 represents them, not in Duvall, not in Tallahassee,
4 not in any points in between.

5 This map is unconstitutional on its face,
6 and it violates the Voting Rights Act. And for
7 these reasons I will be voting no, and I urge you to
8 do the same.

9 PRESIDENT SIMPSON: Thank you, Senator
10 Ausley. We have on the lineup Senator Pizzo,
11 Torres, Stargel. The Senator Ann Burgess will be
12 added to that list. Senator Powell will be added to
13 that list. The Senator of the 38th, Senator Pizzo,
14 you are recognized in debate.

15 SENATOR PIZZO: Thank you, Mr. President.

16 So I was pretty good at math, even though I
17 got a law degree. None of my math books I don't
18 think indoctrinated me. They just taught me the
19 right answer, because math only has one right
20 answer. So here's from math. The Florida Senate is
21 the closest representation on count for constituent
22 numbers as Congress. If you take 21,800,000 people,
23 you divide it by 28 seats, 778,000 constituents.
24 Take 21,800,000 Floridians, divide it by 40 Senate
25 districts. It's 545,000. Closer in number, a large

1 number, than any other representation throughout
2 Florida in 11-plus municipalities and 67 counties.
3 Miami-Dade County, the most populous county with 2.8
4 million people or there around; roughly 212,000
5 constituents per district holder of 13
6 commissioners. We are the closest thing to
7 congressional.

8 Here's what's really interesting about the
9 math. There are 6 black members of the Florida
10 Senate. That's 15 percent of the body. There are
11 21 black members of the house. That's 17 and a half
12 percent. The blended average of those two is
13 roughly 16 and a half percent, which is exactly the
14 black population in the State of Florida. That's
15 math; it has one right answer.

16 In Florida we're about to go from four to
17 two. Maybe even less, because I've gotten six phone
18 calls to run for Congress where I live because two
19 black members have filed, will poach each other's
20 vote, and I can win. I'm running for the Florida
21 Senate. Because I think this place is not one of
22 435, it's one of 40. We have the ratio of members
23 to constituents, the greatest power influence and
24 ability potential to do good and bad. Remember
25 those numbers - 21 black members in the House, 6

1 here; 16 and a half percent blended average,
2 reflective almost exactly to the black population of
3 the State of Florida.

4 These maps do not. CD proposed 10 did not
5 have to split a minority district. I keep hearing
6 compactness as an argument, which is always
7 secondary to minority protection in Tier 1. Alex
8 Kelly is not a lawyer, and if he was, he wouldn't be
9 a good one.

10 Here is what everyone was trying to say,
11 but I realize the utility of my position, folks, is
12 to lay a record. And I hate being right about these
13 things. Some of the amendments that we've had over
14 some of these bills that we've discussed, the
15 million dollar cap on legal fees, that's called bath
16 faith. That means that you are entering into a
17 contract, a negotiation, or an agreement knowing
18 it's likely to fail, be challenged, or be infirm.
19 That's what you're doing. You're doing it for your
20 political futures, and I understand it.

21 But I don't know if that's what you want me
22 to continue to tell my constituents about why things
23 are so crazy up here. Because you were told to do
24 it. But that's what I'm telling them. If there's
25 something else you would like me to tell my kid's

1 baseball coach, my next door neighbors, my wife, let
2 me know. Because I have been given no reason other
3 than some very smart people -- what do we have?
4 One, two, three, four -- what do we have, nine
5 lawyers in here? Some very smart people are walking
6 into things they know will be struck down, rejected.
7 So you tell me after we leave here what you would
8 like me to tell intelligent, engaged and informed
9 constituents about why you continue to do things
10 that you know either make sense, don't save kids in
11 my district's lives or yours, don't improve streets,
12 roadways or infrastructure. You tell me what you
13 want me to tell them.

14 PRESIDENT SIMPSON: Senators, we're in
15 debate. On the lineup is Torres, Stargel, Powell
16 and Burgess. From the 15th, Senator Torres, you're
17 recognized in debate.

18 SENATOR TORRES: Thank you, Mr. President.
19 Mr. President, I rise in opposition to these maps.
20 Under the Florida Constitution the Legislature is
21 charged with the responsibility of drawing
22 congressional district maps based upon population
23 changes after each decade of census counting. But
24 today we're allowing the Governor to draw and
25 propose these maps instead of drawing them ourselves

1 through normal staff and committee process. This
2 Legislature is a core equal branch of the government
3 with the Governor, but we have given him authority
4 over this issue which is clearly our responsibility.

5 The recent census data showed increased
6 population growth in Florida, which is why we added
7 one new Congressional seat. The largest population
8 growth in Florida was in the Hispanic community.
9 There was also a growth in the African American
10 community as well, but the proposed map eliminates
11 two current African American seats and does not
12 increase the number of Hispanic access seats, even
13 though those two communities are larger today than
14 they were a decade ago.

15 Mr. President, establishment of minority
16 access district has been affirmed by the courts for
17 several decades to be constitutionally compliant and
18 ensures opportunities for minority communities to
19 elect Congressional candidates that will represent
20 their interests. Why should we deviate from the
21 longstanding tradition by passing maps that
22 decrease, not increase, minority access
23 Congressional seats?

24 I object to both subsets of this
25 congressional map's districts and the process that

1 brought us here to address the issue. For these
2 reasons I cannot support the maps on -- that are
3 before us today, based upon the reduced access of
4 representation of minority communities. I fully
5 expect that the courts will have the ultimate settle
6 -- ultimate settle this issue, just as they did when
7 this body approved unlawful maps last decade. Thank
8 you, Mr. President.

9 PRESIDENT SIMPSON: Thank you, Senator
10 Torres. We're in debate. You're in debate.
11 Senators on deck: Stargel, Powell, Burgess, Rouson.
12 Let's go to the District of the 22nd. It's Senator
13 Stargel is recognized in debate.

14 SENATOR STARGEL: Thank you, Mr. President.

15 And I will start this debate by saying I
16 liked our Senate maps. I will submit that. We
17 voted on the Senate maps. I like it when everyone
18 does things my way. That's typically the way I am.
19 But unfortunately we all have to work together in
20 this process. And if there was only one right way
21 to draw a map, that would be something that could be
22 discussed. But there is not. There are multiple
23 ways to draw these maps. There are multiple ways to
24 draw these maps constitutionally.

25 If each of us were to -- I would submit

1 that many of the drafts of maps that we've seen were
2 probably constitutional. But we all have to agree
3 we've done a lot of legislation over the years. And
4 again, I like it when we do legislation my way, but
5 we have to work with the house and we have to work
6 with the Governor.

7 And before we even passed our maps there
8 were lawsuits filed, because the truth of the matter
9 is that the other side wants the courts to draw our
10 maps. They don't want us to draw the maps. They
11 want to take away our constitutional responsibility
12 to draw maps. They want to take it away and give it
13 to the courts. So before we were even done with our
14 maps in March, they filed a lawsuit against our
15 maps.

16 Now, I've heard a lot of discussion today
17 about the minority districts. And so I asked our
18 staff to poll with regards to our Senate and the
19 math that Senator Pizzo said, and I don't like math
20 or work so I'm not a lawyer or a mathematician. And
21 of our Senators -- and we're doing a representation
22 -- Gibson, Bracy, Rouson, Powell and Jones were all
23 elected not by majority minority districts. And yet
24 they're still here sitting in this chamber, and
25 they're still representing the Florida Senate.

1 Senator Osgood was the only one who was elected by a
2 majority minority district.

3 So to say that these maps as they're drawn
4 today are hurting minorities I believe is not
5 accurate. It depends on who decides to run for
6 those districts. And if that minority is a good
7 candidate -- minority member is a good candidate,
8 then they'll get elected.

9 So as I stand here before you today, I
10 believe these maps are constitutional. I wouldn't
11 vote for them if I didn't. And the funds we put in
12 the budget is because we know they're going to be
13 challenged because of the precedent of the last
14 maps, which many have said they liked in this
15 chamber, were challenged before we even got done.
16 So we know they're going to challenge, because the
17 reality is they want the courts to draw the maps.

18 These are constitutional maps. I think
19 they're very thoughtful. I don't think any of us
20 who vote for them today are racist or following the
21 direct will of the Governor. We're doing our
22 constitutional requirement of drawing maps,
23 submitting maps, discussing maps, working together
24 with our branches of government and making sure we
25 have a constitutional map. And I'd ask for you to

1 please vote for them today.

2 PRESIDENT SIMPSON: In debate: Powell,
3 Burgess, Rouson. The Senator -- Senator Powell of
4 the 30th, you're recognized in debate.

5 SENATOR POWELL: Thank you, Mr. President.

6 The question I have is -- Senator Pizzo
7 said it earlier, approximately nine attorneys in
8 this body of 40 people; 39 when we end at session.
9 How did we end up with compromised maps with all of
10 these attorneys? And I battled that over and over
11 again.

12 I woke up this morning, woke up this
13 morning. I had like the same thought that I had
14 several weeks ago. There's a lion and a gazelle
15 that wake up every morning running. One is running
16 to get food; one is running not to be food. And I
17 wake up knowing in this process that we have to
18 continue to fight. And sometimes you get tired,
19 right? Tired of the book bans, tired of the don't
20 say gay, tired of the maps being changed, tired of
21 the CRT, tired of the race. Tired of wondering when
22 I wake up in the morning am I black today, am I
23 colored, am I a negro? What is my battle today?

24 In a state with 21.5 million people, when
25 we're talking about congressional maps and we talk

1 about the census, Senator Jones said earlier that in
2 this state there has only been a limited number of
3 people who've been black who've been elected to
4 Congress. So you all remember recently, right in
5 the seat that Senator Bracy sits in now, that -- in
6 that chair but in the District 33, we had a former
7 member who ran for Congress and is not here. Why
8 did all of those people run for Congress? And my
9 name was tossed around in that same sentence in
10 terms of potentially running.

11 But prior to 1992 in the statehood of
12 Florida, prior to 1992 there were zero -- well,
13 after reconstruction there was one - Josiah T.
14 Wells. But prior to 1992 there were zero black
15 people in Congress. And then in 1992 we got Corrine
16 Brown, Alcee Hastings, who represented where I
17 lived, and then down in south Florida, Carrie Meek.
18 You all remember Carrie; she recently passed away.
19 She was replaced by Kendrick, who then was replaced
20 by Frederica Wilson.

21 In Jacksonville you had Corrine Brown, who
22 has been replaced by Al Lawson and Val Demings,
23 because that became two different seats. Palm Beach
24 County we recently had an election where all of
25 these people ran for that one Congress seat. Why

1 would all of those people run for one Congress seat?
2 To be one of the 10 black people to ever be elected
3 to Congress here in the State of Florida, where
4 we're going to have 28 congressional seats. And
5 maybe 2 or 3 after we completely pass this map will
6 represent black people.

7 And I tell my daughter every day that you
8 can be anything you want to be, right, because
9 that's what my mother told me. But I wake up every
10 day knowing that I'm going to have to fight. And
11 Senator Bracy said earlier that he had to deal with
12 a bully, right. And I have to remind myself every
13 day -- I listen to all kinds of music -- gospel,
14 rap, country. I have to remind myself that Bone
15 Crusher said it best, "I ain't never scared." Which
16 means sometimes we're going to have to stand in the
17 way, and we're going to get knocked on our backs.
18 Celeste Brown said if you can fight and you knocked
19 on your -- knocked down, try to land on your back,
20 because if you can look up, you can get up.

21 And this process becomes more and more
22 difficult. Because when I got here, boy, there were
23 some fighters up in here. Latvala, he didn't always
24 agree with the Democrats or the Republicans. Boy,
25 but he was a fighter, right. You never knew where

1 he was coming from. Today is a little bit
2 different. A lot of us have lost our fight. A
3 couple people stand up and fight for what they
4 believe in. It doesn't necessarily have to be
5 Democratic, and it doesn't necessarily have to be
6 Republican.

7 But in this world that I live in, this map
8 that we're proposing tells people we don't want to
9 say the words "black lives matter," but you show me
10 this and subconsciously, like the wall I told you
11 all about, you understand what the map says. Is it
12 because 40 members of this body who are
13 professionals pass maps and now we say they're
14 compromised? Is it because we're within 30,000
15 votes of bringing it home? Is that what we're
16 scared of? I wake up every morning knowing that I
17 have to fight.

18 And I know I came from West Palm Beach
19 reluctantly, reluctantly, because I'd rather be home
20 with my wife and daughter. Love, Senator Bracy, is
21 an action. Love is a strong word. I dated a lot of
22 girls -- women -- people, whatever.

23 (Laughter)

24 Not people, but women. At least you all
25 know I dated people, not animals.

1 But it's a lot to love. It's a lot. When
2 you say, "I love you," that's strong, and I don't
3 take it lightly. When you say, "I love," love is an
4 action. I knew my mom loved me, not just because
5 she said it but because of what she did. I know my
6 father loves me, not because of what he says -- and
7 sometimes he don't say it -- but because of what he
8 does. My father and mother were born in 1947. My
9 mother died in 2001 and she couldn't fight for me
10 any longer. So I'm here and I'm ready. And I know
11 I've got to fight.

12 Lauren, you and I talked about what Chris
13 Smith said about rain. I understand. Trevor, you
14 talked about Maya Angelou said, and I'll finish you
15 all with this. Maya Angelou did say that when
16 people show you who are -- who tell you who they
17 are, you believe them the first time. But she also
18 said that, "You may write me down in history with
19 your bitter, twisted lies, banning me out of books.
20 You may trod me in the very dirt, but still, like
21 dust I'll rise."

22 We will continue. We'll battle. We're
23 here today. These will be our words. But we will
24 continue to rise. We'll rise above the pit of
25 mediocrity in which we've tried to be buried. We

1 will rise above any feelings that we may think are
2 racist or negative. We will rise above the times
3 when we were colored to when we were black. We will
4 rise in a chamber, regardless of the banning of
5 books. We will rise, we will continue to rise, and
6 we will rise. But when it comes to this legislation
7 and this map, I will be down. And I would ask you
8 to do the same.

9 Thank you, Mr. President.

10 PRESIDENT SIMPSON: Thank you, Senator
11 Powell. Up next: Burgess, Rouson, Farmer. Senator
12 of the 20th, Senator Burgess, you're recognized in
13 debate.

14 SENATOR BURGESS: Thank you very much,
15 Mr. President. I'll be brief.

16 This is only the second cycle since the
17 Florida constitutional amendment was put in for the
18 fair districts. Unless this is resolved, we're
19 going to be dealing with these types of legal
20 questions every single decade. And the way I view
21 this, as is with many constitutional amendments,
22 however noble their initiative and their passage
23 there are a lot of legal questions that remain
24 unresolved because a constitutional amendment does
25 not contemplate the full left and right limits of

1 the law.

2 And so what we have here and what has been
3 identified by the Supreme Court are two remaining
4 legal questions that have not been thoroughly vetted
5 within these last two cycles, or by the court, or
6 contemplated in our law. And those two questions
7 are the interplay between the Tier 1 standards in
8 our constitution and the equal protection clause, as
9 well as the extent to which the non-diminishment
10 standard of Article 3, Section 21(a) compels map
11 drawers to create districts that conflict with the
12 Tier 2 standards in Article 3 Section B has yet to
13 be clearly interpreted by state or federal courts.
14 So these two legal questions remain unresolved.

15 If the concern is truly legal, then this is
16 an opportunity to resolve these legal questions once
17 and for all. The venue provision from yesterday is
18 a completely normal, completely standard, and
19 completely consistent approach that we have in
20 Florida law, and it's no different here.

21 Florida has led the way, in my opinion,
22 with an incredibly transparent process. And this
23 process is not just the Senate, it's not just the
24 house, it's not just any branch. It takes three to
25 tango. And this map before us does incorporate

1 input from all branches of government here. And
2 because of that and because of what we heard
3 yesterday, with there being the citation of legal
4 precedent and this being a novel legal argument, a
5 case of first impression in which a legal issue that
6 has never been decided is before a governing
7 jurisdiction, I feel very comfortable supporting
8 what is before us.

9 This has been a transparent process.
10 Florida has led the way. If you don't believe me,
11 look at some other states. New York, a special
12 magistrate is now drawing their maps. In New
13 Hampshire the Supreme Court is now taking over.
14 Maryland is on round two. You don't even want to
15 know what's going on in Wisconsin, among other
16 states.

17 So I am very proud of what we've been able
18 to do in the State of Florida. I think that we do
19 have a legal question before us that will be
20 addressed clearly. And that is something we should
21 welcome, because for future redistrictors (sic) this
22 will hopefully resolve this question and make this
23 process more clear for all of us.

24 PRESIDENT SIMPSON: We are in debate.
25 Lineup: Rouson, Farmer, Hutson, Book. Senator of

1 the 19th, Senator Rouson, you're recognized in
2 debate.

3 SENATOR ROUSON: Thank you very much,
4 Mr. President.

5 "A crust of bread and a corner to sleep in,
6 a minute to smile and an hour to weep in. A pint of
7 joy to a peck of trouble, never a laugh and the
8 moans come double. And that is life." See, you can
9 dissect what we've done. You could intersect it,
10 cross-sect it, you could sect it any way you want.
11 I'm not a mathematician.

12 But I'll never forget December 10, 1980,
13 when the late, great Judge James B. Sanderlin, asked
14 me to raise my right hand and accept the oath to
15 become an attorney. He said, "Rouson, your role,
16 your job as a lawyer is to make the law make sense
17 to common people."

18 I can hear the moans of black people in
19 this state because of this map. I hear the moans
20 when I lay my head on my pillow at night and realize
21 that we're removing two African American seats for
22 Congress. I hear the moans. And it's difficult for
23 me to make it make sense.

24 And I'm just going to say it. I don't
25 believe the Governor is a racist. Why would a

1 racist appoint Shawn Hamilton at DEP, or John Davis
2 at the lottery, or Shevaun Harris at DCF, or Simone
3 Marstiller at AHCA? I will never judge a man's
4 heart.

5 But in the political process it is fair
6 game to talk about the impact of policy. And that's
7 what the debates today are about, the impact of
8 policy on a people, on citizens who you can tell all
9 the mathematics to, who you can talk about all of
10 the legal ramification and parameters and boundaries
11 and foundations upon which action was taken. But to
12 them looking at this, there is no explanation.

13 And frankly some have suggested, why do we
14 need to show up up here when it's a fait accompli?
15 Well, like you I showed up because I wanted to be
16 counted. And even if I didn't debate it, I wanted
17 my vote to speak volumes to the people that I
18 represent.

19 I liked the maps that the Senate drew. It
20 was a thoughtful, deliberate process. But we're not
21 voting on what we drew. And Chairman Rodrigues, you
22 did a great job shepherding this through. And I
23 love the Senate. I respect every Senator in here,
24 even the ones I disagree with on policy, because
25 this is the place where great debate should take

1 place.

2 Like Senator Jones said, marginalized
3 people understand marginalization, they understand
4 diminishment, they understand retrogression. And
5 like Senator Gibson reminded me, to add insult to
6 injury, when this does get appealed and challenged,
7 we put an amendment on that directs the forum where
8 it can be challenged.

9 So I'm down on this today. I'm down on it
10 because I hear the moans of a people who you can
11 cross-sect anyway you want, but they believe what
12 they see. Thank you, Mr. President.

13 PRESIDENT SIMPSON: Thank you, Senator
14 Rouson. We had intended to go to Farmer. Let's go
15 to the Senator of the 7th, Senator Hutson. You are
16 recognized in debate.

17 SENATOR HUTSON: Thank you, Mr. President.

18 And I'll be brief, but I will say that
19 first off I know this is an emotional time. Special
20 Session always is. I've been a part of it with
21 bills before, and I just want to say I appreciate
22 all my colleagues for being cordial and collegial
23 and respectful getting through this process. The
24 Florida Senate is always that as a body, and
25 appreciate you guys for that.

1 I wanted to talk about kind of a history
2 lesson. I think someone yesterday talked about
3 civics 101 and kind of where we are today. And I
4 brought this up when I was in the Senate probably
5 before you all were here, because I -- most of you
6 were here, because I was in a special session. But
7 I want to bring up how we are today -- how we got
8 here today with the previous maps. The civics
9 lesson that I always kind of say is you have to --
10 in order to pass a law you have to go through both
11 sides of the legislative branch, survive the veto
12 pen from the Governor, and then go get challenged in
13 court and pass that challenge.

14 The maps previously that were drawn were
15 drawn by the Supreme Court. The maps are actually
16 laws, they're laws on the books. The Supreme Court
17 drew those and we chose not to challenge that. So
18 it's the first time in -- and anybody can fact check
19 me because I'd love to be humbled on this if I'm
20 wrong, but it's the first time that I know of in
21 history that a Supreme Court actually passed a law
22 that did not go through the legislative and judicial
23 branch -- I'm sorry, the legislative and the
24 executive branch. The judicial branch passed a law.
25 So when we come here today and talk about

1 this, we are going through the actual legislative
2 process to put these maps on the books for a law.
3 So when the Governor had talked about some of the
4 things in the past were unconstitutional, I kind of
5 agree with him because I don't think a judicial
6 branch should pass a law. I just don't believe
7 that's the case. I don't think we should ever do
8 that. But those are the maps that were before us
9 that became a law in past history.

10 So we're doing the right thing today in
11 terms of going through the process. And I'm -- I
12 want to bring that up because somebody mentioned a
13 civics lesson in the past. And I know there's nine
14 lawyers in the room, so I want to make sure that
15 that's on the record that this is going through this
16 process like we should be doing. And hopefully a
17 future Supreme Court doesn't just draw the maps and
18 pass a law.

19 So I want to start there, Mr. President,
20 and make sure that that's on the record for
21 everybody, because in the past that was a little
22 different in how it was done. And I thank you for
23 this. And I think, Senator Rodrigues, I know this
24 has not been easy working through this. Working
25 through this in the legislative session but also the

1 special session you've had a lot to do, and you have
2 been a champion in this issue. And proud to support
3 you in your efforts. Thank you, Mr. President.

4 PRESIDENT SIMPSON: Thank you. Additional
5 Senators in Debate? Senator Rodrigues, you're
6 recognized to close on the bill. Senator Rodrigues,
7 will you yield to Leader Book? Leader Book from the
8 32nd, you are recognized in debate.

9 SENATOR BOOK: Thank you so much,
10 Mr. President. And you know, we talk a lot about
11 how we're always so proud to be in the Florida
12 Senate, and you know, the debate today has obviously
13 shown why I'm so proud to be a part of this body.

14 Like my colleagues I oppose this map.
15 Three months ago we began this process in an open,
16 transparent manner, and I was happy at that time to
17 support a map that respected the Constitution and
18 the Voting Rights Act and appeared to have -- we've
19 drawn -- and that map had been drawn in good faith.
20 Now this Legislature is allowing our constitutional
21 duty, our power, to be hijacked by partisan interest
22 in another branch of government. These reasons
23 alone would be enough for me to vote against this
24 map.

25 As my colleagues have highlighted, this map

1 is rife with problems and likely will not pass legal
2 muster. I vote no today because I refuse to do away
3 with the interests of minority voters and because I
4 insist on following the Constitution. And while
5 we've sat here today and listened to a lot of the
6 debate, Senator Powell, Senator Rouson, Senator
7 Bracy, Senator Osgood, Senator Jones, I've been
8 thinking about something that I actually came across
9 a TikTok video about taking the lid off your jar.
10 And I realize this map puts the top back on that
11 jar.

12 So interesting fact, fleas -- if you have
13 dogs, maybe you know a little bit about fleas --
14 have the highest vertical leap based on their size.
15 They can jump 36 inches vertically; that's pretty
16 high. So if you caught a flea, you put it in a jar
17 that flea could still jump 36 vertical inches but it
18 would hit its head when it hit the top of that jar.
19 But that flea could still jump that 36 inches.

20 What we're doing is putting the lid on the
21 dreams of people, of minorities. Let them jump as
22 high. Let us go. We've broken the ceiling. We
23 should not be diminishing minority votes, minority
24 voters, and voices across our state. Thank you,
25 Mr. President.

1 PRESIDENT SIMPSON: In debate, from the
2 34th, Leader Farmer in debate. You're recognized.

3 LEADER FARMER: Thank you, Mr. President.

4 It's with a heavy heart that I rise in
5 debate against this map. The act of redistricting
6 is one of the most important actions that we take as
7 a legislative body and as a republic form of
8 government.

9 But this year we find ourselves in a very
10 unique situation, an historic situation for all the
11 wrong reasons. For the first time ever in our
12 history, our Governor has chosen to insert himself
13 into the legislative process by filing his own map,
14 not once, as he did in regular session, but twice,
15 as we are dealing with today. And we as a
16 legislative body, collectively with the House of
17 Representatives, did not file our own maps. This is
18 unprecedented, and it's unprecedently (sic)
19 dangerous.

20 We have separation of powers for a reason.
21 I hold this document up often. I first got these
22 pocket Constitutions when I participated in the
23 Supreme Court's justice teaching program where you
24 go into classrooms and you teach kids about the
25 importance of the Constitution, particularly the

1 Bill of Rights. The beauty of this document is its
2 fluid nature. The brilliance of our founding
3 fathers is laid to bear in this concept of
4 separation of powers.

5 You see, we didn't want a king. We didn't
6 want a despot to rule us. We had been there, done
7 that, and it didn't work out too well. This was at
8 a time where the individual rights of man -- and
9 yes, sadly it was only men, and only white men --
10 but the individual rights were being debated. The
11 concept of a Bill of Rights was foreign to the
12 entire world. We didn't get it until the Second
13 Constitutional Convention when the colonists and the
14 people said, "Wait a minute. It's great you set up
15 this form of government. What about our rights? Go
16 back and do some more."

17 So we have been there, and we knew that we
18 did not want consolidation of all power vested in
19 one person. But that's where we are here today.
20 And the issue of the Governor's insertion into this
21 process and his openly brazen admission of his goal
22 to eliminate a minority access seat is terrifying.
23 It should be terrifying to everyone who cares about
24 this form of government.

25 And you know, in the history of mankind and

1 the history of civilized society, we as Americans
2 are still in a nascent state. It's only been 260
3 years since we formed this great country. That is a
4 blip in the history of this planet and of civilized
5 societies. It's a grain of sand in the big picture.
6 This is still an experiment in democracy.

7 In the 1860s the validity of our form of
8 government was still being discussed and openly
9 debated. And one commentator wrote, "It is the
10 democratic principal of equal rights, general
11 suffrage, and government by a majority capable of
12 being carried into practical operation, and that,
13 too, over a large extent of the country."

14 There was an English historian named Paul
15 Johnson who wrote a book called "The History of the
16 American People." And he wrote, "The creation of
17 the United States of America is the greatest of all
18 human adventures. No other national story holds
19 such tremendous lessons, for the American people
20 themselves and for the rest of mankind. The great
21 American republican experiment is still the first
22 best hope for the human race." And he hoped that it
23 will not disappoint an expectant humanity.

24 It's often noted that outside observers of
25 this American experiment tend to express a more

1 profound appreciation for the remarkable
2 achievements of our forefathers and the founders of
3 this country, more so than most of us or most
4 Americans. Burke and Telluron (phonetic), Gladstone
5 and Tocqueville, Thatcher and Maruschen (phonetic)
6 have all marveled at the truth of a proposition
7 that, before the exceptional birth of freedom here
8 in America, this concept had been considered at best
9 problematic. The simple concept that people have
10 the right and the capacity to govern themselves.

11 So we have brought into being not just an
12 independent territory that sprung from the colonies,
13 we have brought into being a great experiment, one
14 that George Washington called ordered liberty. An
15 experiment in which men and women would enjoy
16 equality of rights and opportunities in the pursuit
17 of happiness and in service to the common good.

18 Now, this is not the first time the concept
19 of self-governance and the disagreement over how to
20 proceed has vexed this country. We all know about -
21 - and studied and how precariously close things came
22 to falling apart in our Civil War. In the mid-1800s
23 we decided as a country that we were going to deal
24 as a nation with the concept of slavery. The
25 concept that had, heretofore had been enshrined in

1 our governing documents, that a person with black
2 skin was only three-fifths of a person. Three-
3 fifths of a person.

4 We somehow survived this Civil War where
5 Americans killed other Americans, his incredible
6 threat to our republic. And it hearkens to the
7 warnings that our founders provided us. You know,
8 in the aftermath of the insurrection last year, many
9 United States Senators and other legislators
10 reminded us that "we have a republic if we can keep
11 it." The source of this quotation is a journal kept
12 by James McHenry, who is a Maryland delegate to the
13 Constitutional Convention. On the page where
14 McHenry records the events of the last day of the
15 convention, September 18, 1787, he wrote, "A lady
16 asked Dr. Franklin, 'Well, Doctor, what have we got?
17 A republic or a monarchy?' And Franklin famously
18 replied, 'A republic, ma'am, if you can keep it.'"

19 Dr. Franklin was prescient. He knew times
20 like this would come. He knew times like the Civil
21 War would come. He knew that this was an experiment
22 which was going to rely on the collective will of
23 the American people to forge ahead with the
24 principles that are the foundation of this great
25 country - freedom, justice, equality. And nowhere

1 are those qualities more important than in the most
2 fundamental right of all, the right to vote.

3 It's been suggested here that the fact that
4 African Americans have been elected to seats that
5 are not minority access seats is proof that we don't
6 need minority access seats. This hearkens me back
7 to a recent comment that racism doesn't exist
8 anymore because we elected Barack Obama President.
9 Ladies and gentlemen, I'm sad to say racism still
10 exists in Florida and elsewhere. It's invidious,
11 it's hateful. It's based on hate.

12 And guess what? Six years ago a rock was
13 kicked over, and hate spread like ants running out
14 from under that rock. It was okay to hate again.
15 We must protect this cherished right to vote. We
16 cannot succumb to the notions that it's not needed
17 anymore, that minority access is not -- protection
18 is not needed anymore. And we survived that
19 challenge that was the Civil War. But we were able
20 to do so because the nation maintained one key
21 aspect, a respect for the rule of law.

22 That's why this point in time is so scary
23 to me, because I don't feel that respect for the
24 rule of law. I don't see it evinced in the policies
25 and the actions of our highest leaders, and that

1 includes our Governor. And racial intent behind the
2 drawings of these maps is an absolute factor that
3 will be considered when the constitutionality of
4 these maps is determined by the court system. So
5 talking about the Governor's intent is absolutely
6 relevant to this bill.

7 You know, these are dangerous and --
8 dangerous times, yet we keep hearing about freedom,
9 the free state of Florida, the freest state in the
10 country. Well, I don't think that some people have
11 a true understanding or appreciation for what
12 freedom means. For a reminder I turn to the late,
13 great John Lewis who said, "Freedom is not a state,
14 it is an act. It's not some enchanted garden
15 perched high in a distant plateau where we can
16 finally sit down and rest. Freedom is a continuous
17 action we must all take, and each generation must do
18 its part to create an even more fair, more just
19 society."

20 So in passing maps where the open-stated
21 intent is the removal of minority access districts,
22 we are not acting as a more fair, more just society.
23 We are not free. Lewis also said that his greatest
24 fear was that "one day we may wake up and our
25 democracy is gone." I will never rest in my fight

1 and quest to ensure that that day never happens.

2 Individual rights are not subject to a
3 public vote. The majority has no right to vote away
4 the rights of the minority. The political function
5 of rights is precisely to protect minorities from
6 oppression by majorities. And the smallest minority
7 on the earth is the individual, the individual right
8 to vote, to protect and grow and foster this great
9 experiment which we continue to live. This map does
10 none of that. It's an open oppression on minority
11 right to vote. I cannot support it. I urge you to
12 vote no. Thank you, Mr. President.

13 PRESIDENT SIMPSON: The Senator of the
14 29th, Senator Polsky, is recognized in debate.

15 SENATOR POLSKY: Thank you, Mr. President.

16 I'll be very brief, and I can actually
17 touch on something that has not been discussed yet
18 today. There are a little over five million
19 registered Republicans in this state. There's over
20 five million but a little bit fewer registered
21 Democrats in this state. There are four -- more
22 than four million voters who are NPA or with a minor
23 party.

24 So what is happening with this map? This
25 map will favor Republicans in 70 percent of the

1 districts, adding at least 2 seats to what we
2 currently have in the breakdown right now between
3 Democrats and Republicans. But Republicans make up
4 36 percent of the registered voters in this state.
5 So we are going to have an incredible imbalance in
6 this state, and that is exactly what gerrymandering
7 is, where the state does not represent its
8 constituents.

9 So I want you all to think about that - 70
10 percent of the seats will favor Republicans, and you
11 all make up 36 percent of the registered voters. I
12 think that speaks volumes about the intent of the
13 bill and why we should vote against it. Thank you.

14 PRESIDENT SIMPSON: Thank you, Senator
15 Polsky. Let's go to the Senator of the 27th, the
16 bill sponsor, Chairman Rodrigues. You're recognized
17 to close on SB 2-C.

18 CHAIRMAN RODRIGUES: Thank you,
19 Mr. President.

20 And I'll begin by saying it is an honor to
21 serve in this Senate with each of you as my
22 colleagues. And this has been a very long road. We
23 had our first reapportionment hearing in the first
24 week of session back in September, and we've been
25 working all the way through until today. Which begs

1 the question, how did we get here today? We passed
2 a map, we sent it to the Governor, and that map was
3 vetoed.

4 So we're back in special session to come up
5 with a map that we can send to the Governor that
6 will be signed. And my friend and colleague from
7 the 7th District is absolutely correct. All of us
8 were elected to the Senate in a district that was
9 drawn by the court. Because in the last
10 redistricting cycle the court tossed the Senate map
11 and the congressional map, and the court drew those
12 districts.

13 As a Legislature we have one responsibility
14 in 9 out of 10 sessions, and two responsibilities in
15 the 10th. Nine out of 10 it's to pass a balanced
16 budget. That is the only thing we do. We have
17 fulfilled our constitutional obligation. Every 10
18 years it's our responsibility to pass a balanced
19 budget and to pass a reapportionment plan for the
20 Senate, the House, and the U.S. Congress. Those are
21 our duties.

22 And so the choice before us is: do we pass
23 a map that fulfills our constitutional
24 responsibility, or do we declare an impasse and
25 leave it up to the courts for them to draw our map

1 again? Well, in this case it would be they would
2 draw our congressional map again. I think we should
3 fulfill our duty and pass a map.

4 Now, I've heard a number of things through
5 debate, and I listened to each of the debaters. And
6 I'm going to hit or touch on a number of the points
7 because I think the record should be clear. I've
8 heard a number of objections that have said the
9 Legislature is abdicating its responsibility by
10 allowing the Governor to have this role in
11 redistricting. I disagree with that. We would
12 abdicate our responsibility if we failed to pass a
13 map and allowed the courts to do it.

14 The Governor has always had a role in
15 redistricting, not just Governor DeSantis, but every
16 Governor of the State of Florida. Because no
17 reapportionment plan is complete -- or a
18 congressional map -- until the Governor has signed
19 it. Which means if a Governor does not sign that
20 map, it does not take effect.

21 Now, this Governor has been more active
22 than some which begs the question, what is unique
23 here? And what I would submit is this. This
24 Governor actually has people on staff who have
25 experience in drawing maps. The person that drew

1 the map that is before us -- which is a compromise
2 map, including districts that we drew, that our
3 staff drew, districts that were drawn in the House,
4 and districts that they drew themselves -- is Alex
5 Kelly, who is the Deputy Chief of Staff. That's on
6 the record.

7 But what hasn't been elaborated on is that
8 Alex Kelly has experience in drawing maps. He was a
9 former staff director for the Florida House of
10 Representatives during the last redistricting cycle.
11 He has the ability to draw maps because the House
12 map that he drew was the only map that survived
13 judicial review during the last redistricting cycle,
14 and the only map that was implemented as it was
15 passed by the Legislature. And then finally, he's
16 qualified.

17 So what I would say is this. It's not like
18 the Governor put -- or had his staff put a map of
19 Florida on the board and just randomly put districts
20 together. He is a qualified staffer who has been
21 through this process post-fair districts amendment,
22 and drawn a map that has survived judicial review.
23 And the Governor gave instructions that he felt our
24 map did not resolve a conflict between the Florida
25 Constitution and fair districts and the U.S.

1 Constitution on the equal rights -- equal protection
2 clause of the 14th Amendment. And he directed his
3 staff to go draw a map that reconciled that
4 difference, and that's what we have here before us.

5 I've also heard objections to the amendment
6 we did yesterday. It's important to note that
7 nothing in the amendment -- and I want to thank my
8 friend and colleague -- my good friend and colleague
9 from the 20th District for the debate he offered and
10 jumping in and answering questions on that
11 yesterday, where he quoted from the Florida Supreme
12 Court two decisions, one in the '40s, one in the
13 '70s, that has said it is judicial doctrine for
14 challenges to state agencies or government actions
15 to be made here where the cause of action was
16 created by the state agency or the state government.
17 That is what the Florida Supreme Court says is
18 right. That is the current judicial practice.

19 Now, we put that amendment in there to make
20 it clear that the state is not giving consent at all
21 for any challenges to state law to be heard in
22 federal court. That can only be done if the state
23 consents. And with this amendment we're making it
24 clear that we are not giving that consent. What
25 this does is nothing to prevent any individual who

1 believes this map violates their civil rights from
2 going into a federal court and having that case
3 adjudicated in federal court. Nothing prohibits
4 that. All we've done is codify current judicial
5 doctrine.

6 I've heard objections that say the current
7 map ignores Tier 1 and it only focuses on Tier 2. I
8 don't believe that's correct. You go back and you
9 look at Tier 1, the criteria of Tier 1 is that
10 districts have to be contiguous. These districts
11 are contiguous. That you cannot favor an incumbent.
12 Nobody has alleged that this map favors an
13 incumbent. In fact, the incumbents are often drawn
14 out of their districts as it currently resides -- as
15 they currently reside. And it cannot favor a
16 political party. The testimony from the map drawer,
17 who was deposed during the last round of litigation
18 after having drawn the House map, is that he did not
19 draw this map with any political data or political
20 intent. That was his experience in the past. That
21 is what he has testified that he has done this time
22 as well.

23 So what is the question when it comes to
24 Tier 1? The current -- the question is this. And
25 this is also a statement that was made that I need

1 to correct. One of the statements was we have taken
2 away two minority majority districts. That is
3 factually incorrect. The current map that was given
4 to us by the court has five minority majority
5 districts, the current -- the map that we're
6 operating under today. This map before us today
7 that we're going to vote on also has five majority
8 minority districts.

9 Now, CD 5 and CD 10 will no longer have the
10 protection that they had, but neither one of those
11 were minority majority districts. One was a
12 minority effective district, CD 5; and one was a
13 minority opportunity district, CD 10. Regarding
14 Congressional District 5, the Governor's office
15 noted that in order to be in compliance with Section
16 2 of the Voting Rights Act it must satisfy the first
17 Gingles precondition. Gingles is a U.S. Supreme
18 Court case specific to the Voting Rights Act. That
19 precondition is that it must have a minority
20 population sufficiently large enough to constitute a
21 majority of the voting age population in a
22 reasonably compact geographic area. That's what the
23 law says, the U.S. law, federal law.

24 The position of the Governor's office is
25 that because CD 5 cannot be drawn as a majority

1 minority district with a black voting age population
2 of greater than 50 percent in any configuration, let
3 alone one that is reasonably compact, that race
4 therefore cannot be used to justify the
5 configuration of the district. It was also their
6 position that it never should have been drawn that
7 way in the first place by the previous court. And
8 so therefore there is no obligation to redraw it in
9 the current manner that it exists.

10 That is a question where there is a tension
11 between what is in the Florida Constitution and how
12 the U.S. Supreme Court has interpreted the Voting
13 Rights Act. That conflict is going to have to be
14 resolved by a court. We're not the ones that can
15 resolve that conflict. The Governor can't resolve
16 that conflict, and the Attorney General can't
17 resolve that conflict. That is going to have to be
18 adjudicated.

19 When it comes to CD 5 -- I'm sorry, CD 10 -
20 - we're going to the second district. This was the
21 minority opportunity district. In the map drawn by
22 the Governor's office, CD 10 was not considered to
23 be a district protected from diminishment for a
24 different reason. In this case they adopted the
25 House position that based on the functional analysis

1 of the benchmark CD 10, black voters' share of the
2 Democratic primary turnout had fallen below 50
3 percent over the course of the decade since the
4 district had been implemented.

5 And as we discussed yesterday, it went from
6 53.78 percent in 2012 down to 42.53 percent in 2020.
7 In determining whether or not a district performs
8 for a minority voters' candidate of choice, the
9 level of primary control based on voter turnout is
10 evaluated. The House took a different position on
11 this than we did. The House determined because of
12 the downward trend of black voters' control of the
13 Democratic primary, CD 10 was not subject to the
14 non-diminishment requirement.

15 We in the Senate took a different view.
16 Our view was that to the extent that any opportunity
17 did exist in a benchmark district, we would attempt
18 to recreate it at a similar level. That was what
19 was in the maps that we did.

20 Yesterday the Governor's office articulated
21 in committee that because the House and Senate did
22 not agree on the status of the district, that there
23 was no clear and compelling state interest to redraw
24 it that way so that it would perform for the
25 minority candidates -- candidate of choice. The

1 minority voters' -- I'm sorry -- candidate of
2 choice.

3 Once again, that is a question that will
4 ultimately be resolved in litigation. But what I
5 would say is if you look at this, this map checks
6 off all the Tier 1 boxes where there is no conflict
7 alleged between the Florida Constitution and the
8 U.S. Constitution. And what this map does do is it
9 improves the Tier 2 metrics.

10 Now, I touched on this yesterday, but it's
11 important to ensure that this is indeed on the
12 record. This current map improves the convex hull
13 to .81. In the map that we did in the Senate, our
14 convex hull was .80. It retains the same Polsby-
15 Popper score of .43 and it improves the Reock ratio
16 from .46, which is what we drew, to .47. The number
17 of counties kept whole moves from our original 48 to
18 50. The number of cities kept whole moves from 368
19 in our original map that the Senate did to 396, a
20 substantial increase. By all of the Tier 2 metrics
21 this map is as good as or better than the map that I
22 was so proud to present to you the first week of
23 September that we had come up with.

24 And the one thing I'll make clear, because
25 it needs to be made clear, is that the map we came

1 up with, which isn't statistically as good as this
2 map in front of us today, was a significant
3 improvement over the map that the court imposed in
4 the last redistricting cycle. So we took that which
5 the court did, which was given to them by the
6 plaintiffs who overturned the maps that the
7 Legislature did, and we improved upon it.

8 And now before us today is a map drawn by
9 the Governor's Deputy Chief of Staff incorporating
10 concepts from us and from the House that even
11 improves upon that. I believe that this is indeed a
12 constitutional map by looking at the metrics.

13 I'm going to read a quote here that I saw
14 way back in the beginning during committee weeks
15 that I filed away for an appropriate time. And the
16 quote comes from a University of Florida political
17 science professor. You may have heard of him. His
18 name is Michael McDonald. He was one of the expert
19 witnesses used by the plaintiffs to get the maps
20 tossed during the last redistricting cycle. He
21 said, and I quote, "As I like to say, and people
22 don't realize this, there are more redistricting
23 plans for a state like Florida than there are courts
24 in the universe." This is one of those plans.

25 If you go back and look at the litigation,

1 the Florida Supreme Court said, when they were
2 tossing the maps, that the duty is to pass a
3 constitutional map. Nothing more, and nothing less.
4 And that is what we are doing here today. And so
5 with that I would ask for your favorable support.
6 Thank you.

7 PRESIDENT SIMPSON: Thank you. The
8 Secretary will unlock the Board, and Senators will
9 proceed to vote. Lock the board and record the
10 vote.

11 THE SECRETARY: 24 yeas, 15 nays,
12 Mr. President.

13 PRESIDENT SIMPSON: Show the bill passes.
14 Read the next bill.

15 THE SECRETARY: Senate Bill 4-C, a bill to
16 be entitled An act relating to independent special
17 districts.

18 PRESIDENT SIMPSON: Senator Bradley, you
19 are recognized to explain your bill.

20 SENATOR BRADLEY: Thank you, Mr. President.
21 This is the independent special district
22 bill that we discussed yesterday.

23 PRESIDENT SIMPSON: Are there amendments?

24 THE SECRETARY: None on the desk,
25 Mr. President.

1 PRESIDENT SIMPSON: Is there debate?

2 Senator Polsky, you're recognized in debate.

3 SENATOR POLSKY: Thank you, Mr. President.

4 This is not the first time this Democrat or
5 the Democrats in general have stood up in favor of
6 private businesses to fight Draconian, intrusive,
7 overreaching bills brought by this Legislature.
8 Like cruise ships and social media platforms and
9 companies who provide diversity training or, God
10 forbid, vaccine mandates, the Disney corporation is
11 being attacked for expressing support for its many
12 LGBTQ employees and customers.

13 I don't know what happened to all of you,
14 to the Republican party in general, with respect to
15 allowing private businesses to run themselves.
16 Isn't that the definition of capitalism? But when
17 this cross this Governor they will be punished.
18 This is exactly the definition of authoritarianism.
19 How do you stop this tyranny? You exercise the
20 separation of powers and you stop a Governor from
21 going too far, of using his power to punish and not
22 govern.

23 The Senate, this upper chamber, has a duty
24 to stop this ill-thought out, rushed, and likely
25 illegal punitive measure from becoming law. There

1 is no doubt this bill is not accomplishing what it
2 is purported to do. If you truly believe
3 independent special districts need to be reviewed,
4 then review them. This is why we so often turn to
5 studies and we make thoughtful decisions on billion-
6 dollar issues. We don't rush them with no testimony
7 and admittedly not even speaking to stakeholders in
8 a matter of two days with no notice during a special
9 session about redistricting.

10 The bill says the special districts will be
11 dissolved. There is no process in the bill for
12 review, as was stated. We also have Rep. Fine
13 admitting that if you mess with him or the Governor,
14 you will get punished. Are we really making this
15 enormous decision based on spite?

16 If you vote for this bill today you are
17 simply agreeing to revenge governance and you are
18 engaging in the most brutal form of cancel culture
19 we've ever seen. And here we go again with the
20 taxpayers having to pick up the tab of \$600-plus per
21 hour for lawyers to clean up these illegal messes.
22 And what's next? The Governor threatened the board
23 of directors of Twitter yesterday. What bill will
24 magically appear in our next special session on
25 property insurance, an issue we truly need to fix,

1 that will punish Twitter?

2 Is this bill helping Floridians? Are we
3 making wise, sane, thoughtful legislation here that
4 will help our constituents? Ask yourself that when
5 you vote. Ask yourself why you are here as a
6 Senator. If you are being honest about it, you will
7 bill -- excuse me, you will vote no on this revenge
8 bill. Thank you.

9 PRESIDENT SIMPSON: Thank you. Are there
10 any additional debate? Senator Ausley, you're
11 recognized in debate.

12 SENATOR AUSLEY: Thank you, Mr. President.

13 And you know, I just don't understand what
14 we're doing here. The initial reason for coming
15 back is bad enough, and we've dealt with that in the
16 last couple of hours. But now we're adding insult
17 to injury by voting on something today that was
18 proposed yesterday, going after a private business
19 that has literally made our state what it is. All
20 because they've taken a position that the Governor
21 disagrees with. Oh, and by the way, we're going to
22 take out five smaller independent districts while
23 we're at it just to make it look better.

24 Now, we've heard the stated reasons for
25 this. We haven't had meaningful legislative

1 oversight in 50 years and we need a periodic review.
2 And we've been assured that these districts can come
3 back next year and be evaluated and reinstated if
4 they can successfully make their case. So in the
5 case of the Reedy Creek Improvement District we know
6 what that will entail. This is kind of like parents
7 putting their kids on restrictions. If you clean up
8 your act, apologize, say you're sorry, and agree to
9 change your behavior, maybe you'll get your phone
10 back or your other privileges. And if not, who
11 knows?

12 But I am concerned about the fact that
13 we're also talking about these five smaller
14 districts that have just been caught up in this,
15 these districts that deal with economic development,
16 water and sewer, and libraries in our very small
17 counties. I am most familiar with the two that are
18 in my district, the Hamilton County Development
19 Authority and the East Point Water and Sewer
20 District. The Hamilton County Development Authority
21 helps existing businesses in Hamilton County, which
22 is a county of 14,000 people, helps that county
23 think about growing and attracting new investment
24 and industry. It has a dedicated source of revenue
25 and a number of current joint projects underway with

1 the county. The East Point Water and Sewer District
2 serves 1100 customers in Franklin County.

3 I have spoken to representatives from the
4 county government and the independent districts in
5 both counties, and they are very concerned about how
6 this bill will impact their ongoing projects, their
7 current customers, and the budgets of these small
8 counties and authorities. No matter what, they're
9 going to have to hire lobbyists to work the
10 legislative process to make their case and advocate
11 for reinstatement.

12 Here's the deal. As Senator Polsky just
13 said, if we have legitimate concerns about the need
14 for meaningful legislative oversight, we have a way
15 to do this. We could ask for a report, we could do
16 a joint legislative committee study. There are many
17 things we could do. We could come back in session,
18 just as we have done in previous years, recommend
19 changes, recommend no change, or recommend
20 dissolution based on the fact-finding in the report.

21 With all due respect, this is not about
22 meaningful legislative review. This is punishment,
23 it is political theater, and we are better than
24 this.

25 PRESIDENT SIMPSON: Thank you. Is there

1 any additional -- oh. Senator Pizzo, you're
2 recognized in debate.

3 SENATOR PIZZO: Thank you, Mr. President.
4 And I will be brief, relatively speaking.

5 I will get stabbed with a spoon and a long
6 drive home with our Chief of Staff if I don't
7 mention a couple things for the record. Florida
8 Statute 189.068, oversight review process for a
9 special review by a 189.065(1), this section applies
10 to special districts if the special districts fail
11 to file required reports. We've heard for 50-plus
12 years that Disney has always been compliant. The
13 independent special district performance review
14 under 189.069(5), and finally 189.031(3)(b), that a
15 county itself can create its own special district.

16 Senator Brandes said something last night
17 off the floor. He said, "It's not that Disney's too
18 big to fail; it's too big to assign." And really
19 what that means is -- and I -- this is not to
20 provoke a reaction or anything, other than nothing's
21 going to happen. Everyone in this room knows this
22 is not going to happen.

23 I'm just tired of missing my kid's baseball
24 games for stuff that we know is not going to happen.
25 Nothing's going to happen on 1808 with immigration.

1 Nothing's going to happen on 168 from 4 years ago.
2 Nothing's going to happen on -- or never did happen
3 on critical race theory. None of my kids' teachers
4 were teaching anything about sexual orientation in K
5 through 3. It's not happening. This is not going
6 to happen. Two cities and two counties are not
7 going to assume a billion dollars in debt. We're
8 not going to do that. It's not going to happen.

9 I'm excited to see all of you in a couple
10 weeks when we do things that actually mean something
11 to our constituents like property insurance. And I
12 bet you we get condo reform too. I'm excited for
13 that. That's why I serve. It's very, very hard to
14 speak to five-year olds or 50-year olds about what
15 we're doing here when we're up here for a special
16 session being spoon-fed three bills that none of you
17 wrote, that none of you had any input on, and that
18 have to pass. I get it. I get it.

19 But one of the biggest concerns I had last
20 year -- and you'll remember this and you'll recall
21 -- was the buildup -- basically the stalemate of 10s
22 of 1000s of cases caught up in the civil process.
23 Not just criminal court, but also the civil court.
24 The reason why that was so important, they were
25 seeking \$12.5 million dollars in funding over three

1 years in Senator Perry -- in Chair Perry's committee
2 was because companies look to how quickly things are
3 resolved in a legal atmosphere when they're deciding
4 and determining where to set up either a satellite
5 location or a headquarters.

6 That's part of the sort of quality of life
7 assessment for the company, whether or not -- not
8 only about education, location, climate, et cetera,
9 but also how swiftly and promptly issue and
10 conflicts can be resolved. And I sort of urged many
11 of you to adequately fund that to clear that.
12 Remember, in circuit court I think we're now at a
13 \$30,000 or more threshold to be in circuit court,
14 right? So if there were a thousand -- just a
15 thousand cases, at minimum there was \$30 million in
16 dispute - 10,000, \$300 million. And likely it was
17 in the billions that were sitting there, proceeds
18 not distributed, disputes not resolved. That's
19 huge. That's really critically important to the
20 free state of Florida and to be able to resolve
21 that.

22 And when a company comes out because
23 they're worried more about their employees than they
24 are about the cancel culture that is, I don't know,
25 politics today, we get punitive. You know what

1 bothers me the most? The penance that Senator
2 Bradley has to pay right now because she voted no on
3 don't say gay. That's all this is.

4 And I'm sorry for you, I really am, that
5 you're in this spot. But I'll treat you and your
6 family to Disney World if you want to go.

7 (Laughter)

8 You'll vote yes, and it's -- I guess it's
9 okay. Because guess what? Nothing's going to
10 happen. Absolutely nothing is going to happen.
11 This is not going to go forward. It's not going to
12 happen. So vote how you were told to vote, and I'll
13 vote how I know I should vote. Thank you.

14 PRESIDENT SIMPSON: Is there any additional
15 debate? Senator Cruz -- oh, I'm sorry. Senator
16 Torres is next. Senator Torres, you're recognized.

17 SENATOR TORRES: Thank you, Mr. President.

18 Oh, Lord. While this bill impacts six
19 independent districts in the state, Reedy Creek
20 Development District, the largest and most
21 controversial one, is located in my Senate district,
22 is home to Walt Disney World. Reedy Creek directly
23 employs nearly 400 first responders who serve as
24 firefighters EMT. They have an additional 400
25 employees who operate and maintain electrical, water

1 and sewage services. Additionally, there are 2,000
2 private contractors with thousands of employees who
3 work in the district. The district has bonded and
4 incurred nearly one billion dollars of debt service,
5 and the dissolution of the district -- of this
6 district would result in transferring that debt to
7 Orange and Osceola Counties, which I represent.

8 No one discussed these changes and their
9 financial responsibilities the counties would have
10 to assume before proposing this change. There has
11 been no economic impact analysis of our tourism and
12 industry or sales tax revenue could be reduced due
13 to this change.

14 I think we all know that this bill was
15 created by the Governor and not by the bill sponsor
16 who filed it yesterday, which is why my criticism is
17 not aimed at the sponsor. This bill is punitive
18 punishment for political statements Disney has made
19 opposing decisive policies supported by this
20 Governor. This bill is a knee-jerk reaction and a
21 political stunt which is short-sighted and not well
22 thought out.

23 Disney will not be punished, but the
24 thousands of workers will be. The taxpayers of
25 Orange and Osceola counties will be -- and all

1 Floridas will be punished if our numbers of economic
2 industry tourism is negatively impacted by this
3 bill. For this reason I ask my colleagues to vote
4 no on this unnecessary bill. Thank you,
5 Mr. President.

6 PRESIDENT SIMPSON: Thank you. Senator
7 Cruz, you are recognized in debate.

8 SENATOR CRUZ: Thank you, Mr. President.

9 Last week I had a public forum on
10 affordable housing, or I perhaps should say
11 unaffordable housing and unaffordable rent. And we
12 kind of put out a Facebook and said, "If you have
13 issues, come share your story." And three young
14 people joined us and were kind enough to tell their
15 story.

16 But I'm still haunted by one young woman
17 who told her story, which was that she was an event
18 planner before COVID and made a very nice living.
19 But COVID hit and she lost her job, as you can
20 imagine. And she was out of work for a little while
21 and then found a job at the county at nearly half of
22 what she was making. And then her apartment complex
23 went up \$500 a month last month on rent. And as she
24 cried through her story, she said that she sold
25 everything in her apartment because she wasn't sure

1 that she could afford a storage container or
2 whatever. And that she was living on a friend's
3 couch, and the friend and her made a deal that for
4 six months she could stay there. And she was
5 crying. She had no family, she had nowhere to go,
6 and she was doing the best she could.

7 And my heart just broke for all three of
8 these young people. And I thought, "What are we
9 doing for these folks? Why aren't we addressing
10 this issue?" Instead, I'm here today for several
11 days, and I am addressing issues on how we can hurt
12 a major corporation that's been a damn good neighbor
13 in Florida.

14 So I look at this like a one-way street,
15 you know. It's like, there's Disney, a good
16 neighbor, probably a member of associated
17 industries, maybe a member of the Florida Chamber,
18 there for us every time we put our hand out every
19 time we ask them to host an event, a fundraiser.
20 Every time we need Disney, they're there. The
21 happiest place on earth has made us all very happy.
22 Yet one comment, one comment has turned -- it has --
23 they're trying to taint the reputation of Disney, my
24 opinion of a place for families' happiness.

25 For a single mom who saved up so that we

1 could go to Disney when it opened, when they had
2 these little key tickets, all those memories are now
3 tainted because somebody said something that our
4 Governor didn't agree with.

5 So what is the message here, guys? We
6 should be really, really worried about the message
7 is that unless you are a conservative corporation
8 that dare not stand up for the -- perhaps the people
9 that you work for. Or you know, you owned a
10 company. You can say what the heck you want to say.
11 Why are we putting our knee on the neck of the
12 mouse? It's ridiculous. It's nothing short of
13 extortion, it's nothing short of bullying. And
14 that's the reason I won't be voting for this bill
15 today.

16 PRESIDENT SIMPSON: Leader Farmer, you're
17 recognized in debate.

18 LEADER FARMER: Thank you, Mr. President.

19 This is going to sound a little redundant
20 to the debate on the debate on the last bill. But
21 once again, we find ourselves in a very dangerous
22 position and being asked to take a very dangerous
23 act by someone who doesn't really respect the
24 foundations of this government.

25 Once again we are dealing with a candid

1 admission and statement as to the intent behind this
2 legislation. It's to punish dissent. Dissent that
3 arose from one of the myriad of bills we dealt with
4 this past session that were just part of a culture
5 war, the don't say gay bill, a bill that ignited the
6 passion and fears of so many of our fellow
7 Floridians, a bill that after it was passed the CEO
8 of Disney dared to come out in opposition.

9 Now, many of us were frankly disappointed
10 that it took that CEO and Disney that long to weigh
11 in. He himself is gay. So many employees that make
12 Disney the magical place it is, the most magical
13 place on earth, are gay. And there was tremendous
14 disappointment that they weren't stuck up for before
15 that bill passed. But better late than never,
16 Disney came out and expressed its deep concerns
17 about this bill. And the bill once again shows a
18 disregard for the rule of law, as does this bill
19 we're about to vote on today.

20 Let's look at the process that's brought us
21 here in record time. This bill was added to the
22 call for this session two days ago -- two days ago -
23 - independently by the Governor himself. The bill
24 wasn't filed until yesterday. And then in rapid
25 succession it was in a committee, and then it was

1 here on the floor, and it got rolled into second
2 reading. That could have been stopped, but our
3 minority caucus chose not to. And so we just helped
4 and we enabled and we expedited.

5 And you've got to ask yourself, well, why
6 is it so important? What's the compelling need for
7 this bill and to rush it through with so little
8 input, so little study? And we went through so much
9 of this. Our staffs did amazing work, my staff.
10 Thank you for gathering the information they were
11 able to gather in such a short period of time.

12 There is no question as to the economic
13 impact of this legislation, over a billion dollars
14 in debt service on the bonds that are issued by
15 Reedy Creek. The myriad of services they provide --
16 firefighting, road maintenance, water, drainage
17 districts, habitat, ecological matters -- the price
18 tag is huge.

19 Why didn't we study all of that? Well,
20 because we didn't really care. And I've got to stop
21 saying we. Those who support and push for this bill
22 didn't really care. And if you don't believe me,
23 just look at that timeline. Don't say gay happens,
24 Disney objects, hostile communications and social
25 media battles ensue between Disney and the Governor

1 and his communications team, the special session is
2 called, and then a day before we get here this gets
3 added. That's indicative of what the intent is
4 behind this.

5 And we showed no respect for the rule of
6 law by violating statutes that are already on these
7 books. There's no question that under current law
8 when this special district government is dissolved,
9 the liabilities and indebtedness will be assumed by
10 the local general purpose government. That will
11 happen immediately upon the passage and signing of
12 this bill.

13 The notion or argument that this can be
14 done next year is frankly specious, and it is of no
15 legal account. Without an automatic reintegration
16 of this district, it is dissolved by this
17 legislation. The whims of a future legislative body
18 cannot be relied upon to counter the legal reality
19 that the Reedy Creek District will be destroyed and
20 will no longer exist. And then all of that debt,
21 which again we have not begun to get our hands
22 around, will be assumed.

23 Why do we do that? Again, if it wasn't for
24 the political motivation, wouldn't we have done this
25 in a regular session? Wouldn't we have studied all

1 of these economic factors and figured out what's the
2 succession plan? How are these two counties, and
3 maybe even a portion -- only a portion of these two
4 counties get to deal with this tremendous debt.
5 This is the worst way to legislate and govern. I
6 said it yesterday, we're shooting first and we're
7 going to ask questions later. That's not
8 responsible government.

9 Disney dared to say the emperor has no
10 clothes, and the term emperor is especially
11 appropriate here because this is being pushed by one
12 who seeks to be an autocratic despot and not just
13 what he is, the head of one of our three branches of
14 government.

15 The ironies here abound. Will every
16 employee of Disney now be entitled to a Hope
17 Scholarship due to this bullying? The Governor's
18 party has rose to power, it largely due to the
19 effect of the Citizens United case which said that
20 corporations are people, yet here he is taking away
21 the rights of this corporation. Ironies abound in
22 the free state of Florida where there is no real
23 free speech and teachers can't counsel young people
24 who are dealing with their own identity or have the
25 reality of two moms or two dads.

1 Keep it real. Let's call this what it is.
2 It's the punitive, petulant, political payoff to a
3 corporation that dared to say the emperor has no
4 clothes. But if they behave this next election
5 cycle, maybe we'll put it all back together. This
6 is bad legislation, this is bad process, this is bad
7 for our republic, this is counter to everything
8 we're supposed to stand for and believe in as not
9 just Floridians but Americans. Another dark day in
10 this chamber. Vote no. Make sure you can sleep
11 tonight. Thank you.

12 PRESIDENT SIMPSON: Is there any additional
13 debate? Any additional? Oh. Senator Berman,
14 you're recognized.

15 SENATOR BERMAN: Thank you, Mr. President.

16 I feel like I'm living in an alternative
17 reality. We came up here to do our once in every
18 ten year constitutional duty, and at the 23rd hour,
19 9:27 a.m. yesterday morning we get notice that we're
20 going to get a bill requiring the dissolution of the
21 Reedy Creek's Independent Special District as well
22 as five other districts that are unfortunately swept
23 up in this. What have these districts done wrong?

24 We heard yesterday that they might have to
25 show a public purpose and that they have legislative

1 oversight. There's nothing in this statute -- in
2 this law -- bill proposed that requires this. It
3 simply says they will dissolve effective next June,
4 and then it's says they can be reconstituted.

5 That's not saying we're going to review this, it has
6 to have a public purpose, that we want to look into
7 legislative oversight. This is just an arbitrary
8 political attack job on the Disney Company.

9 In fact, when you do dissolve an
10 independent special district it has to be done by
11 the electors of the -- or the people in the
12 district. The fact that we can say notwithstanding
13 we're going to ignore this is constitutionally
14 unsound and creates a very bad precedent that no
15 court should support. There's been no thought, no
16 analysis, no economic impact discussion to how this
17 will affect Lake Buena Vista, Osceola County, Orange
18 County, as well as the other special districts. So
19 why are we rushing this through to only please the
20 Governor?

21 You know, I feel like there is a part of
22 this bill which is, look over here, don't look at
23 the shiny object that we're -- that is in the
24 middle. We came up here to discuss a very important
25 constitutional requirement of redistricting, and

1 then they put this other object over here. And
2 we're hearing about banning math books, and today
3 there's discussion about treatment for transgender
4 youth. It seems like we're always throwing out
5 these other issues, so many different issues, that
6 we're not focusing on what we as a Legislature need
7 to do.

8 I just did all my -- I've been going to all
9 my cities, now that we're home, and giving them a
10 report. And I tell them that we didn't do the
11 things as much that affect our pocketbooks because
12 we spent so much time on cultural issues. We didn't
13 do affordable housing. We gave a very minor part of
14 the budget to affordable housing. We didn't do
15 property insurance, and I'm glad we'll be back for
16 that. We barely addressed inflation. Those are the
17 things that matter, not all these crazy cultural
18 issues that we're seeing all around through this
19 process.

20 You know, we know that it's going to be
21 really hard for these companies -- for these
22 independent districts. Because how can a business
23 that be threatened to be dissolved and then allowed
24 to be reconstituted continue to have their business
25 operations? They're not going to be in a very good

1 position what -- because of this legislation. And
2 this is just the Governor trying to throw out all
3 these different issues and make Floridians not focus
4 on all the problems that we have that we're not
5 actually addressing here.

6 So I don't understand what happened to the
7 separation of powers. I feel like we have become --
8 this Legislature has become the puppet to the
9 Governor, and I think it's political theater at
10 worst. And I hope that we don't pass this
11 legislation.

12 PRESIDENT SIMPSON: Thank you. Is there
13 any additional debate? Senator -- Leader Book,
14 you're recognized.

15 LEADER BOOK: Thank you, Mr. President.

16 And I'm going to be very, very brief.
17 We've heard a lot of my -- from my colleagues about
18 bonds and the issues surrounding Reedy Creek. What
19 I would just like to say as a mom who goes to Disney
20 quite a bit, I think some people just need to "let
21 it go, let it go."

22 (Laughter)

23 PRESIDENT SIMPSON: Thank you, Leader Book.
24 Is there any additional debate? Senator Bradley,
25 you're recognized to close on your bill.

1 SENATOR BRADLEY: Thank you,
2 Mr. President.

3 And I will be brief. Members, we have
4 talked a lot today about the appropriate role for
5 the Legislature and what our proper role is. And
6 today we put in place a process for the Legislature
7 to exercise those very appropriate oversight
8 functions. It's a process that's been swift, but
9 it's a bill that is incredibly important and that I
10 am proud to sponsor.

11 Remember, the districts that are affected
12 have not had any legislative oversight in over 50
13 years. And some of the districts have incredibly
14 sweeping powers such that a single company could
15 start construction on a nuclear reactor. At any
16 other time that would not be controversial to say we
17 need to stop and have a little oversight over this
18 process. That's what this bill does.

19 We have a year. We have local governments
20 who will be involved. And I assure you we will have
21 a state Legislature that is involved to make sure
22 that the parade of horrible that has been described
23 does not happen. And we have a Senate President who
24 cares about every corner of this state, and if
25 further study is needed he will be on the front

1 making sure that that happens. So I appreciate your
2 support. This is a good bill. Thank you.

3 PRESIDENT SIMPSON: Thank you. The
4 Secretary will unlock the board, and Senators will
5 proceed to vote. Senator Stewart? Lock the board
6 and record the vote.

7 THE SECRETARY: 23 yeas, 16 nays,
8 Mr. President.

9 PRESIDENT SIMPSON: Show the bill passes.
10 Read the next bill.

11 THE SECRETARY: Senate Bill 6-C, a bill to
12 be entitled An act relating to social media
13 platforms.

14 PRESIDENT SIMPSON: Senator Bradley, you're
15 recognized to explain your bill.

16 SENATOR BRADLEY: Thank you, Mr. President.
17 This is the social platform -- social media
18 platform bill that we discussed yesterday.

19 PRESIDENT SIMPSON: Are there amendments?

20 THE SECRETARY: None on the desk,
21 Mr. President.

22 PRESIDENT SIMPSON: Is there any debate on
23 the bill? Senator Pizzo, you're recognized in
24 debate.

25 SENATOR PIZZO: Thank you, Mr. President.

1 Now that we've gotten past the bill that
2 has to do with Disney, let's talk about this bill.

3 (Laughter)

4 What? Sorry. Sort of what I'd like for
5 you to address in close, if you would, is there was
6 something found to be infirm in an early ruling on
7 litigation as it relates to a bill last year that I
8 think Senator Rodrigues carried. And this would --
9 and I think -- if I understand it from you yesterday
10 in answering some of the questions, this would seek
11 to remedy some infirmity found in current or open
12 litigation as it relates to a bill.

13 But if you would address how that will cure
14 or be a remedy to some particular part of that
15 legislation -- that litigation about the
16 legislation. But more broadly, what else have we
17 done for the rest of the bill from last year that
18 may have found to have been infirm, and why are we
19 going back to sort of cure something that may be at
20 its foundation infirm?

21 And if you could do an amazing job at that
22 and make some sense of this, I would consider
23 changing my vote. But right now it's no.

24 PRESIDENT SIMPSON: Is there any additional
25 debate? Seeing none, Senator Bradley -- oh. Leader

1 Farmer, you're recognized in debate.

2 LEADER FARMER: Free speech. Free speech.

3 First Amendment, most important one. We keep doing
4 this. We keep trampling all over the greatest form
5 of government. We're so spoiled. We take it for
6 granted. Look what's happening around the world
7 right now. People are giving their lives to just
8 have a portion of the rights and freedom we have.

9 I could go on and on and on, but I'm just
10 going to say it one more time - punitive, petulant,
11 political payback. It's not how you're supposed to
12 govern. Thank you.

13 PRESIDENT SIMPSON: Is there any additional
14 debate? Any additional debate? Senator Bradley,
15 you're recognized to close on your bill.

16 SENATOR BRADLEY: Thank you, Mr. President.

17 And again, this bill is a good bill that
18 should not be controversial. We're removing an
19 exemption that many -- that troubled many in this
20 chamber, and indeed a court has found to be infirm.
21 It's a simple bill. The court was -- had questions
22 about what our intent was. Do we intend, in fact,
23 for this bill to apply to everyone equally. And
24 this bill removes the exemption, removes the carve
25 out and says, "Yes. Our legislative intent is that

1 this bill apply to all equally."

2 I have a hard time understanding why that
3 would be a controversial issue. Let's apply the law
4 equally to everyone. And in case there was any
5 doubt in the court's mind where the Legislature
6 stood, it's that we do not stand with special carve
7 outs. And I'd appreciate your support.

8 PRESIDENT SIMPSON: Thank you. The
9 Secretary will unlock the board, and Senators will
10 proceed to vote. Lock the board and record the
11 vote.

12 THE SECRETARY: 24 yeas, 15 nays,
13 Mr. President.

14 PRESIDENT SIMPSON: Show the bill passes.
15 Read the next bill.

16 THE SECRETARY: None on the desk,
17 Mr. President.

18 PRESIDENT SIMPSON: All righty, guys.
19 Before I recognize the rules chair for another
20 motion, are there any announcements? Madam Rules
21 Chair, you are recognized.

22 CHAIR POWELL: Thank you, Mr. President. I
23 move that the Senate adjourn to reconvene upon the
24 call of the President.

25 (Laughter)

1 PRESIDENT SIMPSON: Without objection, the
2 Senate is now adjourned for the day.

3 (END OF AUDIO 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.



Julie Thompson, CET-1036

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EXHIBIT 14

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

)

TRANSCRIPTION OF AUDIO RECORDING
HOUSE SESSION
APRIL 21, 2022
10:00 A.M.

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

1 APRIL 21, 2022

2 SPEAKER SPROWLS: Members, the House will
3 come to order. Members, please take your seats.
4 Members and visitors in the gallery, please rise for
5 the prayer. The prayer today will be led by
6 Representative Massullo.

7 Representative Massullo, you may approach
8 the well.

9 REPRESENTATIVE MASSULLO: Thank you,
10 Mr. Speaker.

11 Members, let's pray.

12 Father God, thank you for this beautiful
13 day that you have made. Thank you for the House
14 that you've brought us to, that you have allowed us
15 the ability to serve your people in this state.
16 Thank you for this beautiful government that we have
17 where we can deliberate ideas and disagree with each
18 other and yet move our state continuing forward.

19 Unlike any other country in the world,
20 Lord, you've blessed us. Let us never forget that
21 it's because of your guidance that we have life.
22 It's because of your will that we breathe. It's
23 because of your grace and mercy that we can have a
24 place in this world, that we can make a difference
25 because you indwell us; you empower us. And I pray,

1 Lord, that we never forget that.

2 As we go through this day, as we finish our
3 work here, as we go home to our friends and our
4 families, let us not forget, Lord, that our duty is
5 to glorify you with our lives. And I pray that you
6 would make that so in our hearts, that it may be our
7 desire as we live this day and the rest of our
8 lives. In your name we pray, Amen.

9 ALL: Amen.

10 SPEAKER SPROWLS: Thank you, Representative
11 Massullo.

12 The clerk will unlock the machine and
13 members will record their presence. Have all
14 members recorded their presence? Have all members
15 recorded their presence? Clerk will lock the
16 machine and announce the presence of a quorum.

17 THE CLERK: 106 members voting. A quorum
18 is present, Mr. Speaker.

19 SPEAKER SPROWLS: Yep. Members and
20 visitors, please remain standing for the Pledge of
21 Allegiance to the flag. The pledge this morning
22 will be led by Representative Will Robinson from his
23 desk.

24 (Pledge of Allegiance)

25 SPEAKER SPROWLS: Are there corrections to

1 the journal? Hearing none, show the journal
2 approved. Are there matters on induction and
3 reference?

4 THE CLERK: None on the desk, Mr. Speaker.

5 SPEAKER SPROWLS: Are there communications?

6 THE CLERK: None on the desk, Mr. Speaker.

7 SPEAKER SPROWLS: Are there messages from
8 the Senate?

9 THE CLERK: None on the desk, Mr. Speaker.

10 SPEAKER SPROWLS: Are there reports from
11 standing committees and subcommittees?

12 THE CLERK: None on the desk, Mr. Speaker.

13 SPEAKER SPROWLS: Are there motions
14 relating to committee and subcommittee references?

15 Are there matters on reconsideration? Are there
16 bills and joint resolutions on third reading?

17 THE CLERK: On the desk, Mr. Speaker.

18 SPEAKER SPROWLS: Read the first bill.

19 THE CLERK: By Senator Rodriguez, Senate
20 Bill 2-C, a bill to be entitled an act establishing
21 the congressional districts of the state.

22 SPEAKER SPROWLS: All right, members. We
23 are going to get into the first bill. In a moment
24 we're going to enter into structured debate.

25 Structured debate this morning on the redistricting

1 bill we'll have -- be 75 minutes per side in 15
2 minute total increments. I'll go back and forth
3 between representative Willhite, who will be
4 representing the con side of the bill, and Leader
5 Grant on the pro side.

6 Representative Leek, you're recognized to
7 explain the bill.

8 REPRESENTATIVE LEEK: Thank you,
9 Mr. Speaker.

10 This is the congressional redistricting
11 bill we heard yesterday.

12 SPEAKER SPROWLS: Are there amendments?

13 THE CLERK: None on the desk, Mr. Speaker.

14 SPEAKER SPROWLS: All right. Let's begin
15 debate. Representative Willhite, you're recognized.

16 REPRESENTATIVE WILLHITE: Thank you,
17 Mr. Speaker. In the difference of opinion side of
18 this bill, would you recognize Representative
19 Geller?

20 SPEAKER SPROWLS: Representative Geller for
21 his different side of opinion. You're recognized.

22 REPRESENTATIVE GELLER: Thank you,
23 Mr. Speaker. I appreciate that.

24 So members, here we are. Months of looking
25 at this. This House took a position. Our

1 colleagues across the aisle took a position. We
2 passed something. Frankly, I didn't like what we
3 passed, but we passed -- you remember, one from
4 column A, one from column B. You remember that.
5 The Governor vetoed it, and he has a right to veto
6 it. And here we are back again.

7 But members, we're not doing our job. Our
8 job is just not to pass anything. Our job, as was
9 told to us by Chair Leek numerous times, by the
10 Speaker numerous times, our job is to pass something
11 constitutional.

12 Now, I'm a believer in our judiciary system
13 in this country, and I think it's great that anybody
14 who has a problem with something we pass or
15 something going on can go to the courts, can ask for
16 relief. You can even challenge a law if you believe
17 that law is contrary to our constitution, if you
18 think it's unjust. Some of our greatest leaders,
19 suffragists, civil rights leaders, leaders for the
20 rights of people who want to love who they want to
21 love. Some of our greatest leaders have challenged
22 unjust laws.

23 But please, remember our role. We have
24 something in this country called the Voting Rights
25 Act. It was hard won. It was passed since 1965,

1 and it interpreted something from almost 100 years
2 before the 14th Amendment. We have in this state
3 standards that 63 percent of our voters voted to put
4 into our Florida Constitution. We call them fair
5 districts.

6 Now, I understand there could be a little
7 bit of politics that might creep into redistricting
8 somehow. But members, our job is to pass something
9 that complies with the Florida Constitution,
10 including those fair districts provisions, and with
11 the federal Voting Rights Act. If you think that
12 the Voting Rights Act contradicts the 14th
13 Amendment, you can go to court and try to get it
14 overturned. But until that happens, that law is the
15 law of the land, and until our Florida Constitution
16 is otherwise interpreted, we're bound by it.

17 This plan cuts minority districts in this
18 state, African-American districts, in half. You
19 don't want to be a part of that, and you don't want
20 to be a part of contradicting the Florida
21 Constitution and the Voting Rights Act. If there is
22 a challenge later, so be it. Our job is to comply
23 with the law as it exists, and this map plainly does
24 not do that. You need to vote it down. Thank you.

25 MADAM SPEAKER: Representative Willhite.

1 REPRESENTATIVE WILLHITE: Thank you, Madam
2 Speaker. Would you recognize Representative
3 Driscoll?

4 MADAM SPEAKER: Representative Driscoll,
5 recognized in debate.

6 REPRESENTATIVE DRISCOLL: Thank you, Madam
7 Speaker.

8 Just the other day, members, when we heard
9 this bill in committee, there was a member of the
10 public who gave testimony. And she said, "I rise in
11 condemnation of this bill." And I had never heard
12 that before, but I thought it was brilliant. Today
13 I debate in condemnation of this bill.

14 Albert Einstein once said that no problem
15 can be solved from the same consciousness that
16 created it. And when I look at what we are doing
17 with this map, when I look at the
18 unconstitutionality of it, when I look at how we're
19 violating separation of powers, I can't help but
20 think that we are reverting back to a consciousness
21 that required us to need fair districts amendments
22 and a federal Voting Rights Act in the first place.

23 I'll make three points. First, the
24 unconstitutional nature of this map. We are plainly
25 in this map denying minority voters the ability to

1 elect the representative of their choice. We are
2 clearly abiding in retrogression in violation of the
3 14th Amendment. This map clearly constitutes
4 diminishment, when you are taking the number of
5 black congressional representatives and the ability
6 to have representation in black communities from
7 four to five. That is diminishment of 50 percent.
8 Excuse me, 4 to 2. That is diminishment by 50
9 percent. I'm a lawyer, not a mathematician. Sorry
10 about that.

11 What I also have observed in this map is
12 that there is packing. All over the place there is
13 packing. If you look in Tampa Bay where I live, in
14 order to arrive at the new Congressional Districts
15 14 and 15, there's been so much packing I don't even
16 know how you could fit more in that suitcase. We
17 are denying minority voters the candidate of their
18 choice, and it is wrong.

19 The second point that I will make is that
20 this map disregards and disrespects the voters of
21 Florida and procedural process. Members, this map
22 -- we are the ones who are obligated as a
23 Legislature with drawing this map. I don't know how
24 many times poor Chair Leek had to say he couldn't
25 answer a question. Why not? Because he didn't draw

1 this map, and the committee staff didn't draw this
2 map. He just didn't have the answers. Why?
3 Because we have -- we are in dereliction of our duty
4 as a Legislature. We were the ones who were
5 supposed to draw this map.

6 I heard over and over again, "Well, the
7 Governor is just like any other person, any other
8 person in this process who wanted to submit a map."
9 Everybody who has a veto pen in this room, raise
10 your hand. That's what I thought. Okay.

11 It's only the Governor who has the
12 opportunity and ability and the constitutional
13 authority to veto a map. He is not like every other
14 citizen. He's not like any other citizen in this
15 chamber or any other citizen in the State of
16 Florida. So I'm tired of that. It's time for us to
17 do away with the fiction that this is normal
18 process. This is unprecedented.

19 The third point I'll make -- and I've
20 already touched on this a little bit though -- is
21 about separation of powers. And I really want you
22 to hear me with this one. We are headed down a
23 dangerous road. It is a slippery slope. First it's
24 redistricting; then it's Disney. What's next? I'm
25 afraid to know what's next. We need to stop this

1 here. You have the ability to stop it here with
2 your vote. This map is unconstitutional, and we
3 should all vote down. Thank you.

4 MADAM SPEAKER: Representative Willhite,
5 you're recognized.

6 REPRESENTATIVE WILLHITE: Madam Speaker,
7 would you recognize Representative Valdez?

8 MADAM SPEAKER: Representative Valdez in
9 debate.

10 REPRESENTATIVE VALDEZ: Thank you, Madam
11 Speaker, and good morning, colleagues.

12 Colleagues, we have an obligation to uphold
13 the oath that we all take to defend our
14 constitution. Unfortunately, I feel the
15 reapportionment proposal before us today fails in
16 that regard. There are decades of precedents of the
17 redistricting processes and countless historical
18 examples of the process being used to marginalize
19 and dilute the power of certain types of voters.
20 That's why the U.S. Congress passed the Voting
21 Rights Act. It's why Florida voters passed the Fair
22 District Amendment in 2010.

23 These are not simply polite suggestions.
24 Following the law and the Constitution is our sacred
25 Duty as elected officials. I have deep concern that

1 we are, once again, choosing a path that does not
2 serve the interest of Florida voters and will tie
3 our state up in yet more costly litigation due to
4 constitutional issues raised by this map.

5 After the Civil War, our nation underwent
6 something of a second American Revolution, born of a
7 recognition of our past mistake and allowing
8 slavery. As part of that absolution, we adopted a
9 new set of amendments to the U.S. Constitution, the
10 13th Amendment, which outlaw the practice of
11 slavery.

12 Then the 14th Amendment, which guarantees
13 the equal protection of the law to all Americans,
14 and the 15th Amendment, which grants voting rights,
15 regardless of race, color, or previous condition of
16 servitude. These post-Civil War amendments remade
17 the American social contract in profound and
18 positive ways.

19 That 14th Amendment guarantee of equal
20 protection under the law is just as much part of our
21 American identity as the original 10 Amendments of
22 the Bill of Rights. That idea, that idea, the
23 concept of equal protection under the law is a key
24 underpinning of our modern democracy.

25 But when we decide to take steps that

1 dilute the power of a certain time of American to
2 diminish -- or type of American to diminish their
3 ability to meaningfully participate in our
4 democracy, then at minimum the spirit of equal
5 protection is undermined as well. That means we
6 cannot value the democratic participation of one
7 group over another, because if we do so, we are not
8 ensuring equal protection of the law to all.

9 When we crack open the seat in North
10 Florida that has historically provided an
11 opportunity for minority voters to elect a
12 representative of their choice to Congress, we are
13 not providing equal protection to those voters.
14 Likewise, when laboriously take a Tampa Bay area
15 district across 12 miles of open water, packing
16 minority and Democratic voters into one district to
17 make the surrounding ones less competitive, then we
18 are not providing equal protection to those voters.

19 All we are asking for is this. Let's live
20 up to the spirit of fairness and equal protection.
21 Let's have a fair and open transparent process and
22 draw maps that best serve the people of Florida, not
23 a party, not an agenda, but our constituents.
24 That's why we are here. And to that end, I hope
25 that you will join me in voting down on this map

1 today. Thank you, Madam Speaker.

2 MADAM SPEAKER: Representative Willhite.

3 REPRESENTATIVE WILLHITE: Thank you, Madam
4 Speaker. Would you recognize Representative Rayner.

5 MADAM SPEAKER: Representative Rayner in
6 debate.

7 REPRESENTATIVE RAYNER: Thank you, Madam
8 Speaker.

9 Members, I rise in opposition to this map.
10 And I want to be very transparent. You all know I'm
11 running for congress. But I'm going to tell you
12 this. Even if I wasn't running for congress, this
13 is not about me. Because I'm going to start talking
14 about my parents. You all know I love to talk about
15 my parents. I love to talk about my father and my
16 mother. I love to talk about my grandparents. I
17 love to talk about my great-grandparents.

18 And I bring up the fact that I'm running,
19 because I know someone will say, well, she has a
20 vested interest. Yes. I have a vested interest
21 because I'm a black woman in the state of Florida.
22 I have a vested interest because I'm a black
23 resident in the state of Florida. I have a vested
24 interest because I have black constituents. I have
25 friends who are black in Orlando and in Jacksonville

1 who are concerned about what their representation is
2 going to look like. I have a vested interest
3 because I know the struggles of black and brown
4 folks over the course of 200 plus years in this
5 country, but most certainly in this state. I have a
6 vested interest because I understand that it wasn't
7 until the Voting Rights Act that my parents were
8 able to vote. I have a vested interest because when
9 my grandfather was hauling junk and he was a
10 sharecropper, and he wasn't able to have
11 representation that reflects him, I have a vested
12 interest. And members, even if you may not be black
13 or brown, you should have a vested interest.

14 No longer should we be able to have to
15 kowtow and bow down to a person, to a man that's
16 saying, if you don't do certain things, this will
17 happen. We talk about communism and socialism.
18 That's what happens in socialist countries. People
19 are threatened. People are threatened under the
20 cover of dark. You all, I know we are better than
21 this.

22 So let me tell you this. This is not about
23 Michele Rayner, because Michele Rayner can have a
24 seat, and she don't have to run. But guess what I'm
25 not going to do? What I'm not going to do is let

1 this moment pass and not make a record. Because I
2 have my mother's blood and my father's blood
3 coursing through my veins. I have my ancestors'
4 blood coursing through my veins. They have fought
5 and come through too much to allow this House to
6 abdicate their duty to a Governor who has political
7 ambition. And yes, I said it - political ambition
8 that's not about the people.

9 So you all, I hope this isn't falling on
10 deaf ears, and I hope that there is political will
11 on the other side of the aisle, political courage to
12 stand up to a bully. Because when you don't stand
13 up to a bully, they give and they give; and they
14 take and they take.

15 So this is our time to stand up to the
16 Governor. This is our time to say, we cannot allow
17 this to happen. This is our time to say that we
18 want to be the free state of Florida. Free means
19 free for everybody. It doesn't matter what party
20 you ascribe to. It doesn't matter what you look
21 like or who you love. It doesn't matter if you
22 disagree with the Governor, because this is the free
23 state of Florida for everybody.

24 And so, members, I am asking you now in
25 this moment to exact political courage and political

1 will. And I see the time, and thank you, Lord. And
2 I'm going to keep going until my time is continued
3 -- runs out.

4 But I'm asking members of this House, all
5 members, stop worrying about your elections. Stop
6 worrying about who may primary you. Stop worrying
7 about line item vetoes. Stop worrying about those
8 things. Because I know that when people on the
9 outside who are looking at us -- I've gotten all of
10 these text messages on my phone. People on -- and
11 then appropriations too. Thank you. People are
12 tired. Republicans are tired. Democrats are tired,
13 MPAs are tired. Because we ought to be working on
14 --

15 MADAM SPEAKER: Representative Rayner --

16 REPRESENTATIVE RAYNER: -- the things that
17 they care about.

18 MADAM SPEAKER: Representative Rayner.
19 Your time is expired. The clock stopped over a
20 minute ago.

21 Members, I will remind all of you, we are
22 not talking about personalities today, not
23 personalities of anybody outside this chamber or
24 inside this chamber. We are talking about the maps,
25 and we can talk about the maps. And I would ask

1 that you confine your comments to the maps and not
2 to personalities.

3 With that, we are trying to get the clock
4 fixed. I think we are good.

5 Leader Grant, you are recognized.

6 REPRESENTATIVE GRANT: Thank you, Madam
7 Speaker. Would you please recognize Representative
8 Tuck in debate?

9 MADAM SPEAKER: Representative Tuck, you
10 are recognized.

11 REPRESENTATIVE TUCK: Thank you, Madam
12 Speaker.

13 And members, I rise in support of this map
14 today. I've had the honor of being the vice chair
15 of this committee since the beginning, and it's been
16 an open and transparent process the entire time,
17 even before the Governor "got involved."

18 He publicly submitted maps, which is
19 something that anybody can do. He's allowed to do
20 it. Every single member of the public was allowed
21 to do it. We were allowed to do it. He is a
22 citizen of this state. He's allowed to do it just
23 like we are. He even sent multiple staffers to
24 answer our questions ad nauseam.

25 And think about that for a second. How

1 many bills do we encounter where the Governor sends
2 an entire staff team to help us understand that
3 rationale? Besides the budget, probably zero.

4 Members, this process only happens once a
5 decade. And just because it's different doesn't
6 mean it's bad. Just because it's different, doesn't
7 mean it's wrong. It's just different. Our process
8 was thorough; it was transparent; it was open; it
9 was complete; it was constitutional, and it was
10 good. This map is all of those things. This map is
11 a good map, so I urge you all to vote up on it.

12 Thank you very much, Madam Speaker.

13 MADAM SPEAKER: Representative Grant,
14 you're recognized.

15 REPRESENTATIVE GRANT: Thank you, Madam
16 Speaker. We yield the remainder of our time in this
17 segment.

18 MADAM SPEAKER: Thank you. Representative
19 Willhite, you're recognized.

20 REPRESENTATIVE WILLHITE: Thank you, Madam
21 Speaker. Would you recognize Representative
22 Morales?

23 MADAM SPEAKER: Representative Morales,
24 you're recognized in debate.

25 REPRESENTATIVE MORALES: Thank you, Madam

1 Speaker.

2 Members, I rise up today because we need to
3 focus. Members, fair representation is vital to the
4 state of Florida. We're making history today. A
5 fair map is vital. And if it's not right, then
6 let's do it; let's work together. We can come back.
7 That's what the -- that's why the people voted for
8 us to represent them.

9 We are facing this moment, redistricting.
10 And the point I want to make is that we have to
11 apply by the constitutional law. Our Voters Rights
12 Act, remember we are legislators. We're supposed to
13 do our job. That's what the people gave us our
14 --that vote. Members, please vote down on this
15 bill.

16 Thank you, Madam Speaker.

17 MADAM SPEAKER: Representative Willhite.

18 REPRESENTATIVE WILLHITE: Thank you, Madam
19 Speaker. Would you recognize Representative Brown?

20 MADAM SPEAKER: Representative Brown in
21 debate.

22 REPRESENTATIVE BROWN: Thank you, Madam
23 Speaker.

24 In the United States Constitution our
25 forefathers outlined the separation of powers

1 through three branches of government, and that was
2 the legislative branch, the executive branch, and
3 the judicial branch. The intent though of the
4 separation of powers is to prevent the concentration
5 of unchecked power and to provide for checks and
6 balances.

7 Therefore, it is our constitutional duty as
8 Americans and as a state Legislature to prevent the
9 style -- this type of overreach we're seeing in this
10 map drawn for us by the Governor. His unchecked
11 power has only continued to grow, not only through
12 this proposed map but through the attacks of our
13 freedom to vote through last year's bill, Senate
14 Bill 90, and this year's election police force bill.

15 There are claims that the current maps
16 passed by the Legislature this session violated the
17 U.S. Constitution's equal protection clause. But
18 the truth is his intent is to disenfranchise the
19 same people that this clause was designed to
20 protect. In these proposed maps, Florida will lose
21 black representation in Congress by nearly 50
22 percent, and that doesn't include the barriers that
23 this anti-voter freedom bill that he's put forth
24 will put between every one of us and put barriers
25 between every one of us and the ballot box.

1 In 2010 Florida passed the Fair Districts
2 Amendment 5 and 6 that prohibited politicians from
3 drawing districts to favor themselves and their
4 parties, and to ensure that minority voters have
5 equal opportunity to participate in the political
6 process and have fair opportunity to equal
7 representation of their -- elect representatives of
8 their choice. These amendments among others were
9 approved directly by Florida in a ballot referendum
10 to stop Tallahassee politicians from rigging
11 districts for their own political ambitions. There
12 was no partisan politics involved when that
13 happened. This was the people of Florida directly
14 coming out and saying that they are tired of corrupt
15 politics. So why aren't we really respecting that
16 here?

17 I want to remind my colleagues that
18 Governor DeSantis did not elect you and put you in
19 office. It was the same people of Florida who voted
20 in favor of Fair District Amendments to our
21 Constitution that did. Although I voted down on the
22 Legislative drawing maps, at least those maps went
23 through the appropriate legitimate process and were
24 agreed upon by majority of you here in this room
25 today.

1 I have a serious problem with the Governor
2 and him meddling in the representation of Floridians
3 for his own political gain. And I think that's
4 important to mention here. I have an even bigger
5 problem with folks bullying two entire chambers of
6 Government into doing his bidding. He's making
7 Florida Legislature do his dirty work and to avert,
8 and it adversely affects black constituents.

9 And I will not go down in Florida history
10 as just another pawn for Governor DeSantis. It is
11 not his job to intervene how Floridians are
12 represented. That is between us, the Legislature,
13 the courts, and most importantly, the smart and
14 capable people of Florida who trusted in us to
15 represent them. We are not here to represent just
16 one man out of 22 million people because of his
17 ambition to become president. We are here to make
18 sure that the voices of the people outside this room
19 are heard.

20 MADAM SPEAKER: All right. Representative
21 Willhite, you are recognized.

22 REPRESENTATIVE WILLHITE: Thank you, Madam
23 Speaker. Will you recognize Representative Davis?

24 MADAM SPEAKER: Representative Davis in
25 debate.

1 REPRESENTATIVE DAVIS: Thank you, Madam
2 Speaker.

3 As you all know, I represent the city of
4 Jacksonville. And the city of Jacksonville has had
5 a long, exhaustive history when it comes to race. I
6 was born during a time, when Jacksonville still has
7 segregated schools. And it was not until 2018 that
8 the city of Jacksonville officially recognized the
9 terrible events that took place on Ax Handle
10 Saturday, that event that I talked about on this
11 floor as we were discussing the Individual Freedom
12 Bill just two months ago.

13 Colleagues, my community is angry, and I
14 can't even say -- maybe it's not anger. Maybe it's
15 just -- we're just infuriated. We consistently
16 experience attacks. We've been attacked on our
17 right to vote. We've been attacked on our right to
18 protest. We've been attacked now through
19 representation throughout our entire lives.

20 Historically, highway construction and City
21 Planning has focused on removing blight in the
22 Jacksonville Community, which has been used to
23 excuse the demolishing of historic black
24 neighborhoods. Have you heard redlining? Many of
25 you have. It's a discriminatory lending practice on

1 people of color based simply on where they live.

2 The Eastside neighborhood was redlined for
3 the first time in 1930, and it still suffers the
4 aftermath of that. It is now -- ironically has a
5 highway, the MLK Highway, running directly through
6 the center of this neighborhood. Imagine that. The
7 road that the state has used to crack black
8 communities is named after the man who fought
9 against the exact same thing - offensive, simply
10 offensive. And now these congressional maps
11 proposed that -- proposed by this Governor and
12 entertained by this Legislature now have been so
13 clear about their intentions.

14 Florida voters have already made it clear
15 -- and you've heard that over and over, and you will
16 continue to hear that over and over -- that they
17 want Fair Districts. And it was our job to pass
18 that Fair District Amendment, which we did
19 overwhelmingly in 2010. It's our jobs as
20 representatives to uphold the will of the voters.
21 Are we so tired of doing our jobs that we are going
22 to roll over and accept whatever this Governor hands
23 us? I'll let you think about that.

24 We're going to vote today on these maps
25 that, number one, you know are unconstitutional.

1 These maps have no regard for the Voting Rights Act,
2 no regard to the Fair District Amendment, no regard
3 to the 14th Amendment, no regard to the
4 Constitution, and no regard to Black voters, Brown
5 voters, and communities that I serve as well as you,
6 serving. You represent black and brown communities
7 just like I do.

8 But colleagues, here's the vein of this.
9 You hate when we use the word disenfranchisement.
10 You turn your back; you look the other way. But you
11 have to realize that is exactly what this is.
12 Gutting now CD 4, the protected status leaves us
13 simply without representation. It simply means that
14 the black population in Florida that lives north of
15 the I-4 corridor, their voices will be diluted;
16 their power in this process simply washed away.

17 The only thing I can say as you look the
18 other way, you turn your back, that you know this is
19 unconstitutional, and you know this is unacceptable;
20 and you know that it's offensive. We're tired of
21 being put in this situation by this Legislature.
22 How can you not see that this is wrong? But you do.
23 How much longer are we going to have to fight to get
24 all of you to understand what we're dealing with?

25 Our voice matters. Our votes matters. Our

1 lives matter. We need to be protecting Florida's
2 black representation in Congress, not attacking it,
3 not diluting it, and definitely not removing it.
4 For those reasons, colleagues, I just urge you to
5 think about everything that all of us will say, and
6 vote no on these maps.

7 MADAM SPEAKER: Representative Willhite.

8 REPRESENTATIVE WILLHITE: Thank you, Madam
9 Speaker. Would you recognize Representative
10 Edmonds?

11 MADAM SPEAKER: Representative Edmonds in
12 debate.

13 REPRESENTATIVE EDMONDS: Thank you, Madam
14 Chair.

15 So Florida became the 27th state in the
16 United States on March 3rd, 1845. By 1850 the
17 population had grown to 87,000, including about
18 39,000 African-American slaves and 1000 free blacks.
19 That comes out to about 46 percent black, 54 percent
20 white in percentage.

21 For those who do not know of Josiah T.
22 Walls, he was a man of historical distinction for
23 Florida. Before he was the former mayor of
24 Gainesville, he died in Tallahassee in 1905. He
25 became the first African-American Congressman in

1 1871, the only black to represent the Sunshine State
2 until 1993. That is about 119 years of
3 representation without any black representation in
4 the Sunshine State.

5 So we asked, why is Fair Districts and
6 Voting Rights Act important? Well, it's important
7 because it led to people like Alcee Hastings,
8 Corrine Brown, Carrie Meeks, Val Demings, Sheila
9 McCormick, Brian (sic) Donalds. And the whole point
10 --

11 I want to say if you vote yes to this, I
12 want to say that you're basically setting us back 20
13 years. If you feel comfortable voting yes, you have
14 to understand that you probably will be in the same
15 history of the people who created the black holes,
16 of the people who created Jim Crow era laws.

17 MADAM SPEAKER: Representative Edmonds?

18 REPRESENTATIVE EDMONDS: Yes.

19 MADAM SPEAKER: I would ask you not to
20 impugn the members of this chamber. If you would
21 like to talk about the policy before us, but to
22 impugn members based on a potential vote is not an
23 appropriate use of the debate time. You are
24 recognized to continue.

25 REPRESENTATIVE EDMONDS: Thank you, Madam

1 Chair. I appreciate the clarification.

2 MADAM SPEAKER: Just one moment, please.

3 Representative Alexander has asked for a point of
4 clarification.

5 Yes, Representative Alexander.

6 REPRESENTATIVE ALEXANDER: Thank you, Madam
7 Speaker. And all due respect, but I think history
8 and facts is not impugning anyone in this chamber.
9 I think what the representative was doing, Madam
10 Speaker, was going through a series of historical
11 facts that is relevant to this historic vote that is
12 being taken today. But that's the way I take it.
13 So --

14 MADAM SPEAKER: And while I understand
15 that, and those historical facts may certainly be
16 discussed, to tie it to a yes vote on these maps
17 would be impugning members of this chamber based on
18 the vote that we are about to take today. So if we
19 want to talk about the historical facts, I have no
20 problem with that. That is fair game. But to call
21 out other members of this chamber being related to
22 those historical facts is -- based on a vote is an
23 appropriate. So that is where I would ask the line
24 to be drawn, please.

25 REPRESENTATIVE ALEXANDER: May I do a

1 follow-up?

2 MADAM SPEAKER: You may -- yes.

3 Representative Alexander.

4 REPRESENTATIVE ALEXANDER: Thank you, Madam
5 Speaker. And a just for the record, that wasn't his
6 intent. I did not hear -- I was paying attention
7 very, very closely, and I respect every member of
8 this chamber, but this is a very serious matter.
9 And just how so many people may be offended by the
10 words in this chamber -- heck, I'm offended by the
11 map.

12 MADAM SPEAKER: And I understand that,
13 Representative Alexander. I am listening very
14 intently too so that I can hopefully call balls and
15 strikes and make sure that we are all having a
16 conversation with the level of decorum that this
17 chamber deserves. And like I said, I have no
18 problem discussing the historical facts. To tie
19 members of this chamber and their vote to those
20 events in history is inappropriate for conversation
21 today. Thank you.

22 Yes, Representative Alexander.

23 REPRESENTATIVE ALEXANDER: Thank you, Madam
24 Speaker, and it will be my last point. Let the
25 records speak for itself. And hopefully the

1 representative will continue to express himself in a
2 fact historically driven manner.

3 MADAM SPEAKER: And I will do that. Thank
4 you.

5 Representative Edmonds, you are recognized
6 to continue.

7 REPRESENTATIVE EDMONDS: Thank you,
8 Representative Alexander. Thank you, Madam Chair,
9 and thank you, colleagues.

10 Again, in no form or fashion am I looking
11 to be offensive. I'm just trying to give historical
12 content. So all I'm saying is we went 119 years or
13 a 112 years without representation. If you vote yes
14 on this map, essentially you're going to set us back
15 to the era where we had no representation, or cut it
16 in half from --

17 (Applause)

18 Thank you. Thank you, members. So yes, we
19 are the South, but I hope that we can set a
20 precedence here to show people that it's not about
21 politics, it's about people. So I ask and urge all
22 of my friends, colleagues and members to vote down
23 this map, and let us come back and figure out a good
24 map. Thank you.

25 MADAM SPEAKER: Thank you. Representative

1 Willhite.

2 REPRESENTATIVE WILLHITE: Thank you, Madam
3 Speaker. Would you recognize Representative
4 Skidmore?

5 MADAM SPEAKER: Representative Skidmore in
6 debate.

7 REPRESENTATIVE SKIDMORE: Thank you, Madam
8 Speaker.

9 I do solemnly swear that I will support,
10 protect and defend the Constitution and government
11 of the United States and of the State of Florida,
12 that I am duly qualified to hold office under the
13 constitution of this state, And that I will well and
14 faithfully perform the duties of state
15 representative on which I am now about to enter, so
16 help me God.

17 We all said those words. I don't know what
18 supporters of this bill and this process have done
19 to justify this mockery to themselves. I can't
20 imagine what gut-check you did, what you said to
21 your reflection in the mirror. You know this is
22 unconstitutional. I know this is unconstitutional.
23 Your failure to uphold your oath and stand up to the
24 bully-in-chief is shameful. Straighten your spine
25 and vote no.

1 MADAM SPEAKER: Again, members, we are here
2 to talk about the policy of the maps and not to
3 discuss individuals in this chamber and their
4 motives or the vote that they're going to take. And
5 I ask you to respect that as we move forward so that
6 we can have a meaningful conversation about this
7 important topic in front of the State of Florida.
8 Representative Willhite, you are recognized.

9 REPRESENTATIVE WILLHITE: Thank you, Madam
10 Speaker. Would you recognize Representative
11 Eskamani?

12 MADAM SPEAKER: Representative Eskamani,
13 you're recognized in debate.

14 REPRESENTATIVE ESKAMANI: Thank you so
15 much, Madam Speaker.

16 I think the concern that many of us have is
17 that we feel like this map is offensive. And so for
18 those who subscribe to this map, you are,
19 unfortunately, subscribing to what we believe to be
20 a history that is dark and one that we should not
21 repeat.

22 And so with that said, with the few seconds
23 I have left, this does impact Central Florida. It
24 impacts minority access seat right in my community.
25 And I am very worried that the trajectory of this

1 state not only feeds into what is an
2 unconstitutional vision that benefits one party over
3 the other, but also erases the perspectives of
4 people of color. And I really ask you to take these
5 concerns seriously. Don't just toss them aside.
6 Thank you, Madam Speaker.

7 MADAM SPEAKER: Thank you. Time having
8 expired, Representative Grant, you're recognized.

9 REPRESENTATIVE GRANT: Thank you, Madam
10 Speaker. Would you please recognize Representative
11 Harding in debate?

12 MADAM SPEAKER: Representative Harding,
13 you're recognized in debate.

14 REPRESENTATIVE HARDING: Thank you, Madam
15 Speaker.

16 And members, if you served on the
17 Congressional Redistricting Committee, you may have
18 heard similar comments made yesterday in committee,
19 or two days ago. But one of the things that -- the
20 reason that I support this map is, first, I believe
21 it's a constitutional map.

22 Second, it's, there's a process. There's
23 been a process. We had committees. We ultimately
24 passed the map off this chamber. The Governor has
25 an ability to be able to veto that map. In

1 transparency, we have a map. We've been able to ask
2 questions, as Representative Tuck mentioned as well.

3 But probably the irony that I've seen is
4 that when we talk about process - yesterday we had
5 an amendment for map 8060. And it's interesting
6 because during the regular session not a single
7 member of the democratic caucus proposed a map. We
8 could all propose maps. None were filed. No
9 amendments were filed in the House.

10 And so my point is, on the process we've
11 had a process. Folks have chosen -- and that's
12 beyond my decision -- but folks have chosen in the
13 back rows to not propose maps. So my question is:
14 if we're going to talk about courage -- there was a
15 process to propose maps. And that was that that
16 makes me question what the point would be. I will
17 support these maps today. I urge all my colleagues
18 to do the same thing.

19 And on -- you know, coming back and being a
20 part of a special session, it's our job. When we
21 were elected to serve in the Florida House, our job
22 was to get things like this done. This has to be
23 done every 10 years. And if we've got to keep coming
24 back, if we have to be here for 10 days, that's what
25 it takes. But today we're going to vote on this

1 map. And I will be supporting it, and I urge my
2 colleagues to do the same thing.

3 MADAM SPEAKER: Members, we'll take a brief
4 moment to recognize newly former Representative Rene
5 Plasencia. Welcome back to the Florida house.

6 Leader Grant, you're recognized.

7 REPRESENTATIVE GRANT: Thank you, Madam
8 Speaker. Would you please recognize Representative
9 Beltran in debate?

10 MADAM SPEAKER: Representative Beltran,
11 you're recognized in debate.

12 REPRESENTATIVE BELTRAN: Thank you. Thank
13 you, Madam Speaker. Thank you, Leader Grant.

14 And I want to start off and thank everyone
15 for their good work on this. This was not an easy
16 process, but we've really gotten to a good product.
17 And as I've said before in committee and on the
18 floor, as bills move through the process -- and the
19 process doesn't always end here on our floor -- the
20 bills get better and better. And that's what we've
21 been able to accomplish here.

22 As we heard yesterday, we got really clean
23 lines. We divide counties fewer times; we follow
24 prominent geographic and political boundaries. And
25 we've continued to improve our product, and I think

1 we've done this in a fair and impartial way.

2 I want to address a couple of things that
3 were said by the opposition. The first is that some
4 sort of notion of erosion of checks and balances.
5 Well, let's go through what checks and balances are
6 and how that's worked in this process. We have a
7 give-and-take first within our committees, and then
8 with the Senate.

9 And we collaborate with the other chamber.
10 We have a give-and-take. We come to something we
11 can pass. We send it to the other chamber. They
12 send it to us, and then it goes to the Governor.
13 From there he examines it, looks at it. He signs it
14 or vetoes it. If it's vetoed it comes back. We can
15 do an override; we can pass something else. All of
16 that process has been followed up to this point.

17 And then when that's all over, then
18 anything you pass gets challenged in the courts.
19 And everyone has said on both sides that that's
20 probably going to happen. There's going to be some
21 litigation. They've already filed some cases. And
22 all of that's happened. That's exactly the way any
23 sixth grade civics student would expect checks and
24 balances to work. It's worked. Hasn't worked the
25 way it normally works. Hasn't worked to everyone's

1 liking, but checks and balances are working.

2 I mean, there's a lot of criticisms you
3 could make about redistricting -- generally, the
4 VRA, whatever it is. The fact that checks and
5 balances didn't work in this case, I mean, we spent
6 a lot of time on this. Checks and balances are
7 working, believe me. That's number one.

8 And then number two, there's this notion
9 that the Governor doesn't have some role in our
10 legislative process and that the Governor --
11 somebody said the Governor didn't elect us. Well,
12 okay, fair enough. The Governor didn't elect us.
13 Our constituents elected us, the same constituents
14 that elected the Governor.

15 And by the way, there's people who voted
16 for everyone in this room who voted for the
17 Governor. And I know that. I have people come up
18 to me. They say, you know, I voted for a Democrat
19 for legislator, and I voted for the Governor.

20 The Governor was elected to, among other
21 things, be involved in the legislative process as
22 we've discussed. The Governor's been involved. The
23 Senate's been involved. We've been involved. The
24 courts are going to be involved. The constituents
25 and stakeholders. They were able to come to the

1 committees and subcommittees and make their voices
2 heard. Everyone's got a voice in this process.

3 Whether it came out exactly the way anyone
4 wanted, you can't say that the process didn't work
5 or that the Governor -- somebody said the Governor's
6 meddling. He was elected to be the chief executive
7 of the state, and now he's meddling. I find that
8 the argument a little bit ridiculous.

9 And then there's another contradiction that
10 we have, which is a month or two ago we had a
11 product. It was passed off this floor. There were
12 criticisms of that product. And some of the
13 criticisms are the same criticisms that they're
14 making now. So when the leadership and the body do
15 something, they did what they thought was right.
16 They were trying to follow the laws they -- as they
17 thought it was at the time, or that they thought the
18 court would interpret it. And the opposition didn't
19 like that.

20 Then we go and we're doing -- we're taking
21 a different approach -- let's be honest about that
22 -- and then they're still not happy. So I don't
23 know if we're supposed to stick to our guns or do a
24 give-and-take with the Governor. It seems no matter
25 what we do, there's a criticism of the process.

1 And then there's the criticisms of the map
2 itself. During the very first block there were two
3 consecutive debates. One of them said they were
4 concerned about packing; somebody used the word
5 packing. The next debate -- another colleague in
6 the opposition was talking about diminishment.
7 Okay. Packing and diminishment are opposite sides
8 of the same coin. They're the opposite thing,
9 right. You either -- if you do too much, then it's
10 packing. You do too little, then it's diminishment.

11 Now, there -- I guess there's some
12 Goldilocks principle. It's not in the VRA. It's
13 not in fair districts. I don't know where this
14 Goldilocks principle is, but I guess legislatures
15 have to calibrate it exactly right. Where is that
16 principle? I don't know where that principle is.
17 The idea that folks are coming with that argument
18 just means that the entire thing is unadministrable.
19 Because neither I, nor the Governor, nor any Court
20 can ascertain what that standard is. And there's a
21 lot of case law. A lot of ink has been spilled
22 trying to ascertain that.

23 But let's talk about what the case law
24 says. The case law, the prevailing federal court
25 case law, basically comes with one proposition,

1 which is if you're going to take into account these
2 types of things that we're not supposed to take into
3 account -- it says, right there in the 14th
4 Amendment. These arguments have no support in the
5 14th Amendment, the text to the 14th Amendment. But
6 if you're going to do it anyway, it's got to be
7 narrowly tailored. You have to have a compelling
8 State interest, you can't have a sprawling,
9 geographic district, and you have to follow these
10 principles. You really have these exacting
11 principles.

12 And the last couple of federal Supreme
13 Court cases that have reviewed it have said no, the
14 State has not met that burden. Nowhere in that body
15 of the prevailing case law -- and I prefer to follow
16 the text of the Constitution. But if we want to
17 talk about case law, let's talk about case law. It
18 says if you really want to do it, you have to meet
19 these stringent criteria. Nowhere does it say that
20 you have to do it. Nowhere does it say that you
21 should do it. It says if you really want to do it,
22 you're going to be subject to these very stringent
23 criteria.

24 So the suggestion that there's some notion
25 out there that we have to do something that the

1 opposition is suggesting as opposed to just follow
2 geographic boundaries, draw without reference to
3 that sort of thing, try to do something fair, follow
4 our county lines and major roads, which we've done
5 in this product, I reject that proposition.

6 And the last thing I'll say is: there's a
7 suggestion by the opposition we follow a method. We
8 used to follow that method 50, 100 years ago. We
9 got bad results, okay. It was not the right thing
10 to do. That was not a good part of our country's
11 history. If we drew a school district the way folks
12 are suggesting we should draw a congressional
13 district, if we made a new county or a new
14 municipality in that way, if you did a CDD or you
15 made a -- you know, a private person tried to make
16 an HOA like that, you would be enjoined in federal
17 district court in about 35 seconds.

18 There's very few areas of governance where
19 people even suggest that we do this sort of thing,
20 and this is one of them. And I don't understand
21 why, because we don't do that in a variety of other
22 contexts. So I'd ask everyone to think about that
23 when they vote. Thank you.

24 MADAM SPEAKER: Representative Grant.

25 REPRESENTATIVE GRANT: Thank you, Madam

1 Speaker. We yield the remainder of our time in this
2 segment.

3 MADAM SPEAKER: Having yielded the time in
4 this segment, Representative Willhite, you're
5 recognized.

6 REPRESENTATIVE WILLHITE: Thank you, Madam
7 Speaker. Would you recognize Representative
8 Benjamin?

9 MADAM SPEAKER: Representative Benjamin in
10 debate.

11 REPRESENTATIVE BENJAMIN: Thank you, Madam
12 Speaker.

13 The 14th Amendment was enacted to protect
14 people like me, people who look like me. Because
15 our country during that time said that people who
16 look like me weren't worthy of citizenship, weren't
17 worthy of the rights that my ancestors slaved for.
18 We weren't worthy. And so Congress in its wisdom
19 sought to protect people like me. And in doing so
20 we breathed life into the 14th Amendment. And the
21 14th Amendment still wasn't good enough to confer
22 upon me the ability to be involved in my government
23 and select its leadership.

24 So we had to breathe life into the 15th
25 Amendment to ensure that we had the right to vote.

1 And in breathing life into that amendment we said
2 that we should not act in a way that would diminish
3 the ability of minorities to elect people to
4 represent them. And I make no bones about it. For
5 many of us that means electing someone who looks
6 like me. That's what it means - my ability to elect
7 someone who looks like me under the premise that
8 they share the same values as I and will come here
9 and speak truth to power.

10 And then Shelby came along and eroded that.
11 Shelby came along and said that although we had over
12 115 to 120 years of no black representation in
13 Congress, that in less than a century we have now
14 somehow been rehabilitated, and we should no longer
15 look at it. But then the people of Florida spoke in
16 fair districts, and the people of Florida said we
17 think is still important to protect representation
18 by minorities. And in Florida we will not diminish
19 that representation. These are common legal
20 principles.

21 Our federal government comes in through the
22 14th Amendment and sets the floor. It says that you
23 must do at least this. And it leads to the state
24 government's inability to regulate higher.
25 Sometimes that meant making more restrictive laws.

1 But in fair district it meant expanding protections,
2 it meant ensuring that the progress of people who
3 look like me wouldn't be diminished.

4 And that's what this map does. It's clear.
5 In 1877 we only had one member of Congress. In 1992
6 we went to three. Today we have five. After today
7 we will only have two. Florida says that we should
8 keep moving forward. Stop setting us back. Let us
9 move forward. Black votes matter. Black voters
10 matter. Black representation matters. I matter; my
11 colleagues matter. Vote down on this bill.

12 MADAM SPEAKER: Representative Willhite.

13 REPRESENTATIVE WILLHITE: Thank you, Madam
14 Speaker. Would you recognize Representative
15 Diamond?

16 MADAM SPEAKER: Representative Diamond in
17 debate.

18 REPRESENTATIVE DIAMOND: Thank you, Madam
19 Speaker.

20 Members, our founding fathers were very
21 worried about the dangers of power. They understood
22 the corrupting nature of power. President George
23 Washington in his farewell address of 1796 warned
24 about how the corrupt and powerful can try to
25 manipulate government. He warned that "cunning and

1 vicious and unprincipled men will be enabled to
2 subvert the power of the people and to usurp for
3 themselves the reins of government, destroying
4 afterwards the very engines which had lifted them to
5 unjust dominion."

6 Because of these concerns of the dangers of
7 unchecked power and the recognition that power
8 corrupts, the founders sought to find ways to check
9 it, and that, obviously, goes to the heart of the
10 problem we have with this map.

11 We have a duty to do this work. We the
12 Legislature. We do. Not the Governor. We do. And
13 we have a duty to the people who we serve. And we
14 have a duty to follow the law, the fair districts
15 amendment of our state constitution, which was
16 designed to restore the core principles of
17 republican government; that the voters should choose
18 their representatives and not the other way around.
19 We have a constitutional duty under that provision
20 to ensure that the maps that we pass off this floor
21 were not drawn with partisan intent. That is a Tier
22 1 standard.

23 So what do we know? There are a few things
24 we know, but only a few things. We know that this
25 map was drawn by the Governor's office with the help

1 of his consultants and lawyers. We know that this
2 map was not drawn by our committee's professional
3 staff. We know that this map was not drawn under
4 the supervision of our esteemed chairman,
5 Representative Leek. We know that this map will
6 pass this Legislature with less than 48 or 72 hours
7 of scrutiny in a special session in which this
8 body's own Redistricting Committee did not even meet
9 to consider it. We know that this map will pass
10 with no meaningful opportunity for public comment or
11 feedback.

12 We know that this map has been reported to
13 produce a delegation from this state to Washington
14 of at least 20 Republicans to 8 Democrats. So
15 Republicans would hold over 70 percent of this
16 state's congressional seats in a state that Donald
17 Trump carried with only 51 percent of the vote. We
18 know that this map is riddled with internal
19 inconsistencies. And we know we've had very little
20 time to ask questions about those inconsistencies.

21 So I'm outraged, members. I'm outraged
22 that this is the final product of so much work. I'm
23 outraged by the attack, as my colleagues have so
24 eloquently expressed, on our black representation in
25 Congress, on the attack on our Voting Rights Act, on

1 our willingness to ignore the requirements of
2 federal law. Members, our duty is to follow the
3 law, not to ignore it.

4 A federal judge who struck down Senate Bill
5 90 recently wrote, "At some point when the Florida
6 Legislature passes law after law disproportionately
7 burdening black voters, this court can no longer
8 accept that the effect is incidental."

9 Black voters matter. Black representation
10 matters. There is a history in this country, as my
11 colleagues have so eloquently described as systemic
12 discrimination, and that is what the United States
13 Voting Rights Act is designed to protect. So
14 members, we are abdicating our duty to the people we
15 have been elected to serve. Please vote no on
16 today's map. Thank you.

17 MADAM SPEAKER: Representative Willhite.

18 REPRESENTATIVE WILLHITE: Thank you, Madam
19 Speaker. Would you recognize Representative
20 Woodson?

21 MADAM SPEAKER: Representative Woodson in
22 debate.

23 REPRESENTATIVE WOODSON: Thank you, Madam
24 Speaker.

25 Colleagues, we are here to do what's right.

1 And we know what is right. The three branches of
2 government, as mentioned earlier, they were
3 established for specific reasons. We know there is
4 something called the separation of powers. And we
5 all are here. We are smart enough to know exactly
6 what that means.

7 As you know, every time I stand here -- I
8 don't stand up on all hearings that we have here in
9 these chambers, but something that important I have
10 to stand up and speak on behalf of the people who
11 elected me. And you know that I am from Haiti -
12 Haiti, where people do not respect laws. They would
13 -- do not respect rules. And I know this is
14 something that we know, that we respect laws and
15 rules. And by not respecting laws and rules, I
16 ended up coming here being of service to the people
17 of these beautiful United States of America, where
18 the State of Florida is where I choose to reside.

19 I have a 13-year old who is looking to
20 become a state legislator. And I have explained to
21 him our duties, the Governor's duties, everyone's
22 duties. And you know, he called me yesterday. And
23 what he said to me was appalling. He said, "You
24 have lied to me." I said, "No. I did not lie to
25 you. I told you the truth. We are responsible to

1 draw these maps, to discuss these maps, to meet each
2 other halfway, to vote on these maps and submit
3 those maps to the Governor to either approve them or
4 veto them. And once they are vetoed, the court
5 would take over." And he said to me, "Are we doing
6 our job, the job that the people of the state of
7 Florida elected us to do?" I'm talking about a
8 13-year old.

9 So members, we have a duty. If we vote yes
10 on this map today, we are telling the voters that
11 the Fair District Amendments do not matter. We said
12 no thanks to accountability and to fairness, which
13 is what legislators -- as legislators we're supposed
14 to do.

15 Members, you are about to make a mistake,
16 and you have time to do what's right. You want to
17 go down and history as someone who have done what's
18 right. And I'm not going to be long-winded, because
19 we have heard from all the members, from all those
20 who have spoken. But I'm going to leave you with
21 one thing. In the words of Maya Angelou, "Just do
22 right. Right may not be expedient. It may not be
23 popular" -- she said may not be profitable, but I'm
24 going to say it may not be popular -- "but it will
25 satisfy your soul." Let's try to live our lives by

1 a way that we will not regret. And I'm asking you,
2 please, let's do right by the people of Florida who
3 have elected you to serve in these chambers. Thank
4 you.

5 MADAM SPEAKER: Representative Willhite.

6 REPRESENTATIVE WILLHITE: Thank you, Madam
7 Speaker. Would you recognize Representative
8 Bartleman?

9 MADAM SPEAKER: Representative Bartleman in
10 debate.

11 REPRESENTATIVE BARTLEMAN: My first morning
12 here I attended a rally on the old Capitol steps. As
13 I waited for it to begin, I sat with an elderly
14 black woman. I saw the pain on her face. This
15 woman grew up in the Jim Crow era. She fought to
16 ensure that her grandchildren grew up in a different
17 world. She saw progress. And after today, she will
18 see the clock turn back, and she will be denied
19 representation.

20 History shows us that there were people in
21 America who lived different experiences like that
22 woman. I am here to be a voice for all Floridians
23 and ensure that everyone has equal representation.
24 Patrick Henry in May of 1765 laid out the taxation
25 without representation argument. This chamber spent

1 a year drawing a map to meet the U.S. and Florida
2 constitutional standards to ensure fair
3 representation for all, and that map was vetoed.
4 This chamber has always recognized the importance of
5 fair representation. There is a plaque right
6 outside those doors commemorating the black members
7 of the house during the period of the reconstruction
8 and redemption era, and all of their names are
9 listed.

10 I understand why this Legislature has
11 abdicated its duty to draw the map. Who wants to
12 unknowingly -- who wants to knowingly draw an
13 unconstitutional map? We spent a year discussing
14 Tier 1 and Tier 2 guidelines, and now we are voting
15 on a map that clearly violates everything we fought
16 for and discussed. In fact, it is intentionally
17 inconsistent. How can south Florida districts be
18 drawn with Tier 1 adherence and other parts of the
19 state drawn differently with different guidelines?

20 I am that woman's voice. We are that
21 woman's voice. This map diminishes minority
22 representation. It's internally inconsistent, and
23 violates our constitution. I urge everyone to stand
24 up for that woman and all Floridians and vote no.

25 MADAM SPEAKER: Having concluded this

1 segment, Representative Grant, you're recognized.

2 REPRESENTATIVE GRANT: Thank you, Madam
3 Speaker. Would you please recognize Representative
4 Robinson in debate?

5 MADAM SPEAKER: Representative Robinson,
6 you're recognized in debate.

7 REPRESENTATIVE ROBINSON: Thank you, Madam
8 Speaker.

9 And look, members, I'll be brief today. I
10 don't always trust members when they say that, but I
11 will be brief. I couldn't help notice yesterday
12 there were a lot of questions about whether we
13 elevated Tier 2 standards over to Tier 1 standards.
14 We also heard this line of questioning in the
15 subcommittee, and I want to say firmly that that has
16 never been the case. Tier 1 always outranks Tier 2.
17 And in my opinion, that is firmly true in this map
18 before us.

19 Yesterday members also said, "Why are we
20 only hearing about Tier 2? Where's Tier 1?" Well,
21 let's just put that into context really quick. The
22 vast majority of the districts asked about yesterday
23 are not Tier 1 protected districts. Maybe that's
24 why. It's true, there were questions about
25 Congressional District 26, and Congressional

1 District 26 is a Tier 1 protected district. And
2 even though that district was a bit different than
3 the map that we approved a few weeks ago, Chair Leek
4 explicitly said that the House performed a
5 functional analysis to make sure that district still
6 performs.

7 So members, it seems to me that we actually
8 did hear a lot about Tier 1. There are just many,
9 many more Tier 2 items to be discussed, as they were
10 yesterday. To me it's that simple.

11 And finally, members, I believe in this
12 process. I believe in the process that we have
13 followed. I believe in this map, and I urge your
14 favorable support.

15 MADAM SPEAKER: Representative Grant.

16 REPRESENTATIVE GRANT: Thank you, Madam
17 Speaker. Would you please recognize Representative
18 Latvala in debate?

19 MADAM SPEAKER: Representative Latvala,
20 you're recognized in debate.

21 REPRESENTATIVE LATVALA: Thank you very
22 much, Madam Speaker.

23 Members, I grew up in Jacksonville, and the
24 first time I was eligible to vote was in 2000.
25 Shortly thereafter, I moved to Orlando to go to

1 school, and I discovered that I was in the same
2 congressional district in both Jacksonville and
3 Orlando. So I did some investigation, and I
4 realized that that congressional district was a
5 skinny line that went from Jacksonville to Orlando
6 and literally had one side of the road in some parts
7 but not the other side of the road, which I thought
8 was ridiculous. And I then found out that it was
9 not drawn by the Republican Party. But that was the
10 definition of gerrymandering.

11 And you know, there's been a lot of talk
12 about minority districts, and a lot of talk about
13 getting rid of minority representation. One thing I
14 have not heard mentioned is a former member of this
15 chamber, who is now in Washington, who is a black
16 man, and that is Representative -- now Congressman
17 Byron Donalds. I believe that his voice matters,
18 his vote matters, and I believe that his
19 constituents who have elected him to Congress in Lee
20 County also agree with that. So thank you.

21 MADAM SPEAKER: Representative Grant.

22 REPRESENTATIVE GRANT: Thank you, Madam
23 Speaker. We yield the remainder of our time.

24 MADAM SPEAKER: Having yielded the
25 remainder of their time, Representative Willhite,

1 you're recognized.

2 REPRESENTATIVE WILLHITE: Thank you, Madam
3 Speaker. Would you recognize Representative
4 Robinson?

5 MADAM SPEAKER: Representative Robinson F.,
6 you're recognized.

7 REPRESENTATIVE FELICIA ROBINSON: Thank
8 you, Madam Speaker.

9 As I've been sitting here for the last two
10 days listening, I wonder. Where is the consistency?
11 Where is the following the process with these
12 congressional maps? Why do we continue to change
13 the rules to work for a select group of Floridians?

14 Let's look at the maps. These maps -- or
15 this map that we're looking at today has very
16 defined boundaries when it comes to CD 4 and CD 5 of
17 St. Johns River. It was drawn very clearly, and it
18 was pointed out by the drawer of the map that he
19 made sure that he made these clear boundaries so
20 that residents would know their boundaries. The
21 water is a clear mark.

22 However, when it comes to CD 13 and CD 14,
23 these districts don't follow those guidelines.
24 Tampa Bay is water, but it's not used as a clearly
25 defined boundary for that district. That district

1 actually cuts across the water. Why? Is it that
2 these residents, those Floridians in those districts
3 don't need clearly defined boundaries? It's an
4 inconsistency.

5 This map has explicitly been stated as the
6 Governor's map. The Governor stated in the past
7 that districts should be more than -- should not be
8 more than 150 miles. However, when we look at CD 18
9 and CD 2, both are more than 150 miles; again
10 inconsistent.

11 The Legislature has a process, and I
12 believe one of my colleagues says that I believe in
13 the process. I believed in the process too, when we
14 follow it. From my understanding, the process is
15 that legislation is to be heard in the subcommittee,
16 then the committee, before coming to the floor.
17 Well, we heard this one in the subcommittee, but not
18 in the full committee. We were told when money is
19 attached, it's supposed to go to the Appropriations
20 Committee. We didn't do that, inconsistent again.

21 If we have a process and we are supposed to
22 believe in the process -- and me being an educator
23 and we teach children what the process is, because
24 they're supposed to be their future -- why can't we
25 just follow the process, if the process is what

1 we're supposed to, you know, do?

2 Basically, this is just not right.

3 Floridians deserve to have the same process applied
4 to all legislation. The same process should be
5 applied to all districts. Let's stop picking and
6 choosing. For decades we have told people that
7 their vote was their voice. For our brown and black
8 communities, they have begun to take that to heart,
9 and they've taken that very seriously. In this past
10 election, our already marginalized communities
11 exercised their right to vote in mass numbers. And
12 I believe that's why we have this type of the map.
13 And the Governor's reaction -- or our reaction is to
14 create a congressional map to minimize voting
15 districts with people of color to show that brown
16 and black votes don't matter.

17 The dismantling of districts, constant
18 attempts to whittle away our rights in an effort to
19 make it harder for everyday working people to vote,
20 blatantly tells me that our votes do matter. And
21 that's why they're strategically trying to stop
22 that. But what it really says is that, again, our
23 votes matter. And it -- and they're trying to make
24 it harder for us to get to the precincts, or to
25 split districts. We know that this dilutes our

1 voice. I'm speaking to the people now; don't let it
2 happen. As a lawmaker and an educator and a
3 lifelong voter, this really sickens me and it angers
4 me. So I hope that we'll get it right.

5 And the last thing I want to say is, before
6 I got on the floor today I called back home, and I
7 talked to my mom. And her and her seniors -- we
8 call them the golden seniors. They are praying for
9 you all to make the right decision.

10 MADAM SPEAKER: Representative Willhite.

11 REPRESENTATIVE WILLHITE: Thank you, Madam
12 Speaker. Would you recognize Representative
13 Huschofsky?

14 MADAM SPEAKER: Representative Huschofsky,
15 you're recognized in debate.

16 REPRESENTATIVE HUSCHOFSKY: Thank you,
17 Madam Speaker.

18 I want to preface and start off by saying I
19 absolutely love being a member of the State House of
20 Representatives. I feel incredibly honored that the
21 voters in my community elected me to be here to
22 represent them. I take this job incredibly
23 seriously. I am the daughter of two immigrants. My
24 dad actually served in the Army Reserves before he
25 ever became a citizen. This means something.

1 I was super excited when I was put on the
2 Congressional Redistricting Subcommittee because
3 this is a once in a decade process. This is the
4 core of what we do. And I followed all the rules
5 that were given to us. So I want to be clear.
6 They're not my rules. They're the rules that staff
7 gave to us, and we were told over and over again of
8 the rules we need to follow. Not talking to anybody
9 outside about the maps, not going on social media
10 and discussing the maps, but following the Tier 1
11 and the Tier 2.

12 And the Tier 1 that was drilled into us
13 regularly during the committee weeks was that
14 districts shall not be drawn with the intent or
15 result of denying or abridging the equal opportunity
16 of racial or language minorities to participate in
17 the political process or to diminish their ability
18 to elect representatives of their choice. Tier 1.

19 We were part of this process. We were told
20 to talk to staff, leadership. And we did all of the
21 things we were told to do. This map doesn't do
22 those things. We presented an amendment yesterday
23 that was not taken up by this body that was passed
24 in a bipartisan manner that still had CD 10 and CD 5
25 as protected seats under Tier 1 protection. I'd

1 like to add that that bill did not have in a million
2 dollar appropriation to fight legal challenges, and
3 it also did not change the venue to Leon County for
4 any legal challenges. But that's what this bill
5 does. That's what this map does.

6 Secondly, we were told you have to focus on
7 Tier 1 before you can look at Tier 2. I am a former
8 local elected official. I love my cities and my
9 city people. So for me, keeping cities whole was
10 important, but it was not more important than Tier
11 1. In Tier 2 standard it says, "districts shall,
12 where feasible" -- not mandatory, but where feasible
13 -- "utilize existing political geographical
14 boundaries." Yet we have decided which boundaries
15 we're going to pick. The St. Johns River, we don't
16 want to cross that for whatever reason. Yet Tampa
17 Bay, it's okay to cross.

18 So I bring all this up because I want to be
19 very clear. These are not my rules; these are not
20 my standards. These are the law. These are the
21 standards we were given. We followed it in every
22 subcommittee meeting. We brought our concerns to
23 leadership, to staff on every meeting. And yet,
24 here we are with a map that does not follow the
25 standards we were told to follow. And for that

1 reason I will be voting no.

2 MADAM SPEAKER: Representative Willhite.

3 REPRESENTATIVE WILLHITE: Speaker, will you
4 recognize Representative Humphrey?

5 MADAM SPEAKER: Representative Humphrey,
6 you're recognized in debate.

7 REPRESENTATIVE HUMPHREY: Thank you so very
8 much, Madam Speaker.

9 Father, guide my words and deliver my
10 thoughts in a manner that is heard and just.

11 Forgive me, Floridians for not working
12 harder to ensure that my colleagues heard my
13 thoughts in reference to voting against our maps
14 that we passed out.

15 Chair Leek, and to our solid redistricting
16 team, I should have passed out from trying, because
17 I saw this crap coming.

18 When I got here the evenness and the
19 balance of our executive branch, our judicial
20 branch, and our legislative branch is what guided me
21 and balanced out the reason I fight the way I fight,
22 when I saw that each branch of government was
23 balanced.

24 I stood up against one of the branch
25 members when I disagreed with how they decided to

1 use their executive power. They came after me and
2 tried to take me out in the 2020 elections, but I
3 knew I knew that me standing up was the right thing
4 for me to do as a legislative branch member. I
5 implore you today to understand that we are indeed
6 separate from the executive branch. And I
7 apologize, because I did not stand with my
8 colleagues when I should have as a legislative
9 branch member.

10 But today I say to you that we are not
11 doing what is just and right for the people of
12 Florida. I feel as if I have failed because I
13 didn't speak to just all my colleagues. I always
14 spoke to my policy person and about five of my other
15 colleagues. I said that this was going to happen.
16 It fell on deaf ears because we were trying to be
17 partisan instead of thinking about Florida.

18 Well, my colleagues, you now are in a
19 similar position, because now you are deciding
20 what's best for Florida. But will you be partisan
21 in your delivery, or will you be stronger than me
22 and do what's right against this executive branch's
23 will?

24 I have three nieces: Zoe (phonetic), 13;
25 Callie (phonetic), 7, and Sonai (phonetic), 1.

1 Callie, the 7-year old, when I got elected to
2 office, or -- I got in early. I was confirmed as a
3 state representative elect on qualifying day. And
4 Callie took me into the bathroom like -- which is
5 common for her -- and asked me, "What the heck does
6 it mean, Aunty Nica, to be a state representative?"
7 And I went through all these analogies for Callie.
8 I told her, "Well, I'm going to make laws, and I'm
9 going to help balance the budget, and I'm going to"
10 -- and Callie said, "What does it really mean?" And
11 I said, "Callie we're going to learn together.
12 We're going to learn together what it means for me.
13 And every time I learn something, I'll tell you
14 something more."

15 Callie doesn't understand what the heck is
16 going on, and she's brilliant; she tested gifted.
17 And I'm sure that when they test her again, she'll
18 probably be on the spectrum of something amazing
19 because that's who she is. She came here with me
20 when I got sworn in. She sat right next to me, and
21 she heard when I took my oath of office.

22 So it's back in your hands now. I failed.
23 But I'm looking forward to my colleagues not failing
24 the State of Florida. We have our duty as
25 legislators to do what is right for Floridians,

1 regardless of our party affiliations.

2 MADAM SPEAKER: Representative Willhite.

3 REPRESENTATIVE WILLHITE: Will you
4 recognize Representative McCurdy?

5 MADAM SPEAKER: Representative McCurdy in
6 debate.

7 REPRESENTATIVE MCCURDY: Thank you, Madam
8 Speaker.

9 I want to talk to the people at home.
10 Hello, black Floridians at home today that's
11 watching this. The Florida house is about to cut
12 your representation by 50 percent before lunchtime.
13 We shouldn't be in here begging for representation
14 in 2022 or begging you to not diminish minorities'
15 ability to elect representatives of their choice.
16 Alarming, but not that all surprising. Being
17 elected to the Florida Legislature is the one job
18 that you can have in this state. Come to work, and
19 then refuse to do your job.

20 You've heard over and over that the state's
21 Constitution directs the Legislature, directs the
22 Legislature, directs the Legislature to redraw
23 district boundaries. And this charade playing out
24 today will further negatively impact people, people
25 that I represent; people that look like me; people

1 that talk like me; people that struggle like me;
2 people that already don't have. And we're trying to
3 take more away from them.

4 What this body is saying is that people
5 that already don't have, won't have. People already
6 that -- people that already don't have opportunities
7 won't have representation now. I've had enough of
8 being kicked around in this building, in this
9 chamber, and still being expected to smile and shake
10 your hands and engage in conversation with the same
11 people who are trying to oppress my people.

12 In the words of the late Congressman John
13 Lewis, "Where is the heart of this body? Where is
14 our soul? Where's our more leadership? Where's our
15 courage?" Today it's not in this chamber. By
16 lacking the courage to stand up to Governor
17 DeSantis, his bullying, reject his political games,
18 and uphold our duty as legislators who draw
19 constitutional maps, we have totally failed the
20 people of this state. Vote no.

21 MADAM SPEAKER: Time having expired, Leader
22 Grant, you're recognized.

23 REPRESENTATIVE GRANT: Thank you, Madam
24 Speaker. Please recognize Representative Fine in
25 debate.

1 MADAM SPEAKER: Representative Fine, you're
2 recognized in debate.

3 REPRESENTATIVE FINE: Thank you, Madam
4 Speaker.

5 It's been fascinating to watch this
6 process, and I want to thank the speaker and Chair
7 Leek for allowing me to be the Vice Chair of the
8 full Redistricting Committee. We spent months
9 learning about the law, Tier 1 and Tier 2. I've
10 learned more about redistricting case law than I
11 ever thought I would. It's reconfirmed my belief
12 that I'm very glad that I turned down the
13 opportunity to become a lawyer from my alma mater.
14 And I'm glad I did not go through that process, very
15 much so.

16 You know, there was an allegation yesterday
17 that's frankly brought through today that there was
18 an abrupt change in philosophy, presumably in the
19 configuration of the districts. We've abruptly
20 changed at the behest of the Governor. That's
21 something I'll talk about a little bit. What
22 strikes me as odd though is yesterday in all the
23 time we had for questions, there wasn't one about
24 the Governor's veto or his General Counsel's
25 testimony from committee this week.

1 Now, it's a novel legal question. I don't
2 think there's any debate that there is unresolved
3 legal issues that are going to have to be resolved.
4 And by the way, the maps we pass before I believe
5 had already been heading for the courts. But with
6 any novel legal question, there's going to be many
7 unanswered questions. This is only the second
8 redistricting cycle since the constitutional
9 standard. Courts providing clarity is part of the
10 process.

11 And by the way, there are many people who
12 believe that when that 2016 map was finished for the
13 2010 redistricting, that it was unconstitutional for
14 the same reasons we're going in a different
15 direction today. You know, however, even though
16 there was zero questions of clarification, not a
17 single one, there was plenty of rhetoric, and it's
18 continued today, alleging the definitive
19 unconstitutionality of those districts and in turn
20 the disparagement of a community. Maybe it's a
21 facade. It's inauthentic line of questioning set up
22 for alternative purposes. Perhaps it's set up for
23 future plaintiffs or just to perpetuate a hateful
24 message.

25 So I'd like to talk about three things that

1 relate to that. The first is: we got to hear a
2 recitation of the oath that we swore when we got
3 elected to follow the State Constitution and the
4 U.S. Constitution. I'd encourage people to go back
5 and take a look at the U.S. Constitution, because
6 many of you don't appear to know it, lawyers and
7 all.

8 See, we do not live in a parliamentary
9 democracy where the percentage of people who look
10 like you, or act like you, or think like you
11 determine your representation. If you want that,
12 there are other countries you can move to where they
13 aggregate the votes of the entire area and then they
14 assign that percentage to seats in their
15 Legislature. That's not how it works here.

16 But I also want to talk about the inherent
17 racism in the concept that many of you support, when
18 you say that minorities have the right or any group
19 has the right to elect the candidates of their
20 choice. I want to use one example from the maps
21 that we passed before, because I remember it.

22 The Jacksonville District that we talked a
23 lot about before, I remember the staff, as I was
24 reviewing it, telling me that it was 35 percent
25 black -- the seat, you know, that would be right

1 there in the middle of Duval County, 35 black, and
2 that would be enough to guarantee the selection of
3 the candidate of their choice.

4 I want you to think about what that means.
5 It means the other 65 percent don't get a say at
6 all. See, when we guarantee that a group of people
7 gets to select the candidate of their choice, what
8 we're saying is we're guaranteeing those who aren't
9 part of that group get no say. Chew on that one for
10 a little bit.

11 The second thing that I find a little bit
12 hateful is the notion that we violate separation of
13 powers. That we're mindless automatons of the
14 Governor. I would remind all of you that the vast
15 majority of us in the front rows voted against what
16 the Governor -- we were in this room debating the
17 maps when he put out the message saying, "I will
18 veto what you are going to do." He sent it out in
19 Twitter while we were here having that discussion.

20 Very few people in this room have worked as
21 closely with that team downstairs on various issues
22 as I have, and yet I voted against it. We are not
23 mindless automatons. We don't do this because we
24 are bullied. We do this because we think it is
25 right.

1 And lastly, I would like to remind us of
2 history. Because as my good friend, Rep. Alexander,
3 reminded us, history is appropriate to share. And
4 there is a shameless history -- shameful history
5 where there was an effort after reconstruction to
6 make sure that certain groups of people had no say
7 in the process.

8 In 1875 reconstruction ended in Florida,
9 and it was not the Republican Party that was put in
10 charge. In 1880 redistricting was done in this
11 state to disenfranchise minorities, and it was not
12 the Republican Party. In 1890 redistricting was
13 done to disenfranchise minority voters, and it was
14 not the Republican Party. In 1900 it was not the
15 Republican Party. In 1910, and 1920, and 1930, and
16 1940, and 1950, and 1960, and 1970, and 1980 and
17 1990, all those shameful years that you all want to
18 remind us of, it wasn't the predecessors of folks in
19 the front rows who came up with those maps.

20 Today we pass maps that are constitutional.
21 And they will be litigated, and we will learn
22 whether the 14th Amendment of the U.S. Constitution
23 reigns supreme over the Florida State Constitution.
24 That is the discussion at hand. There are some very
25 smart lawyers in this room that I respect quite a

1 bit, who told me that they think that will happen.
2 I'm going to trust them. I believe these maps are
3 constitutional, and I encourage all of you to vote
4 for them.

5 MADAM SPEAKER: Representative Grant.

6 REPRESENTATIVE GRANT: Thank you, Madam
7 Speaker. We yield the remainder of our time in this
8 segment.

9 MADAM SPEAKER: Okay. Thank you. Having
10 yielded the time, Representative Alexander to give a
11 point of order.

12 REPRESENTATIVE ALEXANDER: Just a point of
13 clarification to the body, I would like to put in
14 the record the word neo-conservatism for the record.

15 MADAM SPEAKER: Representative Willhite,
16 you're recognized.

17 REPRESENTATIVE WILLHITE: Thank you, Madam
18 Speaker. Would you recognize Representative
19 Learned?

20 MADAM SPEAKER: Representative Learned,
21 you're recognized.

22 REPRESENTATIVE LEARNED: Thank you, Madam
23 Speaker.

24 And thank you, you know, to the clerk's
25 office for making sure we had the time stamp on the

1 on the board today. I think it's important we have
2 the date up there, because I honestly -- based on
3 the last debate I wouldn't know if it's 2022 or 1965
4 with the debate against the abolishment of the
5 Voting Rights Act that we just heard.

6 You know, I'm a simple trigger puller. And
7 I'm certainly not a Harvard-educated lawyer, so I
8 have no idea what any of that means. But what I do
9 know is you all found a way to divide and carve a
10 50/50 state into a 22 to 8 partisan gerrymander.
11 That's what's before us right now. And you found a
12 way to cut minority representation in half at the
13 same time. The outcome speaks louder than your
14 words.

15 People should choose their representatives,
16 not politicians choosing their voters. This flies
17 in the face of the U.S. Constitution, the Florida
18 Constitution, and more importantly, every democratic
19 ideal that we hold dear.

20 When gerrymandered districts make
21 legislators more afraid of primaries than they are
22 of general elections, you end up with folks fighting
23 TV, CNN and Fox News over who can be more divisive.
24 And we saw how that resulted on January 6th of last
25 year.

1 St. Petersburg and Tampa are two different
2 cities. This idea that water makes it contiguous
3 and satisfies a math formula is absurd. Manatees do
4 not vote. This map is a blatant partisan
5 gerrymander. It is designed so the Governor can
6 raise money in California and New York and solidify
7 his primary chances against former President Trump,
8 and he's willing to put black voters in the state of
9 Florida under the bus to do it.

10 MADAM SPEAKER: Representative Willhite.

11 REPRESENTATIVE WILLHITE: Thank you, Madam
12 Speaker. Would you recognize Representative Joseph?

13 MADAM SPEAKER: Representative Joseph in
14 debate.

15 REPRESENTATIVE JOSEPH: Thank you, Madam
16 Speaker.

17 Florida is made up of a beautiful mix of
18 peoples, from our Native American communities, the
19 descendants of colonial settlers, the descendants of
20 enfranchised slaves, and a multi-partisan,
21 multicultural group of immigrants who come here all
22 the time. Our Representatives should be reflective
23 of that diversity to ensure that all of our voices
24 are heard. Those closest to the pain should be
25 closest to decision making. And no one knows our

1 communities better and the pain better of those
2 communities than those experiencing those pains.

3 So rather than accepting the gerrymandering
4 that had been done by politicians, carving up our
5 communities to silence the voices from and deny
6 resources to certain communities, Florida voters,
7 Democrats and Republicans, voted to amend our
8 constitution to require that we draw Fair Districts.
9 But right now the GOP has the power, and we get
10 that. But there's no need to cheat. You really
11 don't need to stack the deck.

12 By sacrificing black representation on the
13 altar of the Governor's political ambition, we are
14 now stacking the deck 20 to 8, and have the gall to
15 say that somehow this is not partisan. The
16 Governor's map blatantly favors his political party;
17 but not for the benefit of Republicans, certainly
18 not for Democrats, and absolutely not for the people
19 of Florida, but rather to continue to ignore the
20 pains of the people of Florida in favor of lining
21 campaign coffers and financial interests of friends.
22 He claims it's supposed to protect us from
23 discrimination, but does so by discriminating
24 against black representation. But the funny thing
25 is his maps were still able to protect Hispanic

1 districts just fine.

2 I'll just end with this. Rather than
3 drawing districts that divide us or silence our
4 voices based on what we look like, our ZIP code
5 might be, how much money we have, what language we
6 speak, black representation matters. And Floridians
7 deserve maps that represent all of us, not some of
8 us.

9 MADAM SPEAKER: Representative Willhite.

10 REPRESENTATIVE WILLHITE: Thank you, Madam
11 Speaker. Would you recognize Representative
12 Thompson?

13 MADAM SPEAKER: Representative Thompson in
14 debate.

15 REPRESENTATIVE THOMPSON: Thank you, Madam
16 Speaker.

17 Members, I shared with you the words of
18 Frederick Douglass before in this chamber, who said
19 that "I will work with anybody to do right and with
20 nobody to do wrong." And this map is wrong. I
21 shared with you Florida's history of poll taxes;
22 that was wrong. And the history of literacy tests;
23 that was wrong. Grandfather clauses that were
24 wrong. Intimidation of African-American voters;
25 that was wrong. Violence, people having their homes

1 blown up, people being lynched because they wanted
2 representation and they wanted to vote, that was
3 wrong. And this map compounds the problem, and that
4 is wrong.

5 This may be abstract for many of you, but
6 it's flesh and blood to me. Because I have worked
7 with Carrie Meek, I worked with Alcee Hastings, with
8 Corrine Brown; the three people who had to bring a
9 lawsuit, by the way, to be the first African
10 Americans since reconstruction to go to Congress.
11 And that was in 1992, 30 years ago, not ancient
12 history.

13 Last year I went to the funeral of Carrie
14 Meek. I had a chance to visit with Representative
15 Robinson, Representative Woodson, while I was in
16 Miami. And a lot of people were there. Carrie Meek
17 was eulogized by Congressman James Clyburn. Steny
18 Hoyer spoke at her funeral, as did Joyce Beatty, the
19 chair of the Congressional Black Caucus. Frederica
20 Wilson spoke at the funeral, and she reminded people
21 of a time in the Florida Legislature when
22 Republicans and Democrats, blacks and whites, worked
23 together for the good of the State of Florida. She
24 told us about Carrie Meek and Don Gaetz setting up a
25 system of hospice. And hospice was where Carrie

1 Meek spent her last days. Blacks and whites working
2 together. This is not abstract for me; this is
3 flesh and blood.

4 And I will not sit here today and dishonor
5 the sacrifices, the struggles, all of the things
6 that those individuals did to give us three seats in
7 the United States Congress, and today we have four.
8 And this map, which is wrong, would take us to two.
9 We should not compound the problem.

10 I also shared with you the words of
11 Dr. King who said that, "A man can't ride your back
12 unless it's bent." And so I'm standing tall today.
13 I'm standing straight today, and I will not bow to
14 the ego, to the ambitions of one individual who
15 wants to take us back.

16 Now, it's not about the color of the skin.
17 It's about the lived experience of people who
18 understand that the poor will always be with us, as
19 is said in the Bible. They understand that health
20 care is disproportionately available in certain
21 communities. They understand quality affordable
22 housing is not available in certain communities.
23 They understand about Pell Grants and the need to
24 fight for education in certain communities. They
25 understand the need for economic development in

1 certain communities. And so it's not about skin
2 color; it's about lived experiences and bringing
3 that perspective.

4 As human beings we tend to have the kind
5 of, I guess, blindness that if it hasn't happened to
6 me, it doesn't exist. And when you look at
7 financial disclosures of people in the legislative
8 process, you understand people come from very
9 privileged backgrounds, in Congress and in this
10 body. And you need the perspective of people who
11 are willing to go outside and to mix with the folks
12 whose voices are not heard here in this chamber.
13 And so you need African Americans in Congress.

14 To the credit of this body, you all
15 followed Tier 1 when you drew the legislative seats.
16 We talked about the 30 seats that were established
17 after the 2010 census. And you made sure that there
18 was no diminishment, that there was no abridgment of
19 equal opportunity to elect a candidate of their
20 choice. Now, we didn't get any more than 30, but we
21 didn't get less than 30. So why is it all right in
22 this map to have less than the four that we had when
23 we began?

24 I want you to stand up. I won't bow. I'm
25 hoping you'll stand with me. I hope you'll stand

1 tall. Because a man cannot ride your back unless
2 it's bent. Thank you.

3 (Applause)

4 MADAM SPEAKER: Representative Willhite.

5 REPRESENTATIVE WILLHITE: Thank you, Madam
6 Speaker. Would you recognize Representative Hinson?

7 MADAM SPEAKER: Representative Hinson in
8 debate.

9 REPRESENTATIVE HINSON: Thank you. Thank
10 you, Madam Speaker. Wow. I'm not bending my back.

11 Most of you know, members, I don't stand
12 down from telling how old I am, my lived
13 experiences. In 1965 when the Voting Right Act was
14 passed, I was a senior in high school. At 15 years
15 old I was marching on lines, and sitting in
16 driveways, and getting spit on for sitting at
17 lunchroom counters. I've been kicked. I've been
18 talked about, and I have been called names you don't
19 even put in the dictionary anymore.

20 Voting Rights Act of 1965, I fought for
21 that. I've met Martin Luther King. I don't just
22 talk about him. He taught me peaceful protest.
23 Huh. And here we are today, 2022, rolling back the
24 tide.

25 You all are pushing this bill like thug

1 life 101. I didn't get to ask questions about my
2 own proposed district yesterday. I wasn't given
3 that opportunity. So let me tell you about it
4 today, because it -- I've got to call your attention
5 to it. I live in Congressional District 3. If
6 you've got your map, pull it out and look at it. My
7 current CD 3 has six counties: Clay, Marion,
8 Alachua, Putnam, Bradford, and Union. I share this
9 congressional district with several of my esteemed
10 members in the front rows.

11 The proposed District CD3 has 11 counties,
12 11 - 10 red, 1 blue. That's a radical change.
13 Contrary to the sponsor's assertion that it's
14 compact; it is not.

15 Number one, it -- I don't understand these
16 terms so I may be misusing them, but I'm going to
17 use them anyway. It cracks and packs in favor of
18 your party. That's a violation of the Fair District
19 Amendment Tier 1 criteria. It favors your current
20 incumbent, southern belle Kat Kammack, a violation
21 of the Fair District Amendment Tier 1 criteria. It
22 diminishes minority voters from 31 plus percent to
23 less than 15. It took Clay County out, and it
24 matched it with Nassau; and it's given them the
25 minority preference.

1 Congressional District 3 is
2 unconstitutional. The Voting Rights Act of 1965
3 states that majority-minority districts can be
4 created in order to prevent the dilution of
5 minorities' voting strength. It further mandates
6 that "electoral district lines cannot be drawn in
7 such a manner as to improperly dilute minorities'
8 voting power." Everybody's telling you, we're
9 saying it repeatedly.

10 Now, in 2015, according to Ballotpedia,
11 there were nine such districts -- that was just
12 seven years ago -- 2015, nine such districts.
13 Yesterday I heard Chair Leek say it's now three,
14 2022. And after today it will be two. That's some
15 fast-moving train, gentlemen and ladies.

16 He complains about a large malady of
17 ignorance afflicting a sizable chunk of elected
18 officials. That's us. And he laments about
19 America's office holders. That's us. We are
20 abdicating our constitutional responsibility and
21 subverting the power to him. He further complains
22 that this inclination to spend other people's money
23 --

24 MADAM SPEAKER: Representative Hinson, the
25 time has expired in debate.

1 REPRESENTATIVE HINSON: -- to the tune of
2 \$72,000 a day, might I add. Unless you control the
3 lives of their fellow citizens and a desire to --

4 MADAM SPEAKER: Representative Hinson, the
5 time has --

6 (Members protesting loudly)

7 Members, this is not -- we need a formal
8 recess. We are in formal recess.

9 (Recess taken)

10 SPEAKER SPROWLS: Members, we are back in
11 session.

12 As is obvious, we have members who decided
13 they wanted to hijack our process today. It is my
14 belief and your belief that no member of this
15 chamber has the opportunity to shut down our
16 process, to shut down the job that members -- that
17 people of the public and the people of Florida have
18 asked us to do. We will be concluding our business
19 today. It is my hope that our colleagues would join
20 us and not being disruptive, but we will be
21 finishing our business.

22 It is my understanding that Leader Grant is
23 going to -- has yielded back the balance of his
24 time, which is the final debate block of this bill,
25 and that Chairman Leek --

1 Chairman Leek, you are recognized on your
2 close.

3 Chairman Leek, having waived close, the
4 question now recurs on final passage of Senate Bill
5 2-C. The clerk will unlock the machine, and members
6 will proceed to vote.

7 The clerk will lock the machine and
8 announce the vote.

9 THE CLERK: 68 yeas, 38 nays, Mr. Speaker.

10 SPEAKER SPROWLS: Show the bill passes.

11 Members, we are now going to proceed to the
12 next two bills. These two bills have got a lot of
13 questions and a lot of attention over the last
14 couple of days. Every member in this chamber should
15 have the opportunity to debate them, to talk about
16 them and to speak their piece. We are going to move
17 on to those two bills. If we can have a civil
18 debate that respects the rules of this House that
19 all of us have voted and agreed to, then we'll do
20 that. If, however, our colleagues continue to try
21 to shut down our process, I will entertain a motion
22 to call the previous question and we will vote on
23 these two bills.

24 It is my hope that we will be able to
25 proceed civilly and with decorum and with respect

1 for one another. Read the next bill.

2 THE CLERK: By Senator Bradley, Senate Bill
3 4-C, a bill to be entitled, an act relating to
4 independent special districts.

5 (Continued protesting)

6 SPEAKER SPROWLS: Represent Fine, you are
7 recognized to explain your bill.

8 REPRESENTATIVE FINE: Thank you,
9 Mr. Speaker. It seems as Mickey and Minnie have
10 joined us in the chamber today. That said, this is
11 the bill that we discussed yesterday.

12 (Ongoing background shouting)

13 SPEAKER SPROWLS: Members, we will either
14 going into structured debate or we will call the
15 previous question.

16 Representative Renner, you're recognized
17 for a motion.

18 REPRESENTATIVE RENNER: Mr. Speaker, I move
19 the previous question on the bill.

20 SPEAKER SPROWLS: Representative Renner
21 moves the previous question on the bill. This
22 motion is not debatable and requires a majority
23 vote. All in favor, say aye. All opposed, no.

24 Show the bill -- show the motion passes.
25 We will now proceed to call the previous question.

1 The clerk will unlock the machine, and
2 members will proceed to vote on Senate Bill 4-C.
3 Have all members voted? Have all members voted?

4 The clerk will lock the machine and
5 announce the vote.

6 THE CLERK: 78 yeas, 38 nays, Mr. Speaker.

7 SPEAKER SPROWLS: Show the bill passes.
8 Read the next bill.

9 THE CLERK: By Senator Bradley, Senate Bill
10 6-C, a bill to be entitled an act relating to social
11 media platforms.

12 SPEAKER SPROWLS: Representative Andrade,
13 you're recognized to explain your bill.

14 REPRESENTATIVE ANDRADE: Thank you,
15 Mr. Speaker. This is the bill repealing the
16 carve-out that every Democrat voted to oppose last
17 year.

18 SPEAKER SPROWLS: Members, we will either
19 proceed to debate or we will entertain a motion to
20 call the previous question.

21 Representative Renner, you're recognized
22 for a motion.

23 REPRESENTATIVE RENNER: Mr. Speaker, I move
24 the previous question on the bill.

25 SPEAKER SPROWLS: Representative Renner

1 moves the previous question on the bill. This
2 motion is not debatable. All in favor, say aye.
3 All opposed, no. The motion passes.

4 Members, the question now recurs on final
5 passage of Senate Bill 6-C. The clerk will unlock
6 the machine, and members will proceed to vote.

7 Have all members voted? Have all members
8 voted? The clerk will lock the machine and announce
9 the vote.

10 THE CLERK: 78 yeas, 38 days, Mr. Speaker.

11 SPEAKER SPROWLS: Show the bill passes.

12 Read the next bill.

13 THE CLERK: None on the desk, Mr. Speaker.

14 SPEAKER SPROWLS: Are there bills on the
15 special order calendar?

16 THE CLERK: None on the desk, Mr. Speaker.

17 SPEAKER SPROWLS: Are there resolutions on
18 the desk?

19 THE CLERK: None on the desk, Mr. Speaker.

20 SPEAKER SPROWLS: Representative Renner,
21 you're recognized for a motion.

22 Mr. Speaker, I move that the House adjourn,
23 to reconvene upon the call of the Chair.

24 SPEAKER SPROWLS: Representative Renner
25 moves to adjourn the House, to reconvene upon call

1 of the Chair. All in favor say aye.
2 (Multiple ayes)
3 All opposed, no.
4 Show the House is adjourned.
5 (END OF AUDIO 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.



Julie Thompson, CET-1036

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EXHIBIT 15

SUPREME COURT OF FLORIDA

No. SC22-131

IN RE: JOINT RESOLUTION OF
LEGISLATIVE APPORTIONMENT

BRIEF OF THE FLORIDA HOUSE OF REPRESENTATIVES

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PRELIMINARY STATEMENT

In this brief, “App.” refers to the appendix to this brief, and “Pet. App.” refers to the appendix to the Attorney General’s Petition for Declaratory Judgment, dated February 9, 2022.

“House Map” refers to the House districts in Senate Joint Resolution 100, and “Benchmark Map” refers to the predecessor House districts established in 2012 and approved by this Court in *Apportionment I*.

“*Apportionment I*” refers to *In re Senate Joint Resolution of Legislative Apportionment 1176*, 83 So. 3d 597 (Fla. 2012).

“*Apportionment III*” refers to *Florida House of Representatives v. League of Women Voters of Florida*, 118 So. 3d 198 (Fla. 2013).

“BVAP” refers to Black voting-age population, or the percentage of the 18-and-above population that is Black, and “HVAP” refers to Hispanic voting-age population, or the percentage of the 18-and-above population that is Hispanic.

Finally, “VRA” refers to the federal Voting Rights Act of 1965, 52 U.S.C. §§ 10301 to 10702.

STATEMENT OF THE CASE

On February 9, 2022, Attorney General Moody initiated this original proceeding pursuant to article III, section 16(c), Florida Constitution. The Attorney General's petition seeks a declaratory judgment determining the validity of Senate Joint Resolution 100, which creates new state legislative districts for the State of Florida.

The deadline for parties opposing the validity of the Joint Resolution to file their briefs or comments was February 14, 2022. No opposition briefs or comments were submitted. To assist the Court in fulfilling its constitutional charge to determine the validity of the apportionment, the Florida House of Representatives submits this brief in support of the validity of the unchallenged House Map.

STATEMENT OF FACTS

The Florida Constitution requires state legislative districts to be redrawn in the second year after each decennial census. Art. III, § 16(a), Fla. Const. In September 2021, well after its statutory deadline and one month after an initial release of the raw format data, the United States Census Bureau released the official 2020

population counts that States need in order to redraw their state legislative districts.¹

The census data highlighted Florida’s significant growth and confirmed Florida’s ranking as the Nation’s third most populous State. The State’s total population grew nearly 15 percent over the last decade, from 18,801,310 to 21,538,187 people. App. 6–9. The ideal population for House districts increased in proportion, from 156,678 to 179,485. *Id.*² The growth was not evenly distributed, however, as some districts grew substantially while others declined in population. App. 8–9. To comply with the one-person, one-vote requirement, Florida’s House districts required substantial revision.

Although the Legislature could not enact a new redistricting plan before its 2022 regular session, *see* Art. III, § 16(a), Fla.

¹ *See* 13 U.S.C. § 141(c); *Census Bureau Delivers 2020 Census Redistricting Data in Easier-to-Use Format*, U.S. CENSUS BUREAU (Sept. 16, 2021), <https://www.census.gov/newsroom/press-releases/2021/2020-census-redistricting-data-easier-to-use-format.html>; *2020 Census Redistricting Data Files Press Kit*, U.S. CENSUS BUREAU (Aug. 12, 2021), <https://www.census.gov/newsroom/press-kits/2021/2020-census-redistricting.html>.

² The ideal (or average) district population is the total population of the State (21,538,187) divided by the number of districts (120).

Const., it began its redistricting process much earlier. Months before session began, the House formed a redistricting committee and separate subcommittees for congressional and state legislative redistricting. See Florida House of Representatives Committees, <https://www.myfloridahouse.gov/sections/committees/committees.aspx> (last visited Feb. 15, 2022). Collectively, the membership of the redistricting committee and two subcommittees included 62 members—a majority of the chamber’s membership. *Id.*

The House’s redistricting committee and state legislative subcommittee conducted eight interim meetings in 2021 and four more meetings once the session began—all with notice and open to the public. The House and Senate jointly created a redistricting website that provided the public with current information about redistricting. See <https://www.floridaredistricting.gov>. The website provided the public with access to the same web-based map-drawing application used by the Legislature, including all elections data needed to perform functional analyses of minority districts. It also offered portals for the public to submit comments and maps and displayed those maps and associated data alongside maps prepared by legislative committee staff for legislative consideration.

Members of the public availed themselves of the online portal to submit no fewer than 97 congressional and state legislative maps. *Id.*

Once it convened in regular session, the Legislature acted promptly to advance the redistricting process. The Senate passed the Joint Resolution on January 20, 2022. Fla. S. Jour. 215 (Reg. Sess. 2022). The House then added the proposed House districts and passed the bill, 77 to 39, on February 2, 2022. Fla. H.R. Jour. 543–44 (Reg. Sess. 2022). The next day, the Senate passed the amended bill unanimously, 37 to zero. Fla. S. Jour. 325 (Reg. Sess. 2022).

SUMMARY OF ARGUMENT

The House Map is valid. It complies with every federal and state standard governing apportionment. It protects minority voting strength from diminishment, as required by the tier-one standards in article III, section 21, while making minority districts more compact and more faithful to political and geographical boundaries.

The House Map is equally true to article III, section 21’s tier-two standards. It carefully assimilates and balances compactness, adherence to political and geographical boundaries, and population

equality. The result is a map with compact, understandable shapes and clear constitutional justifications for any population deviations.

The House assiduously followed the law. Its strict compliance with all governing standards demonstrates that the House Map was not drawn with any improper intent to favor or disfavor political parties or incumbents. The House lived up to its constitutional obligation and drew districts without intentional political favoritism.

No party has appeared to dispute the validity of the House Map, and indeed none could sustain the heavy burden to prove that the presumptively valid House Map is invalid. This Court should accord great deference to the legislative determinations represented in the House Map and declare it valid. As importantly, it should declare that its judgment is in fact “binding upon all the citizens of the state,” Art. III, § 16(d), Fla. Const., precluding further challenge.

ARGUMENT

The House Map satisfies every requirement of federal law and the Florida Constitution. The House Map demonstrates complete constitutional compliance and even an improvement over the Benchmark Map, which this Court approved unanimously a decade ago.

As discussed more fully below, the House Map:

- Protects minority voting rights by:
 - Establishing 18 districts that perform for Black voters and 12 districts that perform for Hispanic voters; and
 - Protecting from diminishment the ability of minorities in those 30 districts to elect their preferred candidates;
- Keeps 36 counties whole—only two fewer than the theoretical maximum based on county populations;
- Splits only 53 of Florida’s 412 municipalities—a full 22 fewer than the Benchmark Map did when drawn in 2012 and 48 fewer than the Benchmark Map did by decade’s end;
- Establishes visually compact districts with higher mean and median compactness scores than the Benchmark Map, and even improves the compactness of districts drawn to preserve minority voting strength; and
- Provides substantially equal populations in all districts, with each deviation from exact equality justified by the House’s efforts to utilize political and geographical boundaries and to comply with other constitutional standards.

Perhaps most importantly, the House Map’s strict adherence to all tier-two requirements proves that it was drawn without any intent to favor or disfavor political parties or incumbents.

I. THE HOUSE MAP WAS DRAWN TO COMPLY WITH ALL CONSTITUTIONAL REQUIREMENTS.

A. Standard of Review.

This Court’s function in this time-limited proceeding is to enter a “declaratory judgment determining the validity” of the state legislative districts adopted for the State of Florida. Art. III, § 16(c), Fla. Const. This Court’s role is not to select the “best plan.” *Apportionment I*, 83 So. 3d at 608, 669. “By their very nature,” the constitutional standards “permit a range of choice by the Legislature in drawing district boundaries.” *Id.* at 698 (Canady, C.J., concurring in part and dissenting in part). The Court’s focus, moreover, is on “objective data” and other “objective evidence,” *id.* at 612, 617—not internal legislative procedures or the mechanics of the legislative process, *Fla. Senate v. Fla. Pub. Emps. Council* 79, 784 So. 2d 404, 408 (Fla. 2001) (“Where the Legislature is concerned, it is only the final product of the legislative process that is subject to judicial review”); *Moffitt v. Willis*, 459 So. 2d 1018, 1021 (Fla. 1984) (“It is the final product of the legislature that is subject to review by the courts, not the internal procedures.”).

Like all legislative acts, the House Map is presumed valid. Last decade, while this Court recognized that a presumption of validity applies, it declined to apply a corollary of that presumption: that any invalidity must appear beyond a reasonable doubt. *Apportionment I*, 83 So. 3d at 606–08. But if the presumption of validity means anything, it means that reasonable doubts must be resolved in favor of validity. This Court applied this time-tested principle in its first 30-day review of legislative districts, *see In re Apportionment Law Senate Joint Resol. No. 1305*, 263 So. 2d 797, 805–06 (Fla. 1972), and has continued to apply it in other contexts, *see, e.g., Fla. Dep’t of Health v. Florigrown, LLC*, 317 So. 3d 1101, 1111 (Fla. 2021). In fact, since *Apportionment I* was decided, this Court has squarely reaffirmed that “in *all* constitutional challenges, . . . all reasonable doubts about the statute’s validity are to be resolved in favor of constitutionality.” *Fla. Dep’t of Revenue v. Am. Bus. USA Corp.*, 191 So. 3d 906, 911 (Fla. 2016) (emphasis added).

For the reasons expressed by Chief Justice Canady in *Apportionment I*, 83 So. 3d at 695–99—including the inherent structural limitations of this original proceeding and the Court’s sensitivity “to the complex interplay of forces that enter a

legislature’s redistricting calculus,” *id.* at 639 (quoting *Miller v. Johnson*, 515 U.S. 900, 915 (1995))—this Court should apply an unimpaired presumption of validity and resolve any reasonable doubts in *favor* of—and not against—the Joint Resolution’s validity.

B. The House Map’s Methodology Demonstrates Its Adherence to All Standards.

The House began by considering the many legal principles that would guide its task. Article III, section 21 sets forth two tiers of standards. The first tier protects the rights of minority voters, prohibits intentional partisan or incumbent favoritism, and requires contiguity. The second tier requires districts to be compact and as nearly equal in population as practicable and, where feasible, to utilize political and geographical boundaries. Tier-two standards yield to tier-one standards to the extent they conflict. *Apportionment I*, 83 So. 3d at 640. Within each tier, none of the criteria has priority over the others, and each is subject to legislative balancing. Art. III, § 21(c), Fla. Const.

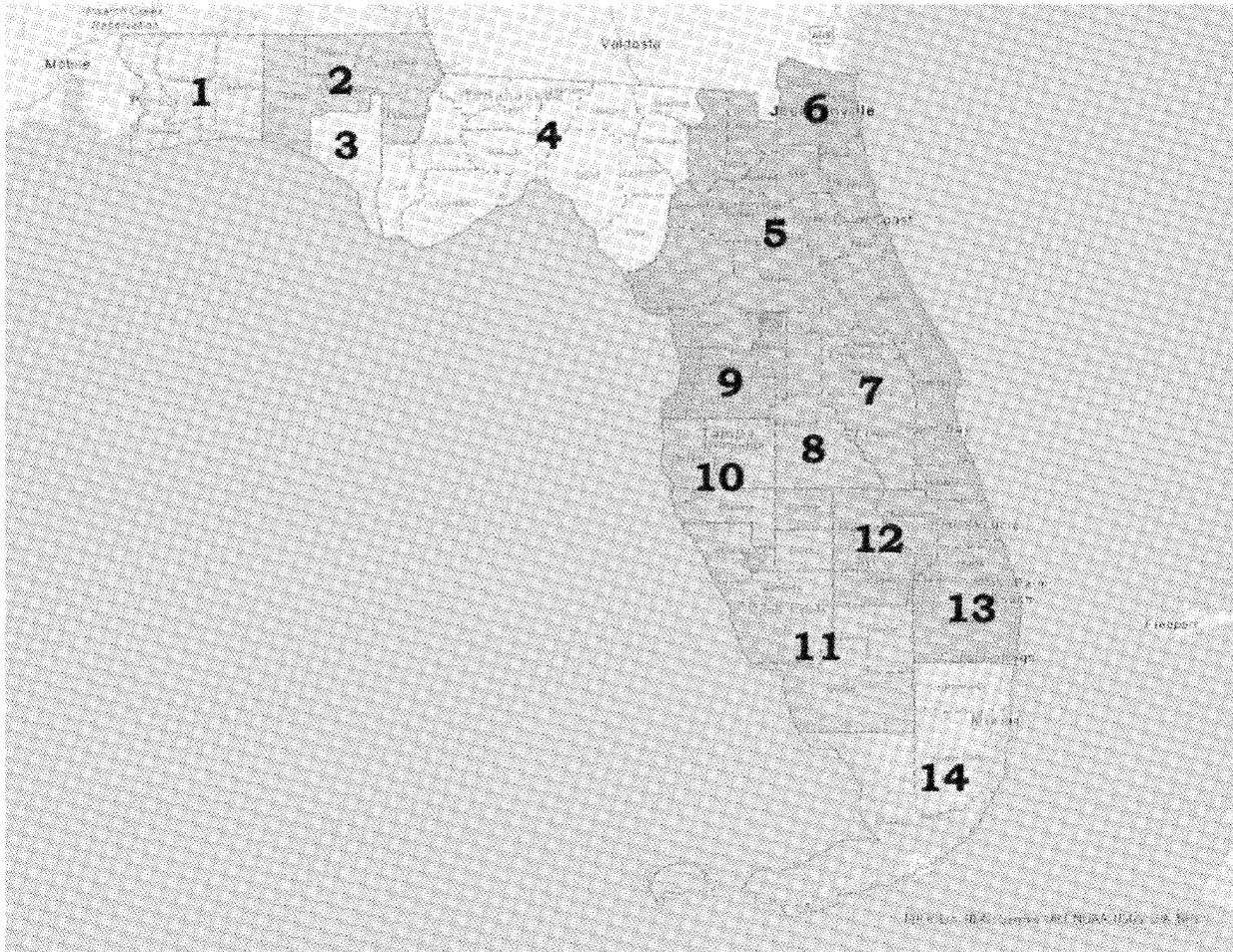
To comply with these standards, the House considered an appropriate balance of population equality, compactness, and adherence to well-known boundaries. Ultimately, it emphasized

county integrity, while fully adhering to other second-tier principles. When possible, the House sought to keep counties whole within districts, or to locate districts wholly within counties, depending on county populations. Where not feasible, the House sought to “anchor” districts within a county, tying the geography representing a majority or plurality of the district’s residents to a single county.

To this end, the House used census data to identify regions of the State consisting of one or more whole counties capable of forming one or more whole districts without any remainder population. It called these regions “sandboxes.” For example, the House found that the combined population of Seminole, Orange, and Osceola Counties could be divided evenly into 13 districts with an average population of 176,109. The House therefore drew 13 whole districts entirely within this three-county combination; no district crosses the outer perimeter formed by these three counties. Within each region, the House minimized, to the extent possible, the number of districts that crossed from one county into another.

With this regional “sandbox” approach, the House was better able to respect county boundaries, keep municipalities whole within districts, and create more visually compact districts. In all, the

State was divided into 14 whole-county regions depicted below, each of which was capable of forming a whole number of districts:



The requirement that districts be equally populated largely dictated the choice of county combinations. To form a whole number of districts within a region, the region's population, when divided by a whole number, must yield approximately the ideal population of a district. For example, the population of Seminole, Orange, and Osceola Counties (2,289,420), when divided by 13,

yields 176,109, which is 1.88 percent below the ideal population of a district (179,485). See App. 7, 9. The table below identifies each region depicted above, the number of counties and districts in each region, each region’s population, the ideal population of districts in the region, and the difference between the ideal population of a district in the region and the ideal population of a district statewide:

Region	Number of Counties	Number of Districts	Total Regional Population	Regional Ideal District Population	Deviation from Statewide Ideal District Population
1	3	4	721,573	180,393	0.51%
2	5	1	181,243	181,243	0.98%
3	1	1	175,216	175,216	-2.38%
4	13	3	541,142	180,381	0.50%
5	17	19	3,395,673	178,720	-0.43%
6	2	6	1,085,919	180,987	0.84%
7	3	13	2,289,420	176,109	-1.88%
8	1	4	725,046	181,262	0.99%
9	3	5	886,158	177,232	-1.26%
10	3	16	2,818,579	176,161	-1.85%
11	6	10	1,831,022	183,102	2.02%
12	4	1	178,332	178,332	-0.64%
13	3	11	1,979,848	179,986	0.28%
14	3	26	4,729,016	181,885	1.34%
Statewide	67	120	21,538,187	179,485	N/A

See App. 7, 9.

The House emphasized county boundaries because, in its legislative judgment, counties tend to be compact and functional, and their boundaries stable and well understood. All told, the House was able to keep 36 counties whole and 84 districts wholly within single counties. App. 11; Pet. App. 463. Within each county, the House sought to keep municipalities whole. In addition to their own local governments, residents of a municipality often have shared interests and a sense of community that benefit from being kept intact within a single district. *Cf. Apportionment I*, 83 So. 3d at 636 (noting that tier two creates a “community-based standard” for drawing districts (quoting *Adv. Op. to Att’y Gen. re Standards for Establishing Legislative Dist. Boundaries*, 2 So. 3d 175, 187 (Fla. 2009) (plurality opinion))). Where county and municipal boundaries could not serve as district lines, the House relied on geographical boundaries such as rivers, railways, interstates, and state roads. As it did ten years ago, the House resolved to draw districts with understandable shapes, and without bizarre fingers or appendages.

The House was also mindful of its tier-one obligations to protect minority voters. The tier-one minority protections include two distinct requirements. One—the non-diminishment standard—

prohibits drawing districts that “diminish” the “ability” of minority voters “to elect representatives of their choice,” imposing a statewide ban on retrogression in minority voting ability. To avoid diminishment, the House reviewed the Benchmark Map and identified the districts in which minorities were historically able to elect representatives of their choice—*i.e.*, the performing districts. Then, in drawing the House Map, the House ensured that it neither reduced the number of performing districts nor weakened the ability of minorities in those districts to elect representatives of their choice. Consistent with this Court’s precedents, the House conducted the necessary functional analysis to assure compliance and protected *all* performing districts from diminishment, even if minorities did not comprise a majority of the voting-age population.

Second, the minority protections require that districts not deny or abridge the equal opportunity for minorities to participate in the political process. This provision prohibits “vote dilution,” which can occur when the State could draw a majority-minority district for a reasonably compact, politically cohesive minority population, but instead draws a district in which racially polarized voting will usually defeat the minority population’s preferred

candidate. Where majority-minority districts could be drawn and the other *Gingles* prerequisites were satisfied,³ the House made certain to draw performing minority districts and to avoid drawing districts in which the minority-preferred candidate would usually be defeated.

II. THE HOUSE MAP COMPLIES WITH ALL TIER-ONE STANDARDS.

A. The House Map Protects Minority Voting Rights.

The Florida Constitution provides two distinct protections for minority voters: a prohibition against vote dilution and a prohibition against diminishment, or retrogression. Art. III, § 21(a), Fla. Const. These protections are patterned after section 2 of the VRA, which prohibits vote dilution, and section 5 of the VRA, which prohibited retrogression before it became inoperative in 2013. *Apportionment I*, 83 So. 3d at 619–20. In interpreting these provisions, this Court is guided by—but not tethered to—the United States Supreme Court’s interpretations of section 2 and section 5 of the VRA. *Id.* at 620–21.

³ The prerequisites to a vote-dilution claim articulated in *Thornburg v. Gingles*, 478 U.S. 30 (1986), are discussed in Part II.A.2. below.

This Court has an independent obligation to interpret Florida’s provisions, notwithstanding their parallels in federal law. *Id.* at 621.

Importantly, sections 2 and 5 are two separate and distinct provisions that “impose very different duties.” *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 477 (1997). They “combat different evils,” *Apportionment I*, 83 So. 3d at 621 (quoting *Reno*, 520 U.S. at 477)—vote dilution and retrogression—and “differ in structure, purpose, and application,” *id.* (quoting *Georgia v. Ashcroft*, 539 U.S. 461, 478 (2003)); *accord Reno*, 520 U.S. at 488 (concluding that section 2’s incorporation into section 5 would be “unsatisfactory no matter how it is packaged”). To avoid confusion in their implementation, it is essential to maintain a clear distinction between these inquiries.

In evaluating compliance with tier-one minority protections, a measure of deference to the legislative judgment is especially important. The standards are unavoidably imprecise and often fail to generate consensus, even among experts. *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015) (explaining that section 5’s standards are “complex; they often require evaluation of controverted claims about voting behavior; the evidence may be unclear; and . . . judges may disagree about the proper outcome”).

The minority protections also compete with other standards: they *require* the consideration of race while equal protection *limits* the consideration of race, *id.*, and permit deviations from Florida’s tier-two standards, “but only to the extent necessary,” *Apportionment I*, 83 So. 3d at 640. “The law cannot,” therefore, “insist that a state legislature, when redistricting, determine *precisely* what percent of minority population” each district must include. *Ala. Legislative Black Caucus*, 575 U.S. at 278 (emphasis in original). Rather, the law must afford “breathing room” between the “competing hazards of liability” and uphold the legislative judgment if “good reasons” support it. *Bethune-Hill v. Va. State Bd. of Elections*, 137 S. Ct. 788, 802 (2017). Without some measure of deference to the legislative judgment on points that are fairly debatable, *any* redistricting plan the Legislature could enact would be in serious, continual jeopardy.

1. The House Map Does Not Diminish Minorities’ Ability to Elect Representatives of Their Choice.

Districts may not be drawn to “diminish” the “ability” of minority voters to “elect representatives of their choice.” Art. III, § 21(a), Fla. Const. The House Map complies with the non-diminishment standard because it neither reduces the number of

districts that perform for minority voters nor weakens the ability of minority voters in those districts to elect their preferred candidates.

The non-diminishment standard requires a comparison between the existing redistricting plan—the Benchmark Map—and the new districts. *Apportionment I*, 83 So. 3d at 624.⁴ Under that standard, the Legislature “may not eliminate majority-minority districts or weaken other performing districts where doing so would actually diminish a minority group’s ability to elect its preferred candidates.” *Id.* at 625.⁵ To assure compliance, the Legislature must perform a “functional analysis” of voting behavior. *Id.* at 625–26. This analysis begins with census population data but also considers election data—registration and turnout data and election results—to assess the ability of minorities to elect their preferred candidates. *Id.* Population data alone is insufficient; a minority

⁴ In assessing districts for diminishment, the “most current population data” are applied to *both* maps—the Benchmark Map and the House Map. *See* Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act, 76 Fed. Reg. 7,470, 7,472 (Feb. 9, 2011).

⁵ A majority-minority district is a district in which a minority group comprises a numerical majority of the district’s voting-age population. *Apportionment I*, 83 So. 3d at 622–23.

group might, for example, comprise a substantial part of a district's population, but, because of low registration or turnout rates, lack the ability to elect.⁶

The text of the non-diminishment standard reveals several important guideposts. *First*, non-diminishment protects only existing performing districts—districts in which minority voters are already able to elect their preferred candidates in the Benchmark Map. It does not compel the creation of new, performing districts. Thus, the House began by reviewing the Benchmark Map to identify existing districts that perform for minority voters. *Second*, the text does not limit the non-diminishment standard to majority-minority districts. *Id.* at 625. Any district in which a minority group has sufficient effective control over both primary and general elections

⁶ District 109 is a good example. It has an HVAP of 58.4 percent and a BVAP of 40.1 percent, but performs for Black rather than Hispanic voters. Pet. App. 450. At least one reason is that Hispanics, though a majority of the district's voting-age population, were only 38.7 percent of the district's registered voters and only 40.3 percent of the district's general-election voters in 2020, while Blacks were 49.9 percent of the district's registered voters and 49.0 percent of the district's general-election voters in 2020. Pet. App. 450–51.

to elect its preferred candidates is entitled to protection. *Id.* at 625, 667.

Third, on its face, the non-diminishment standard protects against *any diminishment*—not merely against a *total elimination* of the ability to elect. To “diminish” means “to make less or cause to appear less.” WEBSTER’S THIRD INTERNATIONAL DICTIONARY 634 (1993), *quoted in Apportionment I*, 83 So. 3d at 702 (Canady, C.J., concurring in part and dissenting in part). Thus, in *Apportionment I*, this Court recognized that new districts may not “weaken” historically performing districts, 83 So. 3d at 625, and that the non-retrogression standard adopted by Congress, and more recently by Florida, asks whether the minority population is “more, less, or just as able to elect a preferred candidate of choice after a change as before,” *id.* at 624–25 (quoting H.R. REP. NO. 109-487, at 46 (2006)); *see also id.* at 655 (concluding that the Senate’s newly enacted minority districts maintain “commensurate voting ability”).

Logically, if a performing district loses substantial minority population, then the remaining minority voters’ ability to elect their preferred candidates is diminished. They might retain some ability, but they have *less*. The non-diminishment standard therefore

recognizes that the ability to elect “is a matter of degree.” Nathaniel Persily, *The Promise and Pitfalls of the New Voting Rights Act*, 117 YALE L.J. 174, 243 (2007). “Diminishing a district’s ability to elect does not necessarily mean reducing it from a safe district to a hopeless district It could mean reducing a safe district to a competitive district, or a competitive district to a hopeless district or any downward shifts along that very wide spectrum.” *Id.* at 244. As Chief Justice Canady noted in *Apportionment I*, even small declines in voting ability can change election outcomes: “the differences are at the margins where many elections are decided.” 83 So. 3d at 702.

Of course, it does not follow that a district’s minority voting-age population may never decrease, no matter how slightly. *Id.* at 625. After all, the population percentage is only one indicator of minority voting ability, *id.* at 625–26, and sometimes a district that is under-populated and must add new population cannot maintain the same percentage of minority residents. But this Court clearly cautioned that any such reductions should be “slight.” *Id.* at 625 (explaining that, because voting ability depends on more than mere population data, 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”). Similarly, the Supreme Court has explained that a reduction in a district’s BVAP from 70 to 65 percent might not diminish the ability to elect, *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. at 277, but that a reduction below 55 percent might, *Bethune-Hill*, 137 S. Ct. at 802.

As one commentator aptly explained, Black voters rarely have the ability to elect when a district’s BVAP is much below 30 percent, while a BVAP above 60 percent virtually guarantees an ability to elect. Nathaniel Persily, *The Promise and Pitfalls of the New Voting Rights Act*, 117 YALE L.J. at 245 & n.252. It is between these points that the ability to elect is most sensitive to reductions in BVAP. *Id.*

Section 5’s history confirms this plain-language reading. In *Georgia v. Ashcroft*, 539 U.S. 461, 482 (2003), the Court interpreted section 5 to permit States to weaken “safe” minority districts in order to create “influence or coalition districts.” In 2006, Congress amended section 5 to abrogate the Court’s interpretation, adding an express prohibition against “diminishing” the ability to elect. 52 U.S.C. § 10304(b). It thus prohibited any voting changes that “leave a minority group less able to elect a preferred candidate of choice.”

Apportionment I, 83 So. 3d at 625 (quoting H.R. REP. NO. 109-487, at 46).⁷

Applying these principles, the House determined that, under the Benchmark Map, Black voters had the ability to elect their preferred candidates in 18 districts: ten in Broward and Miami-Dade Counties, two in Duval County, two in Orange County, two in Pinellas and Hillsborough Counties, one in Gadsden and Leon Counties, and one in Alachua and Marion Counties. Pet. App. 477. The House Map preserves these districts. Pet. App. 450. The BVAPs in these 18 districts range from 28.9 percent in District 117 to 57.9 percent in District 97. *Id.* As in the Benchmark Map, seven of the 18 districts that perform for Black voters are majority-Black districts. Pet. App. 450, 477. A functional analysis of all 18 districts

⁷ Section 5 differed from Florida’s standard in two important ways. First, it applied only to select jurisdictions (in Florida, to five counties). *Apportionment I*, 83 So. 3d at 623–24. Second, it required federal preapproval—or “preclearance”—before any changes to voting procedures could take effect in the covered jurisdictions. *Id.* In *Shelby County v. Holder*, 570 U.S. 529 (2013), the Court held that the formula by which jurisdictions were selected for coverage was outdated and could no longer be applied. Since then, section 5 has been defunct, but Florida’s counterpart to section 5 applies statewide and continues in effect. *Apportionment I*, 83 So. 3d at 624.

reveals that Black voters in these districts will be no less able to elect representatives of their choice than in the Benchmark Map.

The House also determined that, under the Benchmark Map, Hispanic voters were able to elect representatives of their choice in twelve districts: two in Orange and Osceola Counties, and nine exclusively and one predominantly in Miami-Dade County. Pet. App. 477. The House Map likewise contains twelve districts that enable Hispanic voters to elect representatives of their choice: three in Orange and Osceola Counties and nine in Miami-Dade County. Pet. App. 450.⁸ As in the Benchmark Map, each of the twelve Hispanic-performing districts is majority Hispanic. Pet. App. 450, 477. The House performed a functional analysis to confirm that

⁸ Population shifts account for the loss of a district in Miami-Dade County. Miami-Dade County's population equated to 15.93 districts in 2010, but only 15.05 in 2020. *See* App. 7. When shifts in population prevent the maintenance of a performing district, the non-diminishment standard does not require the impossible. *See* Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act, 76 Fed. Reg. at 7,472 (recognizing that shifts in population might render it impossible to maintain a performing district); *cf. Apportionment I*, 83 So. 3d at 677 (“We note that the non-diminishment standard does not prohibit any change to existing boundaries”). Here, a large increase in Hispanic population in Orange and Osceola Counties enabled the House to establish a new performing Hispanic district in Central Florida and to maintain the statewide number of performing Hispanic districts.

Hispanic voters in these districts will have at least the same ability to elect representatives of their choice as in the Benchmark Map.

In conducting a functional analysis on these districts, the House followed the exact methodology prescribed by this Court in *Apportionment I*. It began with minority voting-age population as the “important starting point” of the analysis. *Apportionment I*, 83 So. 3d at 625 (quoting Guidance Concerning Redistricting Under Section 5 of the Voting Rights Act, 76 Fed. Reg. at 7,471). It then reviewed election results, registration data, and turnout data—just as this Court did, *see id.* at 667–68—with its principal focus on:

- The results of presidential and gubernatorial contests;
- The minority group’s share of the relevant political party’s electorate at primary and general elections;
- The minority group’s share of the relevant political party’s registered voters;
- That political party’s share of all registered voters and of the minority group’s registered voters; and
- That political party’s share of the entire electorate and of the minority group’s electorate at general elections.

In assessing each minority district, the House reviewed these data separately for each statewide election in 2012, 2014, 2016, 2018,

and 2020.⁹ It then relied on these data to reach conclusions about the voting behavior of minority voters and to draw districts that do not diminish their ability to elect the candidates of their choice.¹⁰

Because it neither reduces the number of performing districts nor weakens the ability of minorities in those districts to elect representatives of their choice, the House Map complies with the non-diminishment standard.

2. The House Map Does Not Deny or Abridge Minorities' Equal Opportunity to Participate in the Political Process.

The tier-one requirement that districts “not be drawn with the intent or result of denying or abridging the equal opportunity of

⁹ These data are provided in the Attorney General’s appendix. Pet. App. 450–62, 477–89.

¹⁰ Footnote 11 of this Court’s opinion in *League of Women Voters of Florida v. Detzner*, 179 So. 3d 258 (Fla. 2015), could be read to suggest that the non-diminishment standard incorporates the elements of a section 2 claim—*i.e.*, the *Gingles* prerequisites. The Supreme Court has never even implied that the *Gingles* prerequisites govern the retrogression standard under section 5. This reading conflicts with *Reno* and muddies—or eliminates—the line between vote dilution (section 2) and non-diminishment (section 5). *See supra* p. 17. While some of the same evidence might, as a *factual* matter, be relevant to both analyses, this Court should make clear that footnote 11 did not rewrite the non-diminishment standard set forth in *Apportionment I* and import the elements of a section 2 claim into the non-diminishment standard.

racial or language minorities to participate in the political process” prohibits vote dilution in the same manner as section 2 of the VRA. Art. III, § 21(a), Fla. Const.; *Apportionment I*, 83 So. 3d at 619–23.

Vote dilution can be established only by evidence that the Legislature could have drawn a performing majority-minority district for a reasonably compact, politically cohesive minority population, but instead drew a district in which racially polarized voting will usually defeat the minority population’s preferred candidate. More specifically, the following factors, often called the “*Gingles* prerequisites,” must be established: (1) the minority group is sufficiently large and geographically compact to comprise a majority of the district’s voting-age population;¹¹ (2) the minority group is politically cohesive; and (3) the majority votes sufficiently as a bloc to enable it usually to defeat the minority group’s preferred candidates. *Apportionment I*, 83 So. 3d at 622 (citing *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986)); see also *Bartlett v. Strickland*, 556 U.S. 1, 18 (2009) (plurality opinion) (explaining that

¹¹ Section 2 does not apply if the potential majority-minority district would not perform for minority voters. *Abbott v. Perez*, 138 S. Ct. 2305, 2332 (2018).

vote dilution requires minorities to “make up more than 50 percent of the voting-age population in the relevant geographic area”). Once these prerequisites are established, it must be shown that, under the totality of circumstances, members of the minority group have “less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” 52 U.S.C. § 10301(b); *accord Apportionment I*, 83 So. 3d at 621–22.¹²

Cooper v. Harris, 137 S. Ct. 1455 (2017), illustrates the vote-dilution standard. There, a congressional district’s BVAP had hovered between 46 and 48 percent for nearly 20 years. *Id.* at 1470. While it was possible to draw a geographically compact majority-minority district, the Court concluded that section 2 did not require it. The 46- to 48-percent district was an “extraordinarily safe district” for minority-preferred candidates, who had consistently

¹² In *Apportionment I*, this Court declined to “rule out the potential” that, even where majority-minority districts cannot be created, Florida’s vote-dilution provision might sometimes require the creation of minority districts in some form. 83 So. 3d at 645, 655. For the same reasons that the Supreme Court ruled out that potential in *Bartlett*—including the “serious constitutional concerns” that it would raise, 556 U.S. at 21 (plurality opinion)—this Court should rule out that potential under Florida’s analogous provision.

prevailed by large margins. *Id.* The evidence did not therefore establish the third *Gingles* prerequisite: that the candidate preferred by minorities would usually be defeated in the district “as actually drawn.” *Id.* (quoting *Grove v. Emison*, 507 U.S. 25, 40 (1993)).

There can be no serious claim that the House Map violates the vote-dilution standard—and no party suggests that it does. Quite simply, the House did not draw any non-performing districts where it could have drawn a performing majority-minority district.¹³

Sometimes, an additional majority-minority district can be created by deconstructing a district with a supermajority-minority population. *Bone Shirt v. Hazeltine*, 461 F.3d 1011, 1016 (8th Cir. 2006) (concluding that two majority-minority districts could have been drawn where a 90-percent minority district abutted a 30-percent minority district); *Apportionment I*, 83 So. 3d at 622. Here, none of the majority-Black districts exceeds even 57.9 percent BVAP. Pet. App. 450. And while some performing districts contain

¹³ While Districts 13 and 40, with BVAPs of 48.5 and 48.0 percent respectively, could have been drawn as majority-minority districts, a functional analysis confirms that, like the district in *Cooper*, these districts will be safe districts for candidates preferred by minority voters.

large Hispanic populations, these percentages are “explained by the fact that the Hispanic population in Miami-Dade County, where these districts are located, is densely populated” by Hispanic voters, *Apportionment I*, 83 So. 3d at 645—to say nothing of the remaining *Gingles* prerequisites. As it did last decade, *id.*, this Court should find that the House Map does not violate the vote-dilution standard.

B. The House Map Satisfies the Contiguity Requirement.

Another tier-one standard requires that districts “consist of contiguous territory.” Art. III, § 21(a), Fla. Const. A contiguity requirement has long appeared in article III, section 16(a), and the well-established meaning of that provision governs the contiguity standard in article III, section 21. *Apportionment I*, 83 So. 3d at 628.

A district is non-contiguous “when a part is isolated from the rest by the territory of another district or when lands mutually touch only at a common corner or right angle.” *Id.* (quoting *In re Constitutionality of House Joint Resol. 1987*, 817 So. 2d 819, 827 (Fla. 2002)). However, the “presence in a district of a body of water without a connecting bridge, even if it necessitates land travel outside the district in order to reach other parts of the district,”

does not violate the contiguity requirement. *In re Senate Joint Resol. 2G, Special Apportionment Session 1992*, 597 So. 2d 276, 280 (Fla. 1992). Florida’s islands are also considered contiguous. *Id.* at 279.

As is clear on the face of the House Map, each new district is contiguous.

C. The House Map Is Devoid of Any Political Intent.

Florida’s tier-one standards also prohibit an apportionment plan or district from being “drawn with the intent to favor or disfavor a political party or an incumbent.” Art. III, § 21(a), Fla. Const. The House Map scrupulously complies with this standard.

By its plain language, this provision against partisan and incumbent favoritism “prohibits intent, not effect.” *Apportionment I*, 83 So. 3d at 617. As this Court recognized, a political effect is unavoidable: “any redrawing of lines, regardless of intent, will inevitably have an effect on the political composition of a district.” *Id.*

A partisan imbalance in a redistricting plan does not prove improper intent. *Id.* at 641–43. This is so because causes other than impermissible intent can produce partisan imbalance. *Id.* For example, the creation of minority districts in compliance with state

or federal law might have the effect of placing disproportionate numbers of voters affiliated with one political party into a small number of districts. *Id.* at 643. Similarly, heavy concentrations of Democratic voters clustered in urban areas—compared to smaller majorities of Republican voters distributed more evenly across other regions of the State—may, without any improper intent, cause Democratic voters to be drawn into a small number of districts. *Id.* at 642–43.

This Court correctly held—and should reaffirm—that the intent standard “does not require the affirmative creation of a fair plan, but rather a neutral one in which no improper intent was involved.” *Id.* at 643. The intent standard is, so to speak, a *negative* injunction that banishes partisan intent from the redistricting process, and not an affirmative mandate to manufacture an ideal partisan balance. In fact, any effort to rebalance a map politically—and to tilt its partisan composition in favor of the political party that is disadvantaged by the absence of partisan intent—would itself reflect an intent to favor a political party, inject partisanship into the redistricting process, and violate the Constitution’s plain terms.

The House Map was not drawn with impermissible intent. The House did not consider incumbent addresses in drawing districts, so the effect on incumbents—whatever it is—is the natural result of a process devoid of any intent to favor or disfavor incumbents or political parties. Nor did the House employ political data to assess the partisan composition of the map, but only to assure compliance with minority voting protections. *See Apportionment I*, 83 So. 3d at 619 (“[M]ere access to political data cannot presumptively demonstrate prohibited intent because such data is a necessary component of evaluating whether a minority group has the ability to elect representatives of its choice . . .”).

On its face, the House Map repels any suspicion of improper intent. This Court has recognized that tier-two standards “restrict the Legislature’s discretion in drawing irregularly shaped districts” and that strict compliance with those standards can therefore “undercut or defeat any assertion of improper intent.” *Id.* at 618; *accord id.* at 645 (noting that tier-two compliance makes “improper intent less likely”). Last decade, the Court found that the House’s close adherence to tier-two principles tended to disprove claims of improper intent in the House Map. *Id.* at 645. The same is true

here. As explained below, the House not only adhered to the same tier-two principles this decade, but also notably improved its map according to key measures of tier-two compliance. *See infra* Part III.

Finally, although not part of this record, news outlets have reported that as many as seven seats might swing from Republican to Democratic under the House Map, and that no fewer than 19 incumbents find themselves in a districts with another incumbent—often within their own political parties.¹⁴ The House Map was drawn with no intent to favor or disfavor political parties or incumbents.

III. THE HOUSE MAP COMPLIES WITH ALL TIER-TWO STANDARDS.

A. The House Map Satisfies the Boundaries Standard.

The House Map complies with the Constitution’s requirement that “districts shall, where feasible, utilize existing political and geographical boundaries.” Art. III, § 21(b), Fla. Const. As explained

¹⁴ Jacob Ogles, *Civil War: Likely Florida House Map to Pit 19 Incumbents Against House Colleague*, FLORIDA POLITICS (Jan. 29, 2021) (“An investigation by Florida Politics finds the current cartography . . . could pit at least 19 sitting representatives against one another”); Mary Ellen Klas, *House Advances First Redistricting Map, But Democrats Have Many Questions*, MIAMI HERALD (Jan. 23, 2021) (“Democrats could gain as many as seven seats . . . under a redistricting map approved Friday”).

below, the House Map faithfully follows political and geographical boundaries throughout the State and makes notable gains in the number of municipalities that are kept intact within single districts.

This Court has defined “political . . . boundaries” to mean county and municipal boundaries, and “geographical boundaries” to refer to geographical demarcations that are “easily ascertainable and commonly understood, such as rivers, railways, interstates, and state roads.” *Apportionment I*, 83 So. 3d at 638 (internal marks omitted). The phrase “where feasible” introduces “flexibility,” *id.* at 636, and recognizes that district boundaries cannot always follow political and geographical boundaries, and that all political and geographical boundaries cannot be utilized in drawing districts, *id.* at 638 (“There will be times when districts cannot be drawn to follow county lines or to include the entire municipalities within a district.”).

The House Map is replete with examples of respect for county boundaries. Three districts—Districts 5, 6, and 83—consist exclusively of one or more whole counties, while the remainder of the districts are all nested within single counties or regional county combinations. *See supra* pp. 11–13. For example, Escambia, Santa

Rosa, and Okaloosa Counties comprise exactly four districts; Duval and Nassau Counties comprise exactly six districts; Sumter, Hernando, and Pasco Counties comprise exactly five districts; and St. Lucie, Martin, and Palm Beach Counties comprise exactly eleven districts. *Id.*

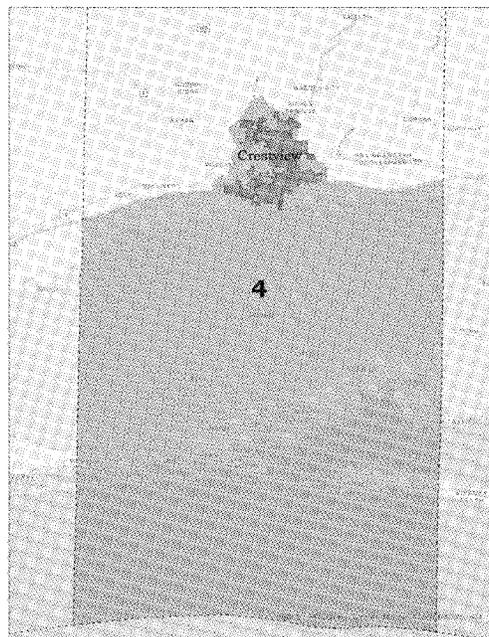
This subdivision of the State into regional whole-county combinations that encompass whole numbers of districts ensures consistent respect for county boundaries throughout the State. Of the 38 counties in Florida with populations less than the ideal population of a district—*i.e.*, the counties that could theoretically have been kept whole—the House Maps splits only two (Martin and Jefferson). *See* App. 7. Only two districts (Districts 20 and 27) split more than two counties, while more than two-thirds of the districts (84 of 120) are wholly within single counties. App. 11. No less impressively, more than 37 percent of the length of the average district’s perimeter adheres to county boundaries. Pet. App. 471.

The House Map shows similar respect for municipal boundaries. It decreases the number of split municipalities from 75 when the Benchmark Map was drawn in 2012 to a mere 53—a 29-percent reduction—and from 101 in the Benchmark Map at the

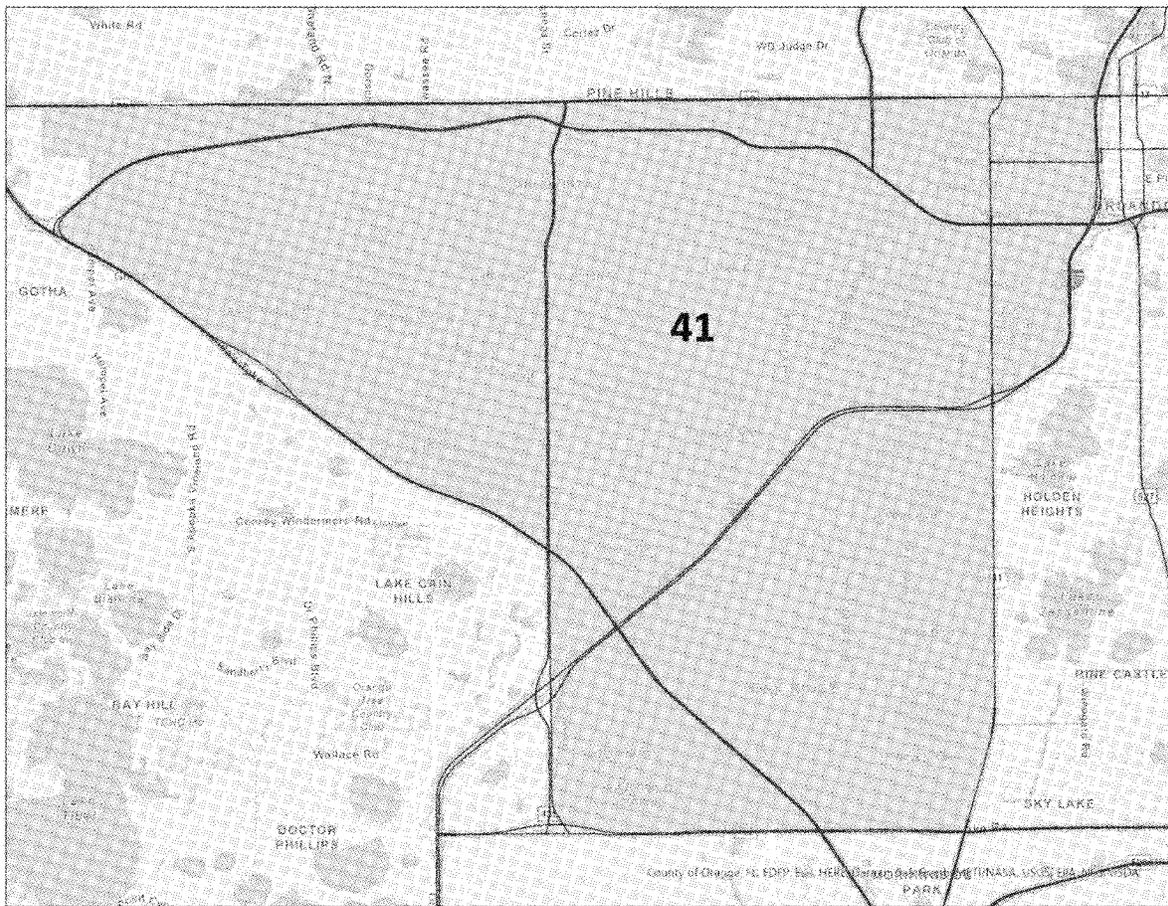
A legislative decision to prioritize the integrity of counties and municipalities is one sensible way to implement the boundaries standard. Last decade, this Court quoted with approval the House’s explanation of its decision to prioritize county integrity, commending the House’s “reasoned approach” to “balancing the tier-two standards.” *Apportionment I*, 83 So. 3d at 637, 646–47. The House explained that county boundaries “are the most readily understood, consistently compact, functional, and stable” of Florida’s political and geographical boundaries, and that the preservation of whole counties preserved the municipalities within those counties and assisted in the creation of compact districts. *Id.* Municipalities in turn have their own local governments and often shared interests and a sense of community that counsel for unity in representation.

This is not to say that the Constitution prioritizes political over geographical boundaries, or that the House’s methodology is the only appropriate one. The Constitution does not, after all, directly require that counties and municipalities be kept whole, but rather that their boundaries, as well as geographical boundaries, be utilized where feasible. Thus, political and geographical boundaries

constitute a preexisting network of potential boundaries—the raw materials from which new districts may be fabricated. Thus, a legislative decision to follow a highway that bisects a city is no less permissible than a legislative choice to follow a city boundary that crosses a highway. *Apportionment I*, 83 So. 3d at 705 (Canady, C.J., concurring in part and dissenting in part) (“Any suggestion that the use of geographical boundaries is somehow less acceptable than the use of political boundaries is totally at odds with the text . . .”). In District 4, for example, the House could have constitutionally followed I-10 through the City of Crestview, which lies on both sides of the interstate, but instead deviated from the interstate to follow the municipal boundaries and keep Crestview wholly in the district:

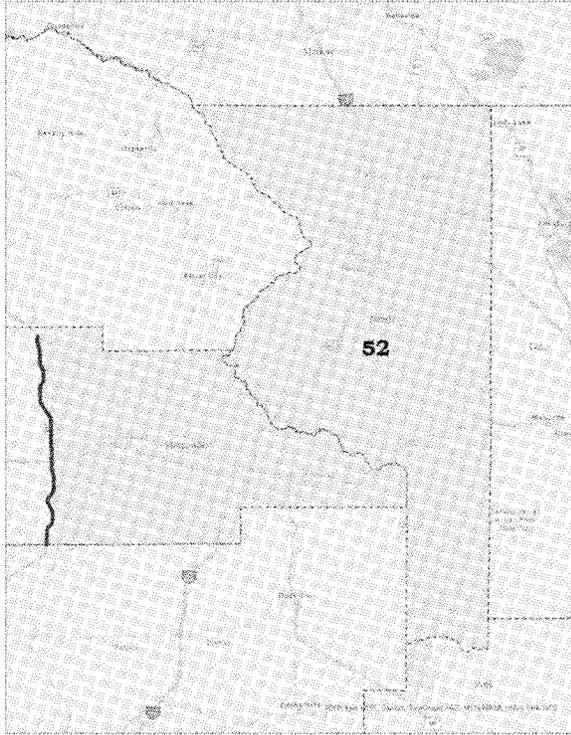


Indeed, as it does along District 4’s northern boundary, the House Map extensively utilizes geographical boundaries, including countless miles of rivers, railways, interstates, and state roads. District 41—a district in which Black voters are able to elect representatives of their choice—is constructed almost entirely of highways and state roads, including I-4 and the Florida Turnpike:

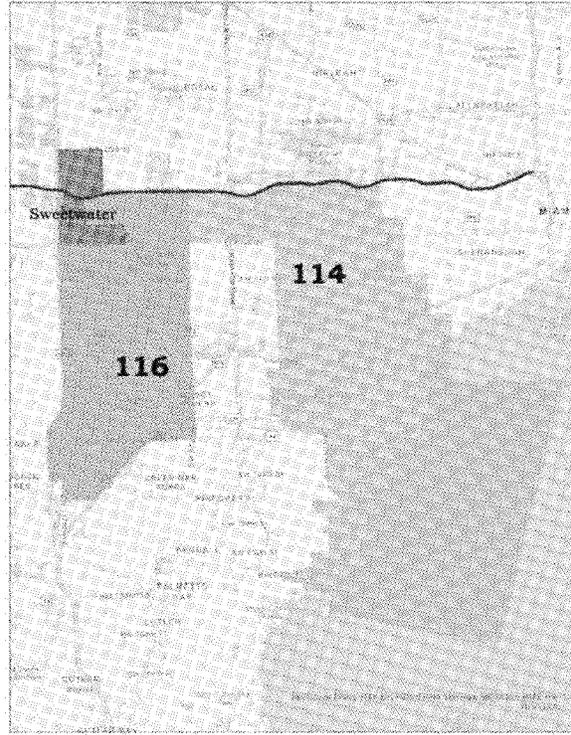


Likewise, District 52 consists of Sumter County and eastern Hernando County to the Suncoast Parkway, which separates Districts 52 and 53, while the Dolphin Expressway in Miami-Dade

County forms the northern boundary of District 114, which was designed to keep the City of Coral Gables whole, and District 116, except where District 116 extends north to keep Sweetwater whole:

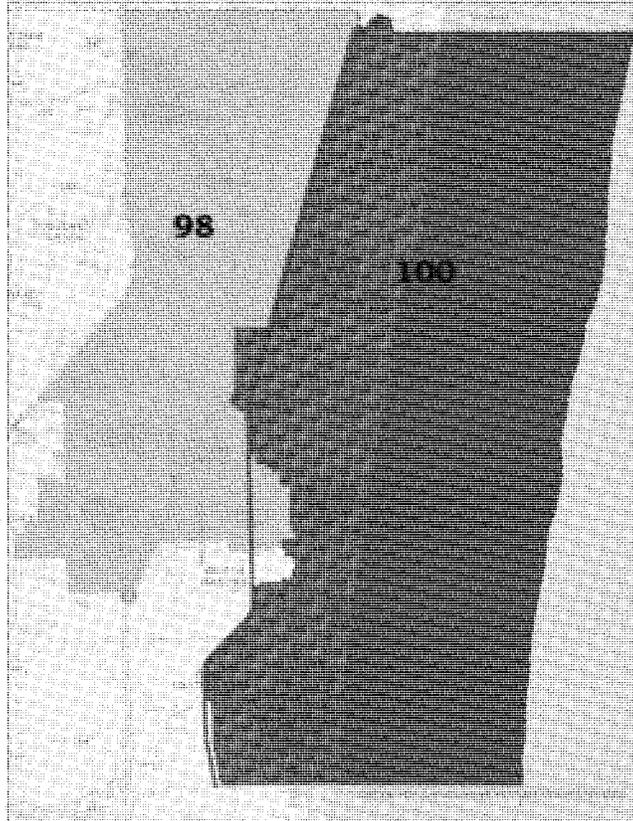


District 52



Districts 114 and 116

The House Map also utilizes railways where appropriate. Districts 98 and 100 follow the Florida East Coast Railway along most of their shared boundary, from Deerfield Beach to Pompano Beach:



The House Map’s full compliance with the boundaries standard is confirmed by the Legislature’s “boundary analysis,” which calculates the percentage of each district’s boundary that consists of political and geographical boundaries. This analysis utilizes the Census Bureau’s geographic information and thus the Census Bureau’s designation of primary and secondary roads, railways, and significant water bodies of at least ten acres. Pet. App. 384, 388 nn.8–9. By this measure, the average district in the House Map follows political and geographical boundaries along 82.7 percent of its perimeter, including county boundaries along 37.1 of

its perimeter, municipal boundaries along 21.3 percent of its perimeter, primary and secondary roads along 21.8 percent of its perimeter, and significant water bodies along 28.8 percent of its perimeter. Pet. App. 471.¹⁵ These figures are especially notable because the comparatively small size of House districts can limit the number of political and geographical boundaries that are within a district's reach, and which may serve as potential boundaries for the district.

The boundary analysis reveals, for example, that District 117—which is the House Map's least compact district, and which, with a BVAP of 28.9 percent, was drawn to avoid diminishment—nevertheless follows political and geographical boundaries along 85 percent of its boundary, an increase from 57 percent in the Benchmark Map. Pet. App. 449, 473, 501. The district's eastern and western boundaries consist primarily of the Florida Turnpike and U.S. 1, while Florida City is kept whole at the southern end of the district.

¹⁵ The aggregate of these numbers exceeds 100 percent because the same boundary may be classified in more than one way. For example, the Suwannee River is not only a river, but also a county boundary.

The House consistently sought to utilize political and geographical boundaries where feasible in the construction of new districts and faithfully complied with this constitutional standard.

B. The House Map Satisfies the Compactness Standard.

The Constitution also provides that “districts shall be compact.” Art. III, § 21(b), Fla. Const. Compactness is a “geographical concept” and is assessed, first and foremost, “by looking at the shape of a district.” *Apportionment I*, 83 So. 3d at 634 (internal marks omitted). A compact district “should not have an unusual shape, a bizarre design, or an unnecessary appendage.” *Id.* The Constitution does not require districts to be as compact as possible—only that they be compact. *Id.* at 635.

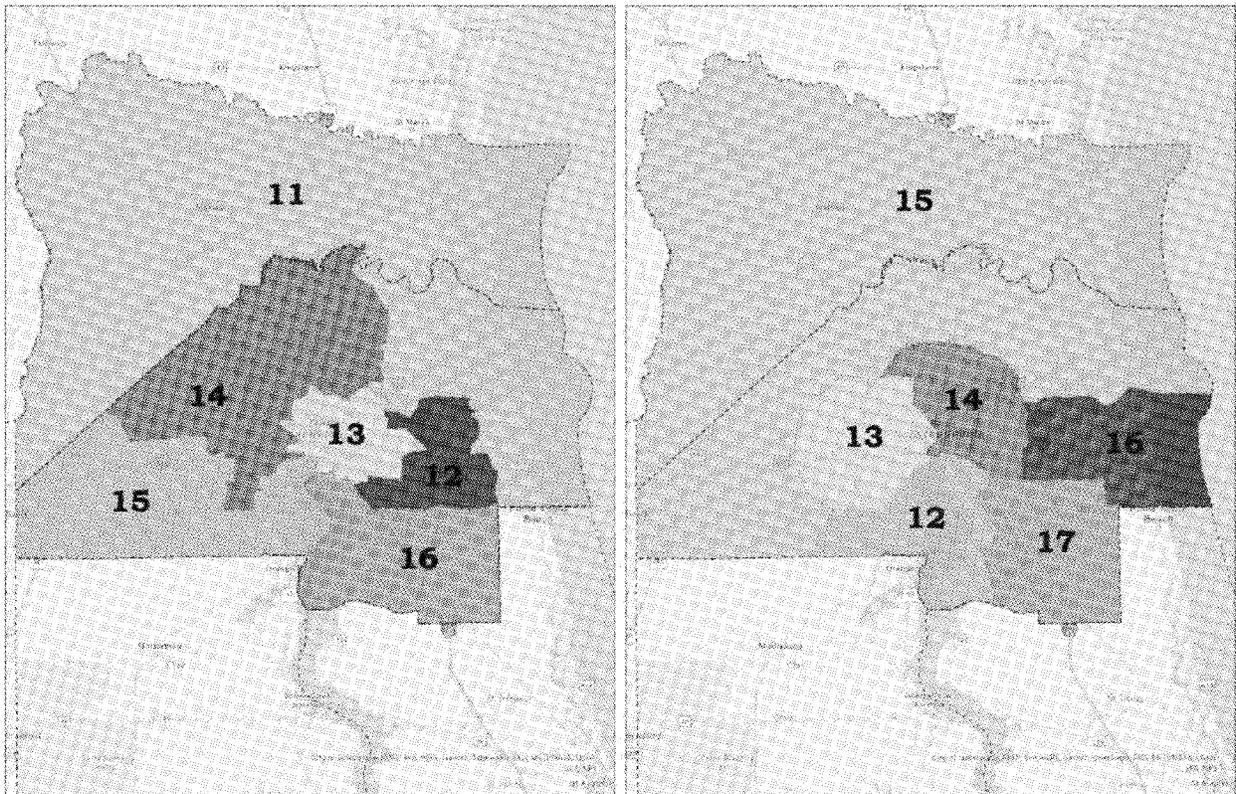
The compactness inquiry can be a complicated one, calling for sensitivity to the many forces that can impact a district’s overall shape. For example, the Constitution expressly permits deviations from compactness to the extent necessary to comply with tier-one standards. Art. III, § 21(c), Fla. Const.; *Apportionment I*, 83 So. 3d at 626, 636. Drawing districts that do not diminish the ability of minority voters to elect representatives of their choice sometimes

requires deviations from compactness. *Apportionment I*, 83 So. 3d at 635, 640.

Similarly, the Constitution recognizes that coequal tier-two standards may exert pressure on each other, Art. III, § 21(c), Fla. Const., and therefore leaves to the Legislature the task of “balancing the tier-two standards together in order to strike a constitutional result,” *Apportionment I*, 83 So. 3d at 639. A decision to keep cities and counties whole in a district, or in adjacent districts—or to follow rivers or municipal boundaries, some of which are notoriously irregular—can affect a district’s compactness, as can Florida’s peninsular geography and the interplay between residential patterns and the equal-population mandate. *Id.* at 635. Compactness can even be affected by oddities in the geographical units created by the Census Bureau, which serve as the building blocks for state legislative districts.¹⁶ Bay and Citrus Counties, for example, appear to contain “fingers” over the waters of the Gulf of Mexico, but only because the Census Bureau’s geography does.

¹⁶ The Census Bureau’s 2020 geography divides Florida into 390,066 blocks, 13,388 block groups (which are aggregations of blocks), and 5,160 tracts (which are aggregations of block groups). Districts are constructed from combinations of census geography.

A visual examination of the House Map reveals a strong adherence to compactness and an appropriate reconciliation of competing standards. Consider this arrangement of districts in Duval and Nassau Counties, and the improvement in compactness over the Benchmark Map:



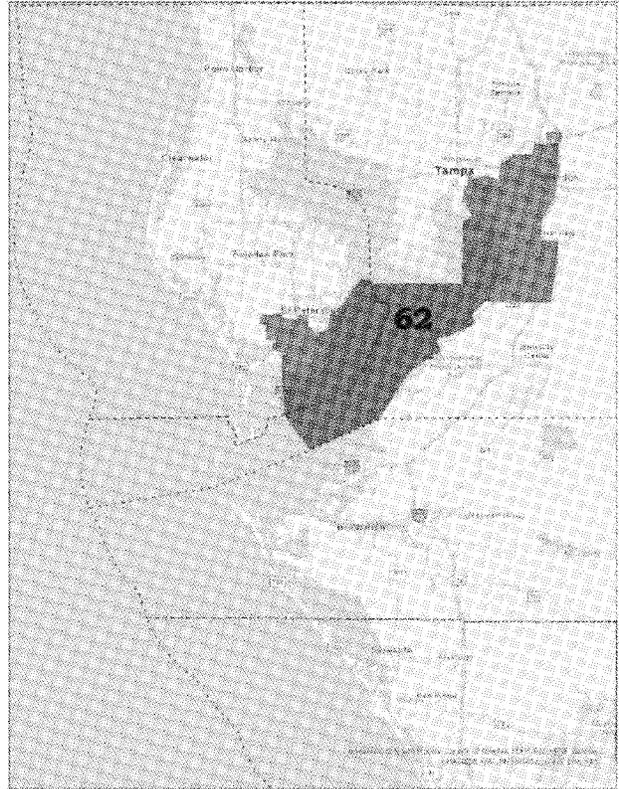
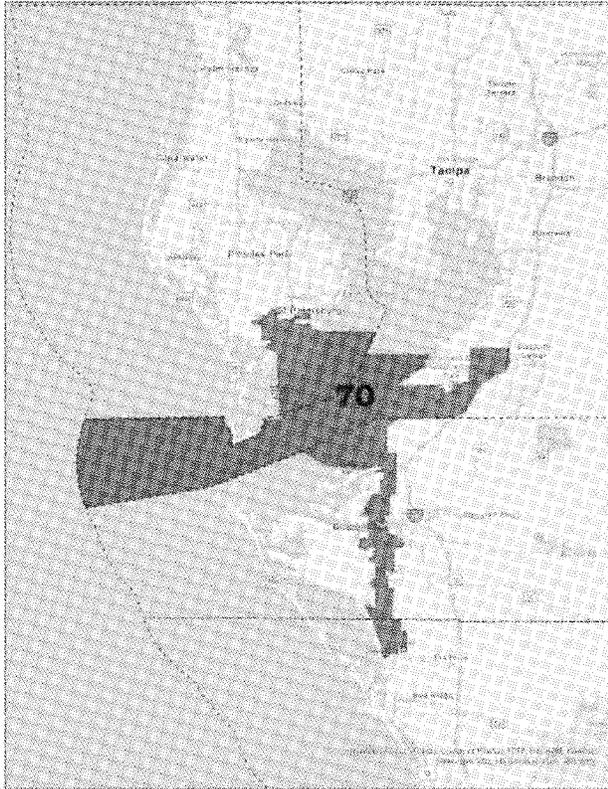
2012 Districts

2022 Districts

These six districts are all compact, while Districts 13 and 14 avoid diminishment in minority voting ability. The six districts are wholly located within the perimeter formed by the two counties and make extensive use of geographical boundaries: District 14 follows the

I-295 beltway along much of its northern and eastern boundary, while the St. Johns River and Beach Boulevard—a major, six-lane state road and federal highway in southern Duval County—form the northern boundaries of Districts 16 and 17 respectively. These districts simultaneously satisfy all tier-one and tier-two standards.

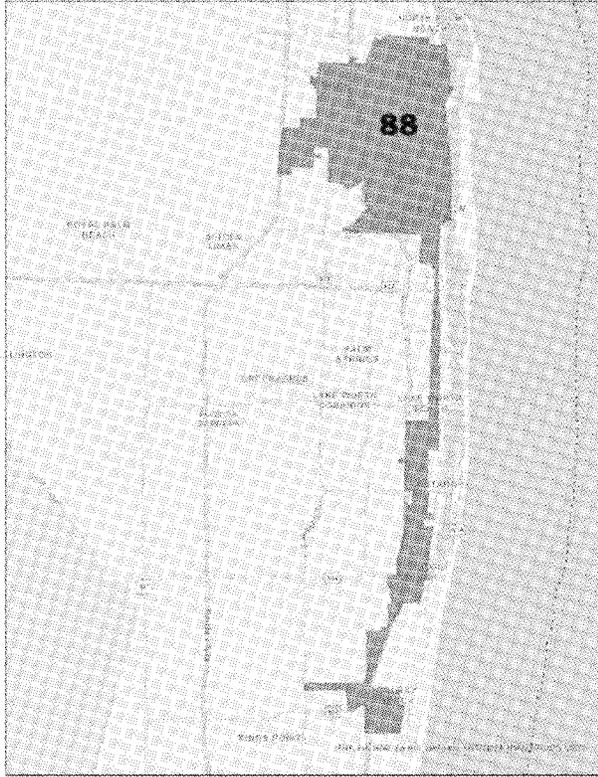
The House Map properly balances compactness with tier-one protections for minority voters. Districts 62, 88, and 117 are among the House Map’s less compact districts, but the House performed a functional analysis of minority voting behavior and determined that these district configurations were necessary to avoid diminishment. At the same time, the House markedly improved the compactness of Districts 62 and 88 over their predecessors in the Benchmark Map. District 62’s predecessor—Benchmark District 70—not only crossed Tampa Bay, but also extended south into even Manatee and Sarasota Counties. As redrawn, the district protects minority voting ability from diminishment without entering Manatee and Sarasota Counties, resulting in a far more visually compact configuration:



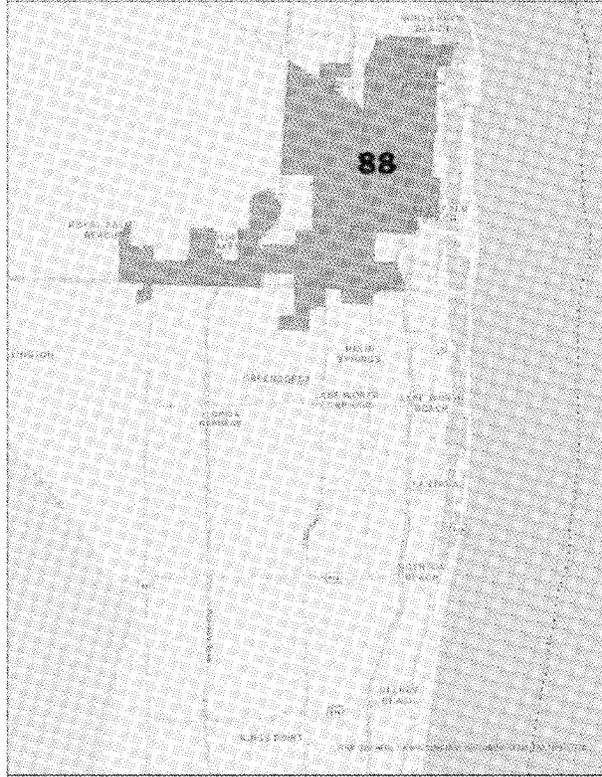
Benchmark District 70

New District 62

Likewise, Benchmark District 88 featured a long and narrow tail that extended 20 miles to the south through Palm Beach County. The redrawn district eliminates the tail and instead avoids diminishment by adding population from the west, enhancing the visual compactness of the district and indeed the entire region:



Benchmark District 88



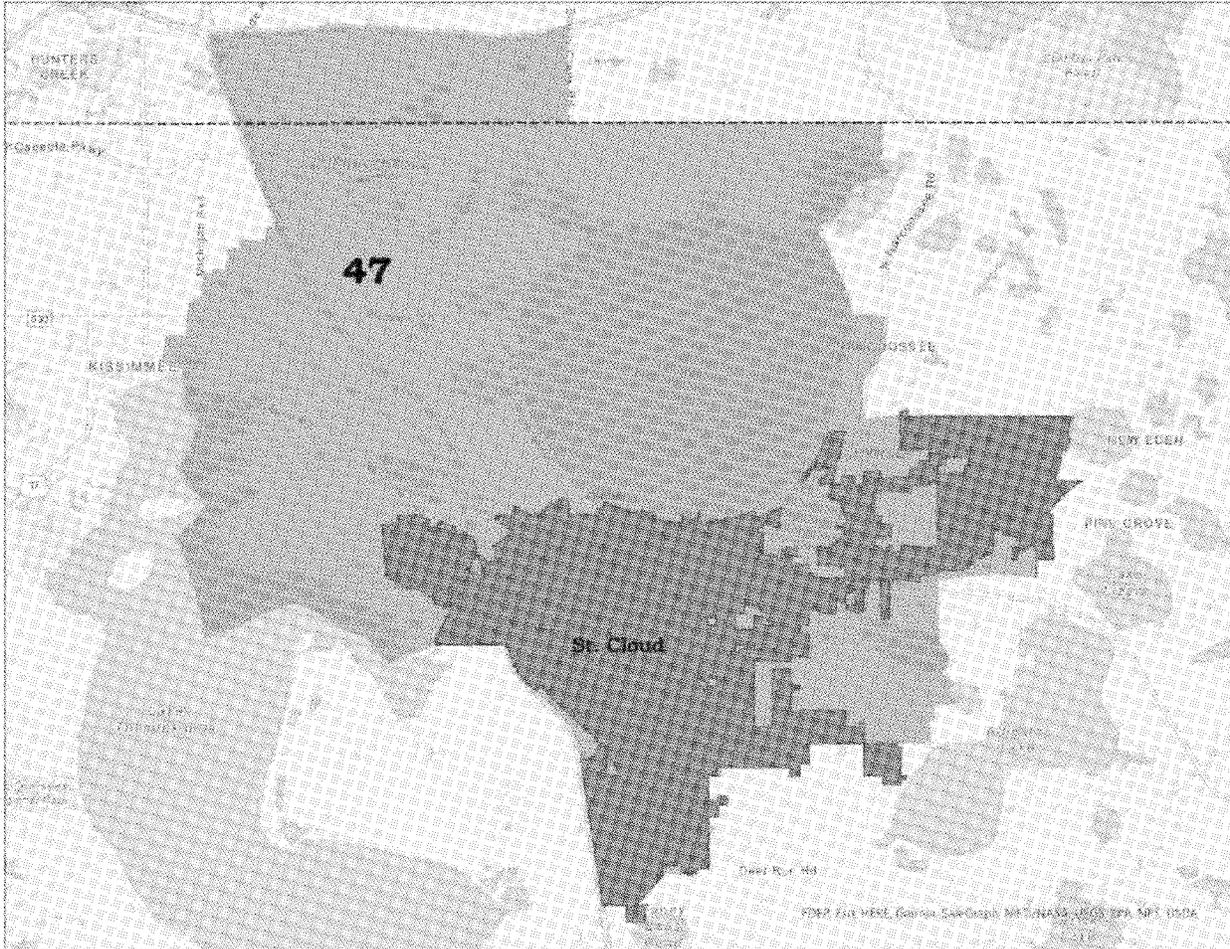
New District 88

The House Map therefore substantially improves the compactness of two districts that, on minority-protection grounds, this Court unanimously upheld against compactness challenges ten years ago. *Apportionment I*, 83 So. 3d at 647–50. These examples demonstrate the House’s commitment to minimizing deviations from visual compactness to the extent possible, without compromising tier-one priorities.

Many of the House Map’s protected minority districts are not only compact, but *highly* compact. Districts 13 and 14 in Duval

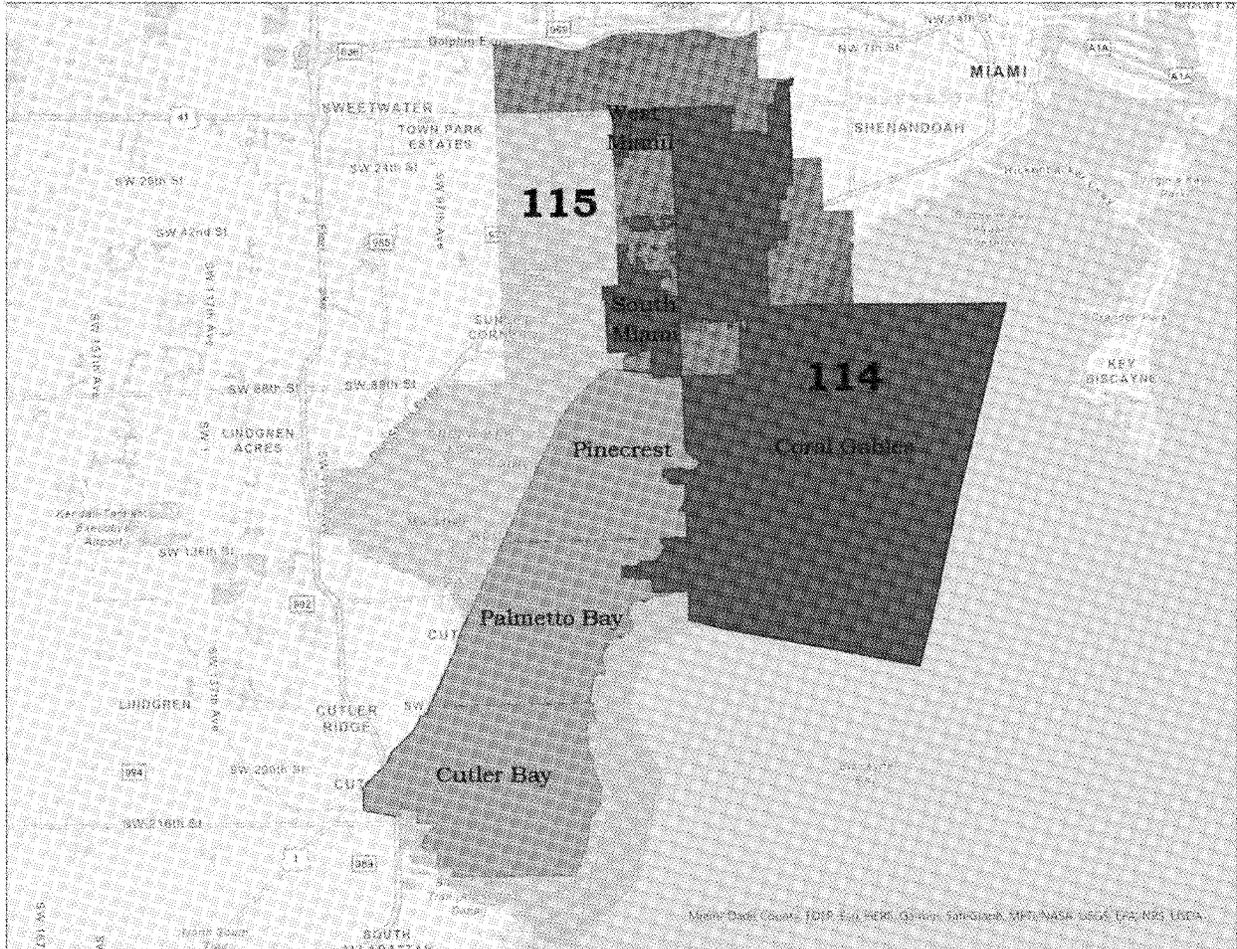
County; District 21 in Alachua and Marion Counties; Districts 40 and 41 in Orange County; District 63 in Hillsborough County; Districts 97, 98, 99, 104, and 105 in Broward County; and Districts 107, 108, and 109 in Miami-Dade County all maintain the voting ability of Black voters in minority districts that have historically performed. These districts are all highly compact, without fingers or bizarre shapes, implementing both tier-one and tier-two standards.

The House also struck a constitutional balance between compactness and faithful adherence to political boundaries. District 47, for example, maintains a compact shape while it accommodates St. Cloud's city boundaries. *Apportionment I*, 83 So. 3d at 635–36 (explaining that a “desire to keep municipalities wholly intact” may detract from compactness but “serve to justify the shape of the district”). The city remains intact, wholly within the district. District 47 also affords Hispanic voters the ability to elect representatives of their choice. In doing so, it increases from two to three the number of performing Hispanic districts in Central Florida and compensates for the loss of a performing district in South Florida, *see supra* note 8:

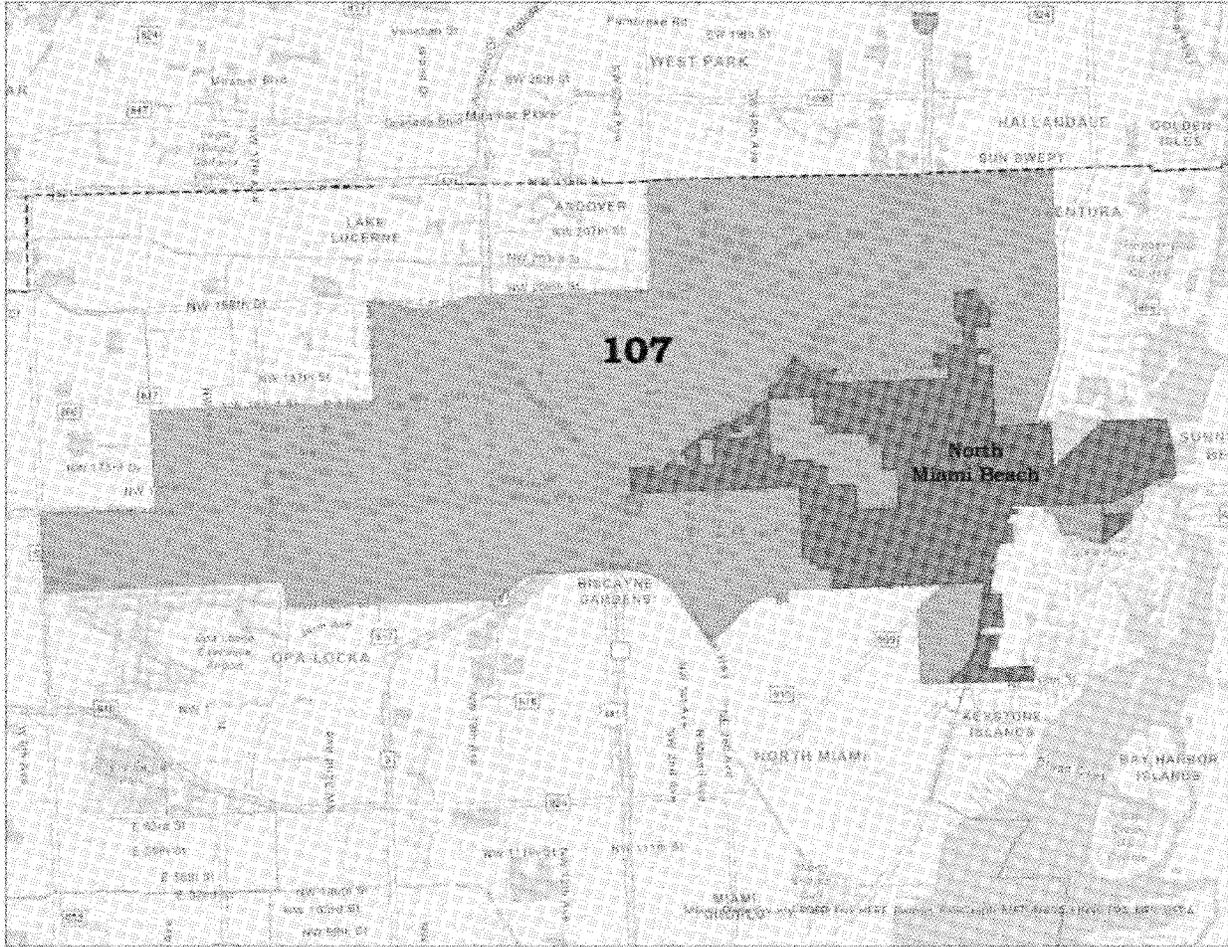


Districts 114 and 115 are compact districts shaped largely by the municipalities they encompass. District 114 is constructed around Coral Gables, which runs vertically through the district, and includes West Miami and South Miami to the west of Coral Gables. District 115 keeps Pinecrest, Palmetto Bay, and Cutler Bay whole; its shape is also impacted by neighboring District 117, a protected district that has historically performed for Black voters.

Districts 114 and 115 themselves were drawn to maintain the ability of Hispanic voters to elect the representatives of their choice:



District 107—a performing minority district that is bordered by five performing minority districts—furnishes another example of a constitutional reconciliation of tier-two considerations. While a small part of the district’s eastern boundary appears to be slightly irregular, the Legislature’s desire to keep the City of North Miami Beach whole within the district fully explains the district’s contours:



Small adjustments such as these along a district’s perimeter to accommodate a municipality do not violate compactness, which concerns the district’s overall shape—not the specific path of each distinct boundary segment. *Apportionment I*, 83 So. 3d at 638 (“In a compactness analysis, we are reviewing the general shape of a district; if a district has a small area where minor adjustments are made to follow either a municipal boundary or a river, this would

not violate compactness.”). As they did last decade, the districts in the House Map easily satisfy a visual assessment of compactness.

In addition to a visual examination, quantitative measures sometimes assist courts in their evaluation of compactness. *Id.* at 635. Three common measures of compactness are the Reock, Convex Hull, and Polsby-Popper measures. *League of Women Voters of Fla. v. Detzner*, 179 So. 3d 258, 283 nn.6–8 (Fla. 2015). Each generates a score between 0 and 1 that represents the ratio between the district’s area and the area of another geometric shape. *Id.* The closer the score approaches to 1, the more compact the district is presumed to be.

The Reock score compares the district’s area to the area of the smallest circle that can circumscribe the district. *Id.* at 283 n.6. A Reock score of 0.45 means, for example, that the district’s area covers 45 percent of the circle’s area. In theory, the more nearly a district’s shape resembles a perfect circle, the higher its Reock score will be. Similarly, the Convex Hull score indicates the ratio of the district’s area to the area of the smallest convex polygon that can enclose the district (imagine a taut rubber band encompassing the district). *Id.* at 283 n.7. And the Polsby-Popper score compares

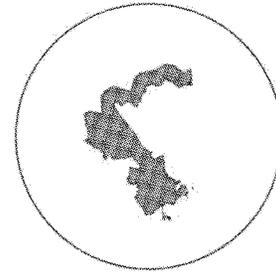
the district's area to the area of a circle with a perimeter of the same length as the district's. *Id.* at 283 n.8. The following diagram illustrates these compactness measures as applied to a hypothetical district:



Reock

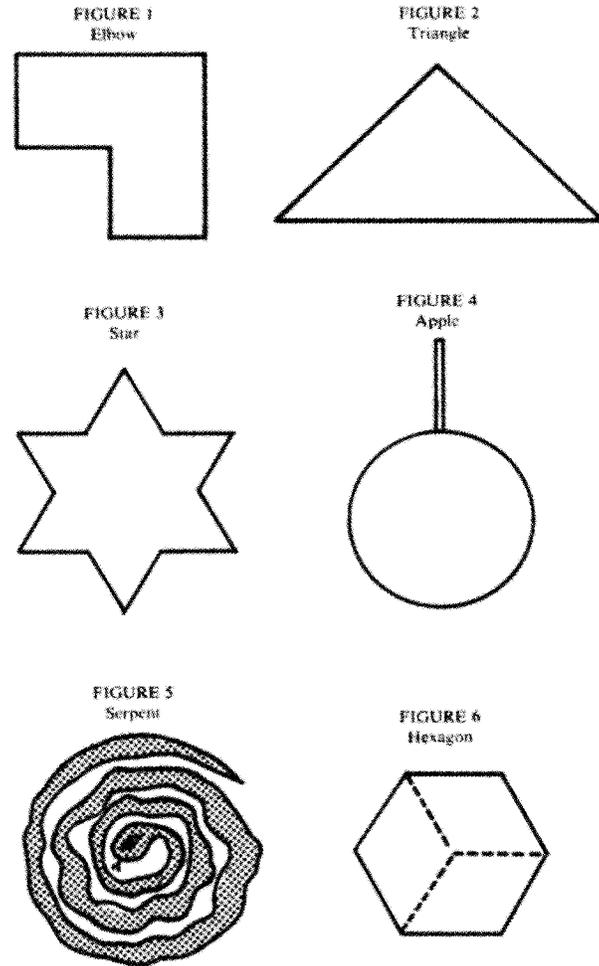


Convex Hull

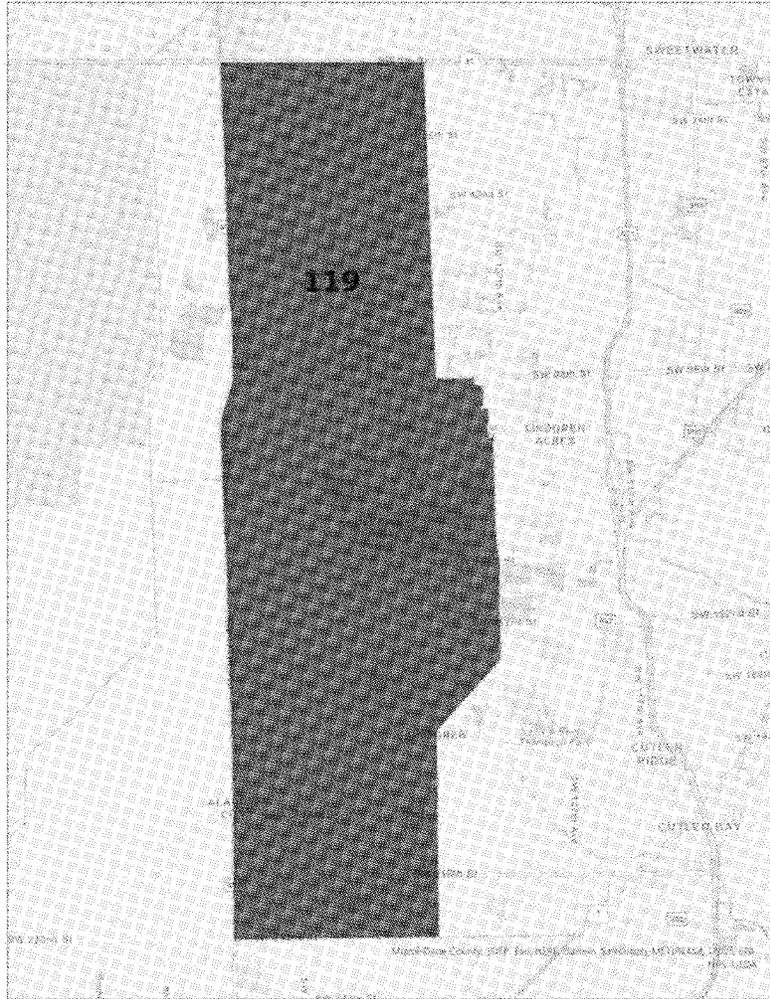


Polsby-Popper

Though favorable to the House Map, these mathematical measures are only guides, and are not dispositive. *Apportionment I*, 83 So. 3d at 635 (explaining that the Constitution does not require districts to “achieve the highest compactness scores”). Each is computed differently; their results often diverge from each other, and sometimes from common sense. See H.P. Young, *Measuring the Compactness of Legislative Districts*, *Legislative Studies Quarterly*, Vol. 13, No. 1 (Feb. 1988). To illustrate, under the Reock test, the *least* compact of the six shapes shown below is the simple triangle, while a square (not pictured) is less compact than the coiled snake. *Id.* at 106.



District 119 is a real-life example of divergence among compactness scores. It has the seventh *lowest* Reock score (0.28) but the eleventh *highest* Convex Hull score (0.92), while its Polsby-Popper score (0.47) is above the mean and median. Pet. App. 449. A visual inspection reveals that the rectangular district is highly regular in its overall shape and not even slightly bizarre, unusual, or tortured:



Despite the imperfections inherent in any mathematical compactness measure, the scores support what is obvious from a visual inspection—that the House Map satisfies the constitutional standard of compactness. The mean and median compactness scores in the House Map are all greater than the mean and median compactness scores in the Benchmark Map that this Court upheld:

	Mean Score		Median Score	
	2012	2022	2012	2022
Reock	0.43	0.45	0.44	0.46
Convex Hull	0.80	0.82	0.81	0.83
Polsby-Popper	0.43	0.45	0.44	0.45

Pet. App. 448, 475.

Compactness scores also confirm visual improvements in individual districts. District 88—a majority-minority district in Palm Beach County—had the lowest Reock (0.08), Convex Hull (0.34), and Polsby-Popper (0.08) scores in the Benchmark Map. Pet. App. 476. By removing the district’s 20-mile extension and instead drawing the district wholly in the northern part of the county, the House significantly improved the district’s Reock (0.30), Convex Hull (0.57), and Polsby-Popper (0.12) scores, Pet. App. 449, while performing a functional analysis to avoid diminishment in the voting ability of minority voters. District 88’s redesign also allowed the House to draw the entire region in a more compact fashion, without the long coastal district that, in the Benchmark Map, was set to the east of District 88.

Last decade, this Court identified three House districts that it concluded had “significantly low compactness scores”: Districts

88, 117, and 120. *Apportionment I*, 83 So. 3d at 646. Each of these districts had a Reock score of 0.20 or less and a Convex Hull score of 0.53 or less. Pet. App. 476.¹⁷ Still, the Court upheld all three districts. It noted that Districts 88 and 117 were properly drawn to protect minority voting rights, *Apportionment I*, 83 So. 3d at 648–50, 653, while District 120’s shape was heavily impacted by the “unusual geography of the Florida Keys,” *id.* at 646. This decade, only one district falls within the same range of compactness scores: District 117, which recreates Benchmark District 117 to avoid diminishment in the voting ability of minority voters, and which should be upheld for the same reasons once again. Pet. App. 449.

C. The House Map Satisfies the Equal-Population Standard.

The Constitution’s tier-two standards also require that districts “be as nearly equal in population as is practicable.” Art. III, § 21(b), Fla. Const.

¹⁷ This Court did not reference Polsby-Popper scores in *Apportionment I*.

This requirement is not new. The United States Supreme Court has long interpreted equal protection to require population equality among state legislative districts. *See Reynolds v. Sims*, 377 U.S. 533 (1964). That standard does not require “mathematical perfection.” *Harris v. Ariz. Indep. Redistricting Comm’n*, 578 U.S. 253, 258 (2016). Rather, it requires States to make an “honest and good faith effort” to equalize district populations, *id.* (quoting *Reynolds*, 377 U.S. at 577), while permitting deviations that further “legitimate considerations incident to the effectuation of a rational state policy,” *id.* (quoting *Reynolds*, 377 U.S. at 579). When the combined deviation between the most and least populous districts is less than 10 percent, a challenge “will succeed only rarely.” *Id.* at 259.

In *Apportionment I*, this Court imbued Florida’s tier-two standard with the same meaning, with one caveat. Like the federal standard, Florida’s standard permits deviations from “strict and unbending adherence to the equal population requirement.” 83 So. 3d at 630. Under Florida’s standard, however, deviations must be justified by efforts to comply with “other constitutional standards,” rather than by state policies not enshrined in the Constitution. *Id.*

The House Map complies with this standard. According to the 2020 census, the State’s population is 21,538,187. Pet. App. 448. The ideal district population is therefore 179,485. *Id.* The most populous district is District 4, with a population of 183,737—2.37 percent above the ideal. Pet. App. 448–49. The least populous district is District 6, with a population of 175,216—2.38 percent below the ideal. *Id.*¹⁸ The House Map’s overall range is therefore 4.75 percent—well below the 10-percent threshold that usually marks the outer limits of constitutional compliance. Pet. App. 448.

The deviations in the House Map are justified by the House’s efforts to comply with other constitutional standards. Districts 4 and 6 illustrate the point well. District 6 consists of a single, whole county (Bay County). District 4 is contained wholly within Okaloosa County and follows the county boundary along 69 percent of its perimeter. Pet. App. 471. It then follows a prominent geographical boundary—I-10—except where necessary to keep Crestview whole.

¹⁸ Population deviations are calculated by subtracting the ideal district population from the total population of the district and dividing the difference by the ideal district population, as follows:

$$(175,216 - 179,485) \div 179,485 = -.0238$$

Adherence to existing boundaries—a constitutional standard—dictated the shapes and therefore the populations of both districts.

The House Map’s more minor deviations were also necessary to achieve objectives rooted in Florida’s constitutional standards. As explained above, to better respect county boundaries, the House divided the entire State into 14 regions, or “sandboxes,” each consisting of one or more whole counties capable of forming one or more whole districts. Each region’s ideal district population was a little above or a little below the ideal population of districts statewide. For example, when the population of Seminole, Orange, and Osceola Counties was divided among 13 whole districts, the ideal population of those 13 districts was 1.88 percent less than the statewide ideal district population. *See supra* p. 13. These 13 districts are slightly under-populated (though well within constitutional bounds) for the simple reason that the House sought to preserve county boundaries where feasible. The same division of the State into county-based regions dictated the minor population deviations of the other districts.

IV. THIS COURT’S JUDGMENT IS BINDING ON ALL CITIZENS—AND PRECLUDES FURTHER LITIGATION.

In entering a declaratory judgment determining the House Map’s validity, this Court should make explicit what that means. It should recede from *Apportionment III*, give effect to the plain language of the Florida Constitution, and declare that the Court’s declaratory judgment is binding and precludes future challenges.

The Constitution requires this Court to enter a “declaratory judgment determining the validity of the apportionment,” and declares that judgment to be “binding upon all the citizens of the state.” Art. III, § 16(c), (d), Fla. Const. In *Apportionment III*, this Court held that its judgment is binding as to the apportionment’s “facial validity,” but *not binding* as to “fact-based challenges.” 118 So. 3d at 209.

The Constitution, however, makes no such distinction. As the dissent correctly explained, “there is nothing in the text of the Florida Constitution suggesting that as-applied challenges under Florida law somehow escape the rule in section 16(d).” *Id.* at 216. Instead, article III, section 16(d) “unambiguously precludes” further challenges to redistricting plans that this Court declares to be valid.

Id. at 214. “If the citizens of the state are bound by a judgment of validity, they are necessarily precluded from challenging the validity of the redistricting plan in subsequent litigation.” *Id.* at 215.

Indeed, in *Apportionment I*, this Court recognized that article III, section 16 was created to secure finality and avoid litigation. From 1962 to 1968, redistricting litigation had “proliferated,” and in some cases “literally spanned a period of several years, infusing the apportionment and the electoral process with uncertainty.” 83 So. 3d at 601 (collecting cases). This period of instability featured alternating court battles and special sessions, four redistricting plans in five years, court-imposed districts, and even court-ordered elections.¹⁹ This Court’s review proceeding was proposed as the cure—as an “attempt to avoid further apportionment litigation.” *Id.*

This Court also recognized that, to await challenges to “work their way up to this Court would itself be an endless task,” *id.* at 617, and “create uncertainty” for voters and candidates, *id.* at 609. The Constitution therefore gave this Court “jurisdiction to resolve

¹⁹ See generally Pet. for Writ of Prohibition or for Constitutional Writ to the Circuit Court of the Second Judicial Circuit at 13–15, *Apportionment III* (No. SC13-252).

all issues” related to state legislative districts, *id.* at 600 (quoting *In re Apportionment Law*, 414 So. 2d 1040, 1045 (Fla. 1982)), and declared the Court’s judgment “binding,” Art. III, § 16(d), Fla. Const.

The *Apportionment III* dissent correctly concluded that this “unique constitutional proceeding” was established to “conclusively determine and settle once for all the validity of a redistricting plan under state law,” 118 So. 3d at 215–16, and that, to that end, article III, section 16(d) imposes an “unconditional and unequivocal rule of preclusion” that precludes future challenges, *id.* at 218. In contrast, the holding of *Apportionment III* accords no practical effect to the plain and unambiguous language of article III, section 16(d). This Court should make clear that its declaratory judgment is not a preliminary indication of validity, but rather a *binding judgment* that averts “unending litigation” over state legislative districts, *id.* at 218 (Canady, J., dissenting), and guarantees finality to all citizens of the State—just as the Constitution says, and was intended to do.

CONCLUSION

The House Map is valid. This Court should enter a binding declaratory judgment upholding the unchallenged House Map.

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I certify that this brief is filed in Bookman Old Style 14-point font and contains 11,143 words, as determined by the word-processing system used to prepare this document, and therefore complies with the applicable font and word-count limit requirements in Florida Rules of Appellate Procedure 9.045(b) and 9.210(a)(2)(B).

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EXHIBIT 16

Case No. SC22-131

IN THE SUPREME COURT OF FLORIDA

IN RE: JOINT RESOLUTION OF LEGISLATIVE APPORTIONMENT

**BRIEF OF THE FLORIDA SENATE
SUPPORTING THE VALIDITY OF THE APPORTIONMENT**

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INTRODUCTION

On February 3, 2022, the Florida Senate unanimously voted to adopt CS/SJR 100, a joint resolution apportioning the state into 40 senatorial districts and 120 representative districts in accordance with the Florida Constitution. The Senate files this brief supporting the validity of the senatorial districts contained in Section 3 of CS/SJR 100 (the “Senate Plan”).

The Senate Plan is valid. Both the Senate Plan as a whole, and every district within the Senate Plan, were drawn to comply with the Florida Constitution’s prohibition on intentionally favoring or disfavoring a political party or an incumbent. The Senate Plan and its districts do not diminish or dilute the voting rights of racial or language minorities. The Senate districts consist of contiguous territory and appropriately balance the co-equal constitutional standards of compactness, population equality, and use of existing political and geographical boundaries.

No adversary interests have filed briefs or comments in opposition to the validity of the apportionment. This Court should issue a declaratory judgment, binding on all the citizens of the state, determining the apportionment to be valid.

STATEMENT OF THE CASE AND FACTS

I. THE CASE

On February 9, 2022, Attorney General Moody petitioned this Court for a declaratory judgment determining the validity of the legislative apportionment reflected in CS/SJR 100. Art. III, § 16(c), Fla. Const. The Attorney General's petition included an appendix containing additional information as specified in the Court's January 31 scheduling order.

Under the scheduling order, parties opposing the validity of the apportionment were required to file their briefs or comments by 11:59 p.m. on February 14, 2022. No briefs or comments opposing the validity of the apportionment were filed.

The Senate submits this brief supporting the validity of the senatorial districts.¹

II. THE FACTS

A. The 2020 Census Data.

The Florida Constitution requires the Legislature to reapportion the state's senatorial and representative districts in the

¹ The Florida House of Representatives will file a separate brief supporting the validity of the representative districts.

second year following each decennial census. Art. III, § 16(a), Fla. Const. For various reasons, including the COVID-19 pandemic, the Census Bureau’s official release of the full redistricting data toolkit to the states was delayed from April 2021 until September 16, 2021.² (SA.38).³

The census data reflected Florida’s substantial growth over the past decade. Florida’s statewide population grew by more than 14% over the last decade, from 18,801,310 to 21,538,187. (SA.46). The ideal population for each of Florida’s 40 senatorial districts therefore grew at the same rate, from 470,033 to 538,455. *Id.*

The population growth was not evenly distributed, however, as the population of some Senate districts grew substantially, while others decreased in population. For example, the census data showed that Senate District 15 was overpopulated by more than 32% (175,492 people) relative to the ideal population, while Senate District 3 was underpopulated by nearly 10% (52,124 people)

² Florida received redistricting data as “legacy format” summary files (tabular data) on August 12, 2021.

³ Citations to the Senate Appendix will appear as “(SA.##).” Citations to the Appendix will appear as “(A.##).”

relative to the ideal population. (SA.1136). Notably, nearly every district south of Tampa Bay was underpopulated and would need to gain population.⁴ *Id.*

To comply with the one-person, one-vote principle, the existing Senate district lines required substantial revisions.

B. Senators appointed to Senate Committee on Reapportionment, Select Subcommittee on Legislative Reapportionment.

Following receipt of the census data, Senate President Wilton Simpson appointed twelve senators to the Committee on Reapportionment, chaired by Senator Rodrigues. (SA.1019-20). President Simpson also established a Select Subcommittee on Legislative Reapportionment, chaired by Senator Burgess, to work in an advisory capacity to the standing committee. *Id.*

C. Committee on Reapportionment holds meetings to receive information, provide directives to professional staff on the drawing of Senate maps.

The Committee on Reapportionment held three initial meetings during the Legislature's interim committee weeks in late summer

⁴ Notable exceptions were benchmark Senate Districts 27 and 28 in Southwest Florida, each of which was overpopulated relative to the ideal population. *Id.*

and autumn of 2021. During the first two meetings, on September 20 and October 11, the Committee received informational briefings from professional staff and counsel on the census data, the legal requirements governing the redistricting process, and an overview of the information available on the Legislature’s joint redistricting website, www.floridaredistricting.gov. (SA.5-122).

The Committee also received information about the Legislature’s 2022 web-based redistricting application. (SA.53). The presentation included an explanation of the application’s data sources and reporting functions allowing users to analyze a plan or district’s compliance with legal standards. (SA.105-22).

The Committee was specifically advised of the application’s ability to run a detailed boundary analysis report—a reporting function not available in the Legislature’s 2012 redistricting applications. (SA.105-07). The boundary analysis report calculates the coincidence of district boundaries with readily identifiable and easily ascertainable political or geographic boundaries. *Id.*

At its third meeting, on October 18, 2021, the Committee unanimously adopted a series of directives establishing priorities

and standards that would govern the actual drawing of Senate district maps by professional staff. (SA.126, 1024-26).

D. Select Subcommittee on Legislative Reapportionment holds meetings to workshop staff-drawn Senate maps, provide recommendations to Committee on Reapportionment.

The Select Subcommittee on Legislative Reapportionment held three meetings to workshop staff-drawn State Senate maps. The initial four draft maps were released on November 10, for discussion at the Subcommittee meeting on November 17. (SA.1032-33). A second set of four draft maps was released on November 24 for discussion at the Subcommittee meeting on November 29. (SA.1035). At each Subcommittee meeting, Senators were presented information regarding different iterations and approaches for achieving compliance with legal and constitutional standards. (SA.132-170, 218-37). At the conclusion of each Subcommittee meeting, staff were directed to continue to look for improvements and consistency in the application of the various trade-offs presented in the maps. *Id.*

A final set of four draft Senate maps was released on January 5, for discussion at the Subcommittee's meeting on January 10,

2022. (SA.276-331). The maps contained additional iterative improvements to Tier-Two metrics and further ensured consistent application of the Committee Directives. *Id.* Professional staff provided a report demonstrating the iterative improvements in Tier-Two metrics over the course of the three workshops. (SA.298-99).

Following public comment and debate, the Select Subcommittee on Legislative Reapportionment recommended that the Committee consider either plan S8046 or plan S8050 as the substance of an amendment to SJR 100. (SA.1043).

E. Committee on Reapportionment adopts Committee Substitute for SJR 100.

The Senate Committee on Reapportionment held its final meeting on January 13, 2022. The Committee considered SJR 100, a joint resolution providing for the apportionment of the House of Representatives and the Senate. (SA.464-582). Chair Rodrigues offered an amendment incorporating the geographical boundaries contained in plan S8046, which contained slightly higher compactness and boundary-usage scores than plan S8050. *Id.*

The Committee rejected a proposed amendment that would have adopted an earlier, less compact staff-drawn configuration of

the Senate districts located in Duval and Nassau Counties. (SA.583-685, 1007). The Committee adopted an amendment by Chair Rodrigues that would keep five additional cities⁵ wholly within a district without reducing the plan’s compactness or boundary usage metrics. (SA.686-791, 1007)

After the Committee dispensed with these two amendments, a public random drawing was held to assign an “odd” or “even” status to each Senate district. (SA.905-06). The Committee then adopted a substitute amendment (S8058) assigning new district numbers in accordance with the random drawing. (SA.907-84, 1008).

Following public comment, the Committee favorably reported CS/SJR 100 by a vote of 10-2. (SA.1008).

F. Florida Legislature adopts CS/SJR 100.

The Legislature acted promptly to complete the apportionment process. The full Senate passed CS/SJR 100 on January 20, 2022. Fla. S. Jour. 215 (Reg. Sess. 2022). The House adopted an

⁵ The five cities were Laurel Hill, Holly Hill, Titusville, Winter Haven, and Pembroke Pines, each of which contained a population split involving less than 1000 people in draft S8046. *Compare* SA.311 *with* A.434.

amendment to add the representative districts to the joint resolution, passed CS/SJR 100 (as amended), and immediately certified the resolution to the Senate. Fla. H.R. Jour. 480-530, 543-544 (Reg. Sess. 2022).

The Senate took up CS/SJR 100 for final passage on February 3, 2022 and, without objection, concurred in the House amendment adding the representative districts. Fla. S. Jour. 325 (Reg. Sess. 2022). The Senate then passed CS/SJR 100 by a vote of 37-0. *Id.* The joint resolution was ordered engrossed, enrolled, and was filed with the Secretary of State.

SUMMARY OF ARGUMENT

The Senate Plan is valid. This Court should apply the deferential standard of review historically applied in its review of legislative apportionment, but the Senate Plan would satisfy any standard of review. The Senate's procedures and standards governing the drawing of district lines ensured compliance with all constitutional requirements.

The Senate Plan complies with every constitutional standard governing apportionment, including the standards established in Article III, Section 21. The Senate Plan was not drawn with the

intent to favor or disfavor a political party or incumbent. It does not deny or abridge the equal opportunity of racial or language minorities to participate in the political process, and does not diminish their ability to elect representatives of their choice. The Senate Plan's districts consist of contiguous territory and satisfy the Florida Constitution's population-equality, compactness, and boundary usage standards. The individual Senate districts likewise comply with each of these requirements.

The Senate's methodology for assigning numbers to senatorial districts complies with the Florida Constitution, but this Court should nevertheless recede from precedent holding that Article III, section 21 addresses criteria other than the manner in which "legislative district boundaries" are "drawn."

Because the Senate Plan complies with all constitutional criteria, this Court should issue a declaratory judgment declaring the apportionment to be constitutionally valid. Finally, the Court should reassess its prior precedent and confirm, consistent with the unambiguous language of the Florida Constitution, that the Court's judgment of validity will be "binding upon all the citizens of the state."

ARGUMENT

I. A DEFERENTIAL STANDARD OF REVIEW APPLIES TO THIS COURT'S JUDICIAL REVIEW OF LEGISLATIVE APPORTIONMENT.

When reviewing a joint resolution of apportionment, this Court historically applied the deferential standard of review that applies to other types of legislation. Under this standard, legislative enactments are “presumed constitutional” and a challenging party has the burden to establish invalidity “beyond a reasonable doubt.” *Fla. Dep’t of Health v. Florigrown, LLC*, 317 So.3d 1101, 1111 (Fla. 2021).

This Court applied the presumption of constitutionality in its first decision reviewing the validity of a legislative apportionment under Article III, Section 16. *See In re Apportionment Law Sen. Jt. Res. No. 1305, 1972 Reg. Sess. (“In re Apportionment—1972”),* 263 So.2d 797 (Fla. 1972). There, the Court acknowledged that the redistricting process is “primarily a matter for legislative consideration and determination.” *Id.* at 799-800; *see also id.* at 805-806 (stating that legislative enactment should not be declared unconstitutional “unless it clearly appears beyond all reasonable doubt that, under any rational view that may be taken of the

statute, it is in positive conflict with some identified or designated provision of constitutional law” (quoting *City of Jacksonville v. Bowden*, 64 So. 769, 772 (Fla. 1914))).

During the last redistricting cycle, this Court confirmed that the adoption of additional substantive requirements in Article III, section 21, did not remove “the initial presumption of validity” applied by this Court. *In re Sen. Jt. Res. of Leg. Apportionment 1176 (“Apportionment I”)*, 83 So.3d 597, 606 (Fla. 2012). The majority opinion in *Apportionment I* stated that the Court would “defer to the Legislature’s decision to draw a district in a certain way, so long as that decision does not violate the constitutional requirements.” *Id.* at 608. Finally, the *Apportionment I* decision acknowledged that the Court’s duty “is not to select the best plan, but rather to decide whether the one adopted by the legislature is valid.” *Id.* (quoting *In re Sen. Jt. Res. 2G, Special Apportionment Sess. 1992 (“In re Apportionment—1992”)*, 597 So.2d 276, 285 (Fla. 1992)).

Notwithstanding these statements professing deference, *Apportionment I* diverged from the Court’s precedent as to the application of the “beyond a reasonable doubt standard.” See *Apportionment I*, 83 So.3d at 607-10 (concluding prior standard of

review was “ill-suited” for the Court’s review of apportionment following the adoption of new substantive standards in Article III, Section 21, and advances in “technology”).

The dissent disagreed with the majority’s treatment of the standard of review. *Id.* at 695-96 (Canady, C.J., concurring in part and dissenting in part). Concluding that the majority “effectively abrogate[d]” the Court’s precedents on deference, the dissent offers a thorough defense of the court’s historical justification for the rule of deference based upon justiciability and separation-of-powers concerns. *Id.* at 696-99. The Court’s failure to apply the proper standard of review, in the dissenting justices’ view, “creates the risk of having our decisions adjudicating the validity of redistricting plans decline into a species of ‘it-is-so-because-we-say-so jurisprudence.’” *Id.* at 699 (quoting *Webster v. Reprod. Health Servs.*, 492 U.S. 490, 552 (1989) (Blackmun, J., concurring in part and dissenting in part)).

Although the Senate Plan is valid under *any* standard of review, the Senate respectfully requests that this Court recede from *Apportionment I* and restore the traditional standard of review that this Court applied in reviewing legislative apportionment during the

prior four decades. The dissent in *Apportionment I* is more faithful to the text and precedent governing the constitutional review process and accurately determined that it was “unwarranted to conclude that section 21 implicitly altered the structure or nature of the existing constitutional review process.” 83 So.3d at 696.

While this Court has “acknowledged the importance of *stare decisis*, it has [also] been willing to correct its mistakes.” *State v. Poole*, 297 So.3d 487, 506 (Fla. 2020). The approach to *stare decisis* is “straightforward”:

In a case where we are bound by a higher legal authority—whether it be a constitutional provision, a statute, or a decision of the Supreme Court—our job is to apply that law correctly to the case before us. When we are convinced that a precedent clearly conflicts with the law we are sworn to uphold, precedent normally must yield.

Id.; see also *Puryear v. State*, 810 So.2d 901, 905 (Fla. 2002) (“The doctrine of *stare decisis* bends . . . where there has been an error in legal analysis.”). After the Court has “chosen to reassess a precedent” and has concluded “that it is clearly erroneous, the proper question becomes whether there is a valid reason *why not* to recede from that precedent.” *Poole*, 297 So.3d at 507.

At that point, “[t]he critical consideration ordinarily will be reliance.” *Id.* Reliance interests are “at their acme in cases involving property and contract rights” and “lowest in cases . . . involving procedural and evidentiary rules.” *Id.* (quoting *Payne v. Tennessee*, 501 U.S. 808, 828 (1991)) (internal quotation marks omitted); see also *Alleynes v. United States*, 570 U.S. 99, 119 (2013) (Sotomayor, J., concurring) (“[W]hen procedural rules are at issue that do not govern primary conduct and do not implicate the reliance interests of private parties, the force of *stare decisis* is reduced.”).

The interpretation of a constitutional provision arguably ranks even lower than procedural and evidentiary rules. See, e.g., *Vieth v. Jubelirer*, 541 U.S. 267, 305 (2004) (receding from precedent in redistricting case involving “an interpretation of the Constitution” because “the claims of *stare decisis* are at their weakest in that field, where our mistakes cannot be corrected by Congress.”).

This case presents none of the traditional factors cited as justifications for adherence to erroneous precedent. The Court’s statement of the standard of review in apportionment cases does not involve property or contract rights, does not govern “primary conduct,” and does not implicate the sort of reliance interests that

stare decisis is intended to protect. *See id.* at 306 (receding from precedent and noting, with respect to reliance interests, that it “is hard to imagine how any action taken in reliance upon [case law governing standards of constitutional interpretation] could conceivably be frustrated—except the bringing of lawsuits, which is not the sort of primary conduct that is relevant.”). Instead, the precedent at issue here addresses matters of procedure and constitutional interpretation—both matters where reliance interests and the claims of *stare decisis* are at their weakest.

This Court should recede from *Apportionment I* to the extent that decision itself departed from longstanding precedent on the deferential standard to be applied in the review of legislative apportionment under Article III, section 16.

II. THE SENATE’S PROCEDURES AND STANDARDS FOR DRAWING THE SENATE PLAN ENSURED COMPLIANCE WITH ALL CONSTITUTIONAL REQUIREMENTS.

Mindful of the circumstances that led to the invalidation of senatorial and congressional districts during the last redistricting cycle, the Senate adopted procedures and standards early in its process to guard against a similar result. An explanation of the Senate’s procedures and standards follows to assist the Court in

evaluating the validity of the final product of the redistricting process—the joint resolution.

On October 18, 2021, the Senate Committee on Reapportionment unanimously adopted a series of directives (the “Committee Directives”) establishing priorities that would govern the actual drawing of district lines by the Committee’s professional staff. (SA.126). The Committee Directives were published in a memorandum from Chair Rodrigues to Staff Director Jay Ferrin. (SA.1024-26). As described below, the Committee Directives instructed the map drawers to comply with applicable provisions of state and federal law and existing judicial precedent. *Id.*

A. Procedures and Standards Ensuring Compliance with Tier-One Requirements.

The Tier-One standards, *see* Art. III, § 21(a), Fla. Const., prohibit intentional political discrimination, protect racial and language minorities from vote dilution and retrogression, and require contiguity.

1. Intent to favor or disfavor a political party or an incumbent.

The Tier-One standard prohibiting intentional political discrimination provides that “[n]o apportionment plan or district

shall be drawn with the intent to favor or disfavor a political party or an incumbent.” *Id.*

To comply with this standard, the Committee Directives instructed professional staff to draw districts “without reviewing political data other than where a review of political data is required to perform an appropriate functional analysis to evaluate whether a minority group has the ability to elect representatives of choice.” (SA.1024-26). The Committee Directives also instructed professional staff to “draw districts without the use of any residence information of any sitting member of the Florida Legislature or Congress and to draw districts without regard to the preservation of existing district boundaries.” *Id.*

The Committee took other steps to guard against improper political influence on the apportionment process. The map drawers were instructed that if they received “any suggestion that a plan be drafted or changed with the intent to favor or disfavor any incumbent or political party,” they were to “disregard the suggestion entirely, document the conversation in writing, and report the conversation directly to the Senate President.” *Id.*

The Committee on Reapportionment also strengthened disclosure and transparency requirements for members of the public. Any person wishing to submit comments, suggestions, or proposed maps through the Legislature’s redistricting website was required to complete a Redistricting Suggestion Form identifying every person who collaborated on the submission and any compensation received from organizations interested in redistricting. (SA.1134-35).

Finally, public submissions were not to be reviewed or considered by the Senate’s map drawers unless a senator requested in writing that a submission be incorporated into a plan. (SA.1029). These procedures were intended to protect against the imputation of an external map drawer’s undisclosed intent.

2. Constitutional protections for racial and language minorities.

The Tier-One standard protecting the interests of racial and language minorities states “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.” Art. III, § 21(a), Fla. Const.

To comply with this standard, the Committee Directives instructed the Senate’s professional staff to conduct a functional analysis where appropriate to confirm that any map submitted for consideration complies with the Florida Constitution’s Tier-One standards and the federal Voting Rights Act. (SA.1024-26). Each staff-drawn map submitted for consideration included a report of the objective statistical data necessary to verify the results of a functional analysis under this Court’s precedent. *See, e.g.*, A.435-38.

Because the non-diminishment requirement is measured against the performance of districts in the benchmark⁶ plan, the map drawers ensured that the proposed maps would not eliminate “majority-minority districts”⁷ or weaken other “historically

⁶ In redistricting, a “benchmark” plan is a jurisdiction’s existing plan against which a newly created plan is measured to assess diminishment in the rights of racial or language minorities to elect representatives of their choice. *See, e.g., Apportionment I*, 83 So.3d at 624 (citing *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 478 (1997)).

⁷ A “majority-minority” district is one “in which a majority of the population is a member of a specific minority group.” *Apportionment I*, 83 So.2d at 622 (quoting *Voinovich v. Quilter*, 507 U.S. 146, 149 (1993)).

performing minority districts” where doing so would “*actually diminish* a minority group’s ability to elect its preferred candidates.” *Apportionment I*, 83 So.3d at 625 (emphasis added).

After ensuring non-diminishment compared to the benchmark districts, the map drawers verified compliance with the Florida’s Constitution’s prohibition against vote dilution. Specifically, the Senate evaluated whether “a minority group was denied a majority-minority district that, but for the purported dilution, could have potentially existed.” *Apportionment I*, 83 So.3d at 622 (citing *Thornburg v. Gingles*, 478 U.S. 30 (1986)).

Finally, the Senate accounted for federal Fourteenth Amendment precedent governing the consideration of racial information in redistricting by emphasizing a high degree of compliance with the Florida Constitution’s Tier-Two standards of compactness, population equality, and consistent usage of political and geographical boundaries, even as to districts entitled to Tier-One protections for racial and language minority groups. (SA.1024-26). The Senate’s procedures and standards were therefore designed to ensure not only compliance with the Florida Constitution’s protections for racial and language minorities, but to do so without

subordinating traditional redistricting criteria to predominant racial considerations in violation of federal precedent.

B. Procedures and Standards Ensuring Compliance with Tier-Two Requirements.

The Tier-Two standards, *see* Art. III, § 21(b), Fla. Const., require districts to be compact, use existing political and geographical boundaries where feasible, and be as nearly equal in population as practicable. No Tier-Two standard has constitutional priority over another, *id.* at § 21(c), but “[s]trict adherence to these standards must yield” if they conflict with the Tier-One standards or federal law. *Apportionment I*, 83 So.3d at 628. Balancing the competing Tier-Two standards and the relative weight assigned to each is a matter of legislative discretion.

1. *“Districts shall be as nearly equal in population as is practicable.”*

The Tier-Two standard regarding population equality requires districts to be “as nearly equal in population as is practicable.” Art. III, § 21(b), Fla. Const.

To comply with this standard, the Committee Directives instructed professional staff to prepare Senate plans “with district population deviations not to exceed 1% of the ideal population of

538,455 people.” (SA.1024-26)). Each staff-drawn map submitted for consideration complied with this directive, as reflected in the statistical reports reflecting the population of each Senate district and its deviation from the ideal district population. The population in each district deviates from the ideal population by less than 5,385 people (1%); the overall plan deviation is less than 2%. (A.432).

2. Districts shall be compact.

Another Tier-Two standard requires districts to be “compact.” Art. III, § 21(b), Fla. Const. To comply with this standard, the Committee Directives instructed professional staff to draw districts that are visually compact in relation to their shape and geography, and to use mathematical compactness scores where appropriate (SA.1024-26)); *see also* (SA.108-10) (committee presentation on mathematical compactness measures).

Each staff-drawn map submitted for consideration complied with this Committee Directive. The statistical reports provided with each staff-drawn map included three recognized mathematical measurements of compactness used by this Court: Convex Hull, Polsby-Popper, and Reock. (A.432).

3. *Districts shall, where feasible, utilize existing political and geographical boundaries.*

A third Tier-Two standard requires districts to “where feasible, utilize existing political and geographical boundaries.” Art. III, § 21(b), Fla. Const.

The Committee Directives instructed professional staff to examine the use of county boundaries as a primary political boundary and to explore concepts that, where feasible, would result in districts consisting of whole counties (in less populated areas) and that keep districts wholly within a county (in more densely populated areas). (SA.1024-26). Although the map drawers were also asked to explore concepts that kept cities whole, municipal boundaries were relatively deemphasized as a priority in comparison to other political and geographical boundaries in recognition of the “impermanent and changing nature of municipal boundaries.” *Id.*; *see also* (SA.105-07, 119-122) (committee presentations on boundary analysis, municipal boundaries).

With respect to geographical boundaries, the Committee Directives instructed professional staff to examine the use of “easily

recognizable and readily ascertainable” boundaries consistent with this Court’s precedent: railways, interstates, federal and state highways, and large water bodies. (SA.1024-26). The Committee Directives noted that these geographical features provide an opportunity to create districts with “static boundaries.” *Id.*

Each staff-drawn map submitted for consideration complied with this directive. The statistical reports provided with each staff-drawn map provided a “boundary analysis report” directly measuring the degree to which each district’s boundaries coincide with the political and geographical boundaries recognized by this Court’s precedent. (A.432). The final column in the boundary analysis report (labeled “Non-Pol/Geo”) displays the percentage of the corresponding district’s boundary that *does not* coincide with existing political or geographical boundaries. A Non-Pol/Geo score of 0% for a given district therefore reflects that 100% of that district’s boundaries consist of qualifying political or geographical boundaries: city or county boundaries, interstates, federal or state

highways, contiguous water bodies greater than ten acres, or railways.⁸

The statistical reports provided with each staff-drawn map also included a count of the overall number of county and city splits, to the extent those statistics bear on the boundary-usage standard. (A.432).

III. THE SENATE PLAN COMPLIES WITH ALL CONSTITUTIONAL STANDARDS FOR ESTABLISHING LEGISLATIVE DISTRICT BOUNDARIES.

The Senate Plan as a whole is valid and complies with all constitutional standards. The validity of the Senate Plan is confirmed by a review of the plan itself and an analysis of the objective statistics this Court considered in *Apportionment I* and *In re Senate Joint Resolution of Legislative Apportionment 2-B* (“*Apportionment II*”), 89 So.3d 872 (Fla. 2012).

⁸ The “Non-Pol/Geo” score is most relevant when reviewing a district’s compliance with the constitution’s boundary-usage standard because it avoids the potential for “double-counting” of separate political and geographical boundaries that coincide with one another. For example, the same portion of the southern boundary of Senate District 1 is both the county boundary of Escambia County *and* waters contiguous with the Gulf of Mexico (a qualifying water boundary). (A.431)

A. The Senate Plan Complies with the Tier-One Standards.

The Florida Constitution provides that “[n]o apportionment plan or district shall be drawn with the intent to favor or disfavor a political party or an incumbent; and 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; and districts shall consist of contiguous territory.” Art. III, § 21(a), Fla. Const. The Senate Plan complies with these Tier-One standards.

- 1. The Senate Plan was not drawn with the intent to favor or disfavor a political party or an incumbent.*

Consistent with Article III, Section 21(a), the Senate Plan was not drawn with the intent to favor or disfavor a political party or an incumbent. The Senate’s procedures ensured that every district line in the Senate Plan was drawn by professional staff insulated from improper political considerations. The Senate Plan’s exacting compliance with the Tier-Two standards further confirms the absence of any objective indicia of improper intent to favor or disfavor a political party or an incumbent.

The record before this Court reflects that every district line in CS/SJR 100 was drawn by professional staff under the standards in the Committee Directives. The staff-drawn maps were explained at length in three public meetings of the Select Subcommittee on Legislative Apportionment and at the final meeting of the Committee on Reapportionment. The draft maps reflected continual iterative improvements over the course of the legislative process, with no “back-sliding” in their objectively measurable statistics that might suggest improper intent.

The Senate Plan’s strict compliance with the Tier-Two standards contradicts any suggestion of improper intent. The districts are visually and mathematically compact, with minimal population deviations, and an extraordinarily high usage of existing political and geographical boundaries. *Cf. Apportionment I*, 83 So.3d at 640 (“[A] disregard for the constitutional requirements set forth in tier two is indicative of improper intent, which Florida prohibits by absolute terms.”). In short, the Senate Plan bears no “objective indicia of improper intent.” *Id.* at 644.

Finally, the after-the-fact evidence is also contrary to any suggestion of improper intent to favor or disfavor an incumbent.

The Senate’s map drawers did not consider any member’s residence information when drawing district lines, but news outlets have subsequently reported that the Senate Plan draws multiple incumbent Senators (of both political parties) into districts with one another.⁹ The Senate Plan therefore contrasts sharply with the plan invalidated by this Court in *Apportionment I*, which did not pit *any* incumbents against one another. 83 So.3d at 654.

Before the first staff-drawn maps were released, Senate leadership of both political parties released a memorandum asking all senators to set aside personal and political ambitions in the interest of “fulfilling our responsibility to pass constitutional maps.” (SA.1031). The Senate Plan before this Court demonstrates compliance with that responsibility.

⁹ See, e.g., Jacob Ogles, *Tour Florida and See Where the Boundary Lines Shifted on State Legislative Maps*, Florida Politics, (Feb. 8, 2022) (*available at: <https://floridapolitics.com/archives/493770-tour-florida-and-see-where-boundary-lines-shifted-on-state-legislative-maps/>*).

2. The Senate Plan does not violate the Florida Constitution's protections for racial and language minorities.

The Senate Plan was not 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.” Art. III, § 21(a), Fla. Const. The two clauses of this provision parallel Sections 2 and 5 of the federal Voting Rights Act by proscribing, respectively: 1) impermissible vote dilution; and 2) impermissible diminishment (or “retrogression”) in the ability of racial or language minorities to elect representatives of their choice. *Apportionment I*, 83 So.3d at 619-620. The Senate Plan protects against both vote dilution and retrogression consistent with the Florida Constitution.

a. The Senate Plan does not dilute the voting strength of racial or language minorities.

The requirement 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” prohibits “impermissible vote dilution.” *Id.* at 619-23. A vote-dilution claim involves “the manipulation of district lines’ by either fragmenting the minority voters among several districts where a

bloc-voting majority can routinely outvote them or ‘packing’ them into one or a small number of districts to minimize their influence in adjacent districts.” *Id.* at 622 (quoting *Voinovich* 507 U.S. at 153-54). The Senate Plan engages in neither of these practices.

In *Apportionment I*, this Court noted the three “necessary preconditions” a plaintiff must demonstrate to establish that a legislative district must be redrawn to comply with Section 2 of the Voting Rights Act. *Id.* An individual challenging a plan must show that 1) a minority population is “sufficiently large and geographically compact to constitute a majority in a single-member district”; 2) the minority population is “politically cohesive”; and 3) the majority population “votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.” *Id.* (quoting *Gingles*, 478 U.S. at 50-51). “When the three *Gingles* preconditions are met, courts must then assess the totality of the circumstances to determine if the Section 2 ‘effects’ test is met—that is, if minority voters’ political power is truly diluted.” *Id.* (citing *Johnson v. De*

Grandy, 512 U.S. 997, 1013 (1994)).¹⁰

A successful vote-dilution claim “requires a showing that a minority group was denied a majority-minority district that, but for the purported dilution, could have potentially existed.”

Apportionment I, 83 So.3d at 622. In other words, a plaintiff must show that racial or language minorities could have constituted a majority in *an additional* compact district. *De Grandy*, 512 U.S. at 1008-09.

The Senate Plan does not violate the constitutional prohibition against vote dilution. Minority populations are neither “packed” into a single district nor “cracked” across adjacent districts in a manner that would prevent the creation of an additional performing majority-minority district. The Senate Plan contains one district

¹⁰ In *Apportionment I*, 83 So.3d at 667, this Court appeared to make findings of voting cohesion for purposes of Article III, section 21 through its own review of voter registration and elections data. The Senate notes that *Gingles*, by its own terms, identifies factors that a *plaintiff* challenging a plan under Section 2 must establish, not obligations on a legislative body considering legislation. *Cf. Ala. Leg. Black Caucus v. Alabama*, 231 F.Supp.3d 1026, 1033 (M.D. Ala. 2017) (three-judge court) (“[T]he Supreme Court does not require that the legislature conduct studies. It instead requires only that the legislature had a strong basis in evidence for its use of race.”).

with a Black Voting Age Population (“BVAP”)¹¹ exceeding 50%¹², and no “super-majority district requiring the Legislature to ‘unpack’ it.” *Apportionment I*, 83 So.3d at 645.¹³ As discussed below with respect to non-diminishment, the Senate Plan also contains four additional districts in different regions of the state with substantial Black voting strength¹⁴ in which a functional analysis of political and elections data confirms that Black voters have the ability to elect candidates of their choice.

The Senate Plan contains five districts with a Hispanic Voting Age Population (“HVAP”) exceeding 50% (Districts 25, 36, 38, 39, and 40)—one more than the four Hispanic majority-minority districts in the benchmark plan. (A.432, 440). The relatively high percentage of Hispanic voters in three of these five districts

¹¹ For redistricting purposes, Florida aggregates multi-racial population according to Section II of OMB Bulletin No. 00-002 – Guidance on Aggregation and Allocation of Data on Race for Use in Civil Rights Monitoring and Enforcement. (A.386).

¹² District 34, at 50.07% BVAP. (A.432).

¹³ The benchmark plan, like the Senate Plan, also included one Senate district with a BVAP exceeding 50% (District 33, at 50.90% BVAP). (A.440).

¹⁴ District 5 (41.62% BVAP), District 15 (37.48% BVAP), District 16 (33.20% BVAP), and District 32 (46.15% BVAP).

(Districts 36, 39, and 40, *see* A.432) is best explained by “the fact that the Hispanic population in Miami-Dade County, where these districts are located, is densely populated,” *Apportionment I*, 83 So.3d at 645, and is similar to the benchmark plan. (A.440).

b. The Senate Plan does not diminish the ability of racial or language minorities to elect representatives of their choice.

The requirement that districts not be drawn “to diminish [racial or language minorities’] ability to elect representatives of their choice” prohibits impermissible “retrogression” in the position of racial or language minorities with respect to their effective exercise of the franchise. *Apportionment I*, 83 So.3d at 623-27. The existing Senate plan serves as the “benchmark” against which the effect of voting changes is measured. *Id.* at 624.

Under Florida’s non-diminishment 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. (emphasis added). “A slight change in percentage of a minority group’s population in a given district does not necessarily have cognizable effect on a minority group’s ability

to elect its preferred candidate of choice.” *Id.* Rather, an evaluation of retrogression requires a “functional analysis”—an inquiry into whether a district is “likely to perform for minority candidates of choice” that considers not only population data, but political and voting data. *Id.*

This Court in *Apportionment I* specifically identified the statistical data it would review to evaluate the non-diminishment requirement: 1) voting-age populations; 2) voter-registration data; 3) voter registration of actual voters (*i.e.*, voter turnout information); and 4) election results history. *Id.* at 626-27 (citing DOJ Guidance Notice, 76 Fed. Reg. at 7471, for data relevant to a functional analysis of electoral behavior under Section 5 of the federal Voting Rights Act).

The Senate has conducted a functional analysis of appropriate districts and has confirmed that they do not diminish the rights of racial or language minorities to elect representatives of their choice as compared to corresponding districts in the benchmark plan. The statistical data on population demographics and election results allowing for a functional analysis in the manner conducted by this Court in *Apportionment I* and *Apportionment II* are integrated into

the Legislature’s redistricting application and were formatted for presentation with each iteration of the staff-drawn Senate maps. See A.435-38 (Senate Plan); A.443-46 (benchmark plan). The data points available in the map-drawing application to allow users to conduct a functional analysis include voter registration, voter turnout, and election results for the 2012 through 2020 primary and general elections. (A.435-38); *see also* (SA.111-18) (committee presentation on data points available in Legislature’s map-drawing application).

The benchmark plan contained five districts (Senate Districts 6, 11, 19, 33, and 35) that were either Black majority-minority districts or “historically performing minority districts” protected against diminishment in the ability of Black voters to elect representatives of their choice. *Apportionment I*, 83 So.3d at 625. The Senate’s functional analysis confirms that Districts 5, 15, 16, 32, and 34 in the Senate Plan do not diminish the ability to elect of Black voters as compared to the corresponding benchmark districts.

The benchmark plan contained five districts (Senate Districts 15, 36, 37, 39, and 40) that were either Hispanic majority-minority

districts or “historically performing minority districts” protected against diminishment in the ability of Hispanic voters to elect representatives of their choice. *Apportionment I*, 83 So.3d at 625.

The Senate’s functional analysis confirms that Districts 25, 36, 38, 39, and 40 in the Senate Plan do not diminish the ability to elect of Hispanic voters as compared to the corresponding benchmark districts.

Finally, the Senate complied with the Florida Constitution’s protections for racial and language minority voters consistent with the federal Constitution’s limitations on “racial gerrymanders” in legislative districting plans. *See, e.g., Cooper v. Harris*, 137 S.Ct 1455, 1463-64 (2017) (noting that equal protection clause prevents a state, in the absence of “sufficient justification,” from “separating its citizens into different voting districts on the basis of race.”) (quoting *Bethune-Hill v. Va. State Bd. of Elections*, 137 S.Ct. 788, 797 (2017)) (internal quotation marks omitted).

To that end, the Senate Plan was drawn without “subordinat[ing]” other factors (such as compactness, use of existing political and geographical boundaries, and respect for

political subdivisions) to “racial considerations.” *Cooper*, 137 S.Ct. at 1463-64.

The record demonstrates the Senate districts protected against diminishment under Tier-One were drawn in a Tier-Two compliant manner, with quantitative measures of compactness and boundary-usage comparable to other districts in the Senate Plan. (A.432). Notwithstanding its Tier-Two compliant configuration of the districts in question, the Senate has also presumed—consistent with Supreme Court precedent as to the federal Voting Rights Act—that compliance with the Florida Constitution’s analogous protections for racial and language minorities represents a “compelling interest” justifying the consideration of race. *Id.* at 1464. The statistical data on population demographics and election results, along with this Court’s decisions in the last redistricting cycle interpreting Article III, section 21, provide a “strong basis in evidence” for the Senate’s conclusions regarding the manner in which it must comply with the Florida Constitution’s protections for racial and language minorities. *Cooper*, 137 S.Ct. at 1464.

3. *The Senate Plan satisfies the contiguity standard.*

The Senate Plan’s districts “consist of contiguous territory” as required by the Florida Constitution. Art. III, § 21(a), Fla. Const. This Court has defined “contiguous” as “being in actual contact: touching along a boundary or at a point.” *Apportionment I*, 83 So.3d at 628 (internal quotations omitted). A district lacks contiguity when a part is “isolated from the rest of the territory of another district” or when the lands “mutually touch only at a common corner or right angle.” *In re Constitutionality of House Jt. Res. 1987* (“*In re Apportionment—2002*”), 817 So.2d 819, 827 (Fla. 2002).

Every district in the Senate Plan consists of contiguous territory. (A.431).

B. The Senate Plan Complies with the Tier-Two Standards.

The Florida Constitution provides that “districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.” Art. III, § 21(b), Fla. Const. Strict adherence to the Tier-Two standards “must yield if there is a conflict between compliance with them and the tier-one standards.” *Apportionment I*, 83 So.3d at 628.

The Senate Plan appropriately balances the co-equal Tier-Two standards of population equality, compactness, and boundary usage.

1. The Senate Plan satisfies the population-equality standard.

The Senate Plan complies with the Florida’s Constitution’s requirement that districts be “as nearly equal in population as is practicable.” Art. III, § 21(b), Fla. Const. The population-equality standard does not require “strict and unbending adherence” or “mathematical precision.” *Apportionment I*, 83 So.3d at 629-30. This Court has recognized, consistent with Supreme Court precedent, that there are “legitimate reasons for states to deviate from creating districts with perfectly equal populations, including maintaining the integrity of political subdivisions and providing compact and contiguous districts.” *Id.* at 630. The requirement that districts be as nearly equal in population “as is practicable” recognizes that the population-equality standard must yield to the Tier-One standards, and may be balanced by the Legislature with the co-equal Tier-Two standards. *Id.*

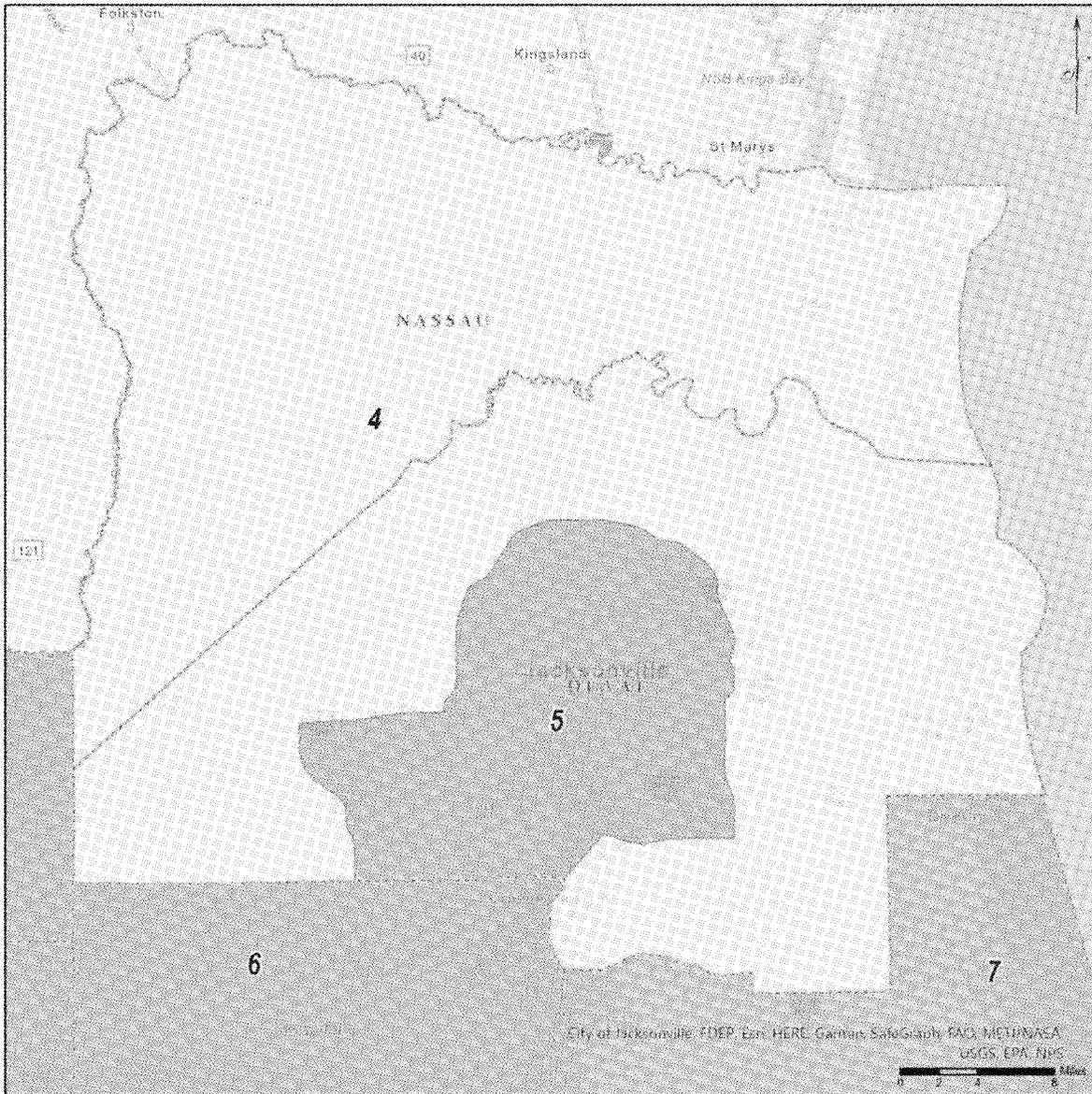
The Senate Plan satisfies the population-equality standard. The ideal population for each of Florida’s 40 Senate districts is

538,455. (SA.46). No Senate district deviates by more than 1% (5,385 people) from the ideal population, with an overall deviation from the smallest to largest district of 1.92%. *Id.* The Senate Plan’s overall deviation is “well under the 10% deviation that the Supreme Court and this Court have recognized as constitutionally valid.” *In re Apportionment—2002*, 817 So.2d at 827. Indeed, the Senate Plan’s total deviation of 1.92% is roughly half the total deviation of 3.97% in the 2012 House Plan that this Court approved in *Apportionment I*. See 83 So.3d at 646.

Minor deviations from the ideal district population also allowed the Senate to achieve other valid objectives identified in the Committee Directives, such as increased use of static political and geographical boundaries and respect for county boundaries. See *id.* at 630 (noting that population equality requirement should be “balanced with both compactness and the use of political and geographical boundaries”).

The deviations above the ideal population in Districts 4 and 5, for example, allow those two districts alone to be contained entirely within Nassau and Duval Counties (which, combined, have a total

population roughly 9,000 people above the ideal population of two Senate districts). (A.432).



(A.431). Both Districts 4 and 5 also use existing political and graphical boundaries for 100% of their respective district boundaries. *Id.*

2. *The Senate Plan satisfies the compactness standard.*

The Senate Plan complies with the Florida Constitution's requirement that districts be "compact." Art. III, § 21(b), Fla. Const. This term refers to the "shape of a district" and can be evaluated "both visually and by employing standard mathematical measurements." *Apportionment I*, 83 So.3d at 636. A visual review for compactness seeks to ensure that districts do not have "an unusual shape, a bizarre design, or an unnecessary appendage unless it is necessary to comply with some other requirement." *Id.* at 634. An "oddly shaped district" may nevertheless be justified after close examination if the district's configuration is a result of Florida's "irregular geometry" or efforts to keep counties or municipalities intact. *Id.* at 635-36.

Quantitative geometric measurements of compactness may also be used to evaluate compactness. This Court has used three common compactness measurements: 1) the Reock method, which "measures the ratio between the area of the district and the area of the smallest circle that can fit around the district"; 2) the Convex Hull method, which "measures the ratio between the area of the district and the area of the minimum convex bounding polygon that

can enclose the district”; and 3) the Polsby-Popper method, which “measures the ratio between the area of the district and the area of the circle with the same perimeter as the district (the isoperimetric circle).” *League of Women Voters of Fla. v. Detzner*, 179 So.3d 258, 283 n.6-8 (Fla. 2015) (“*Apportionment VIII*”). The Committee on Reapportionment reviewed materials regarding the strengths and weaknesses of each of these quantitative compactness measures. (SA.108-110).

The Senate Plan is both visually and mathematically compact. A visual review reveals no districts with an “unusual shape, a bizarre design, or an unnecessary appendage.” *Apportionment I*, 83 So.3d at 634. Consistent with the Committee Directives, the Senate Plan emphasizes the use of county boundaries and static geographical boundaries such as railways, interstates, federal and state highways, and large water bodies. (SA.1024-26). The Senate districts are visually appealing, with smooth, easily recognizable and visually compact district boundaries.

Consider the following visual comparisons of Northwest Florida, Northeast Florida, the I-4 Corridor, and Southeast Florida under the Senate plan approved in *Apportionment II* (SJR 2-B); the

court-imposed benchmark Senate plan from 2015, and the 2022

Senate Plan:

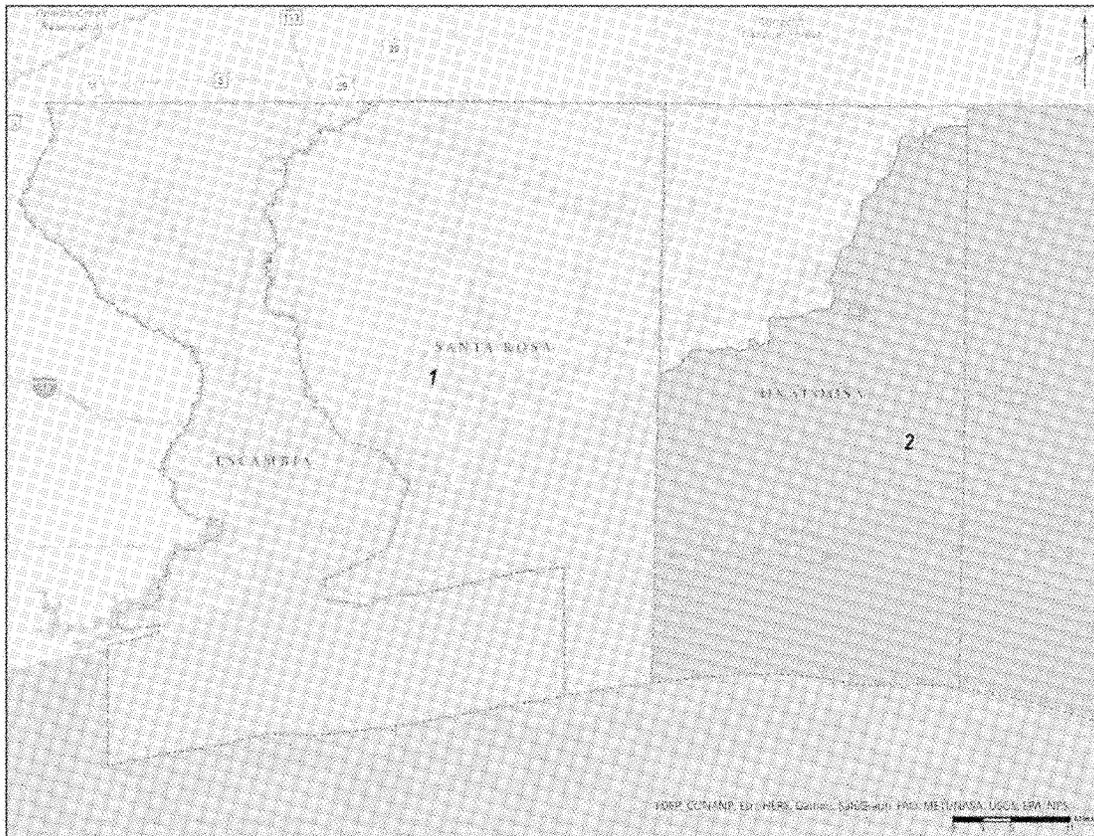
Northwest Florida



SJR 2-B
(approved in *Apportionment II*)

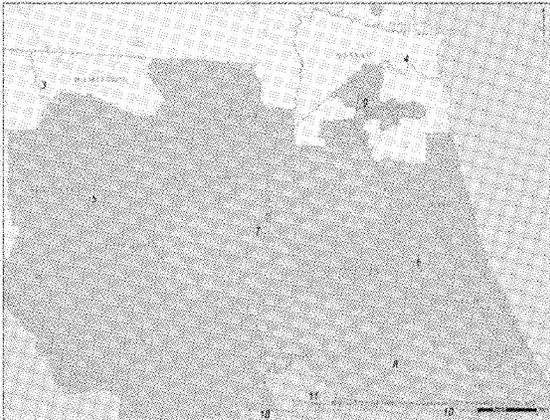


Benchmark Senate Plan (2015)

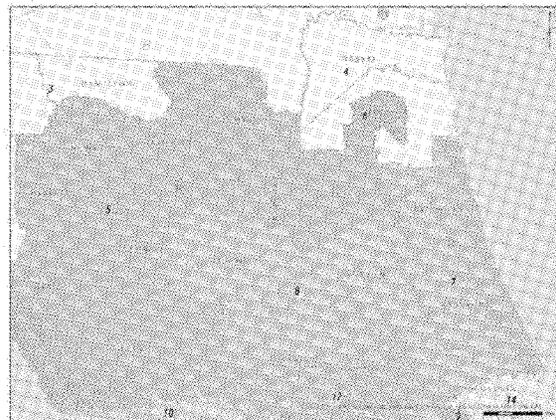


Senate Plan (2022)

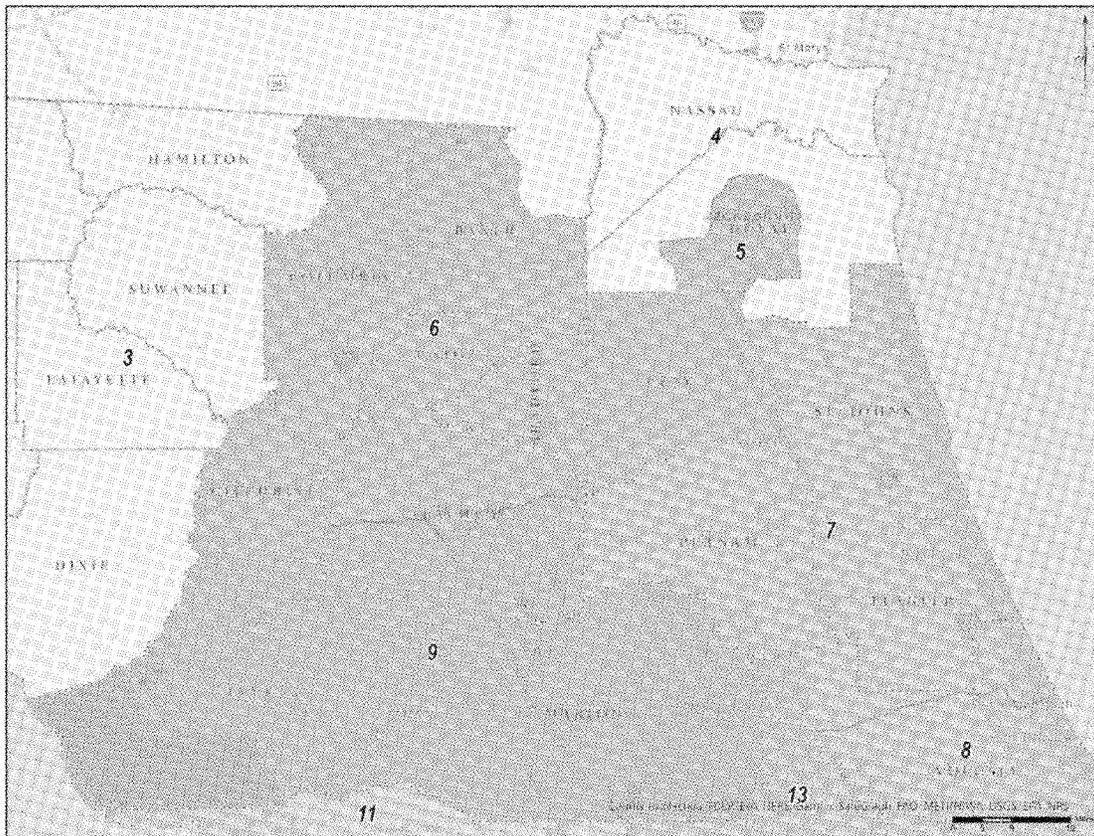
Northeast Florida



SJR 2-B
(approved in *Apportionment II*)

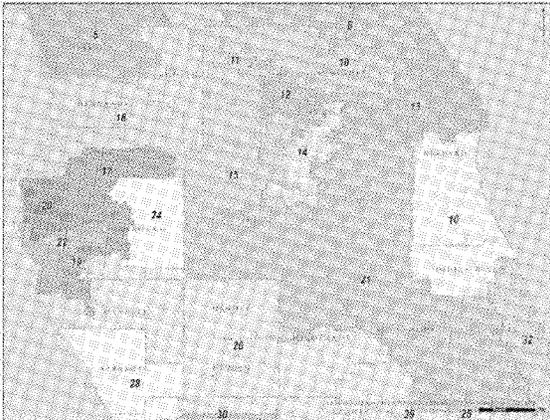


Benchmark Senate Plan (2015)

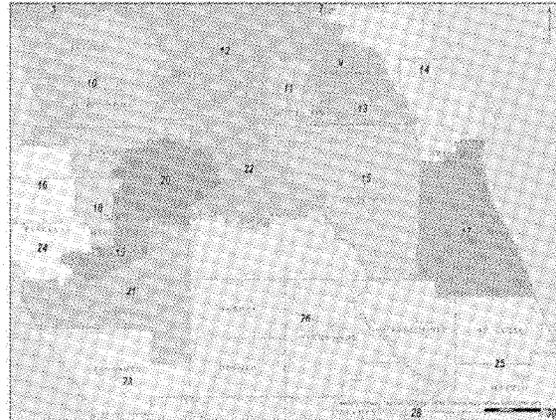


Senate Plan (2022)

I-4 Corridor



SJR 2-B
(approved in *Apportionment II*)

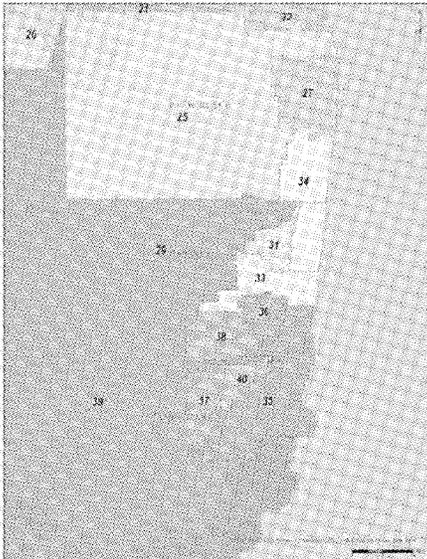


Benchmark Senate Plan (2015)

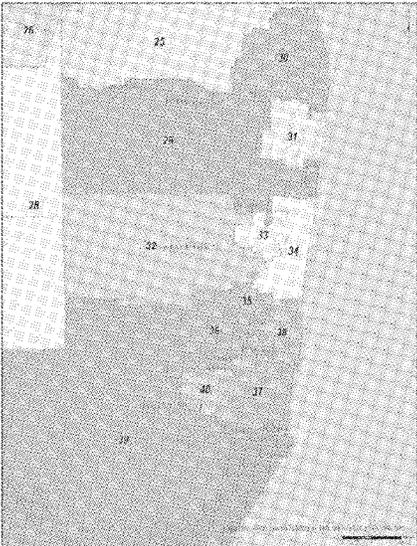


Senate Plan (2022)

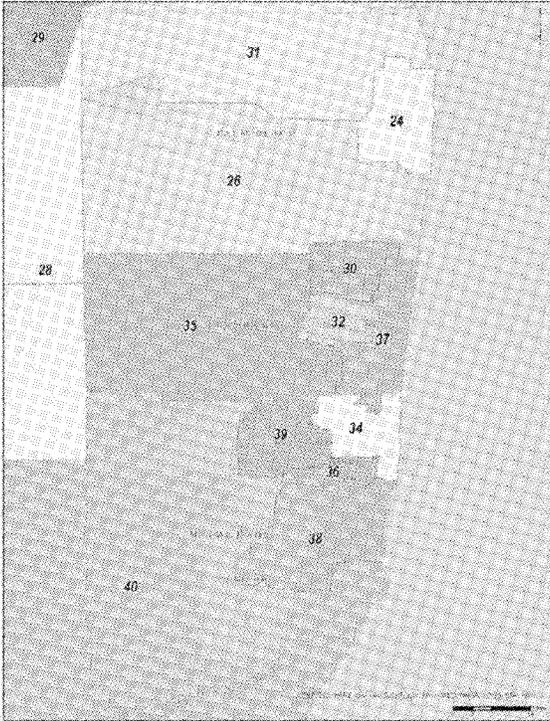
Southeast Florida



SJR 2-B
(approved in *Apportionment II*)



Benchmark Senate Plan (2015)



Senate Plan (2022)

Numerous mathematical measurements of compactness also confirm that the Senate Plan is compact. A comparison of average compactness scores demonstrates that the Senate Plan is not only superior to the court-imposed benchmark Senate plan, but also to the revised Senate plan that this Court approved in *Apportionment II* (SJR 2-B) and the benchmark House plan that this Court approved in *Apportionment I*:

Plan	Compactness Measurement		
	Convex Hull	Polsby-Popper	Reock
Senate Plan (2022)	0.82	0.46	0.46
Benchmark Senate Plan (2015)	0.81	0.41	0.50
SJR 2-B (approved in <i>Apportionment II</i>) (2012)	0.76	0.34	0.40
Benchmark House Plan (2012)	0.80	0.43	0.43

(A.432, 440, 475). The Senate does not suggest that an increase in quantitative compactness over the benchmark plan is necessary for a valid apportionment. The Florida Constitution does not require districts to “achieve the highest mathematical compactness scores.” *Apportionment I*, 83 So.3d at 635. Instead, the favorable comparison

in quantitative compactness confirms what is apparent from a visual inspection: the districts in the Senate Plan are compact.

3. The Senate Plan satisfies the boundary-usage standard.

The Senate Plan complies with the Florida Constitution’s requirement that districts “shall, where feasible, utilize existing political and geographical boundaries.” Art. III, § 21(b), Fla. Const. In *Apportionment I*, this Court stated that the term “political boundaries” refers primarily to county and municipal boundaries, while “geographical boundaries” refers to boundaries that are “easily ascertainable and commonly understood” such as “rivers, railways, interstates, and state roads” rather than a “creek” or “minor residential road.” 83 So.3d at 637-38, 656.

The majority opinion in *Apportionment I* also imposed a requirement for “consistent” boundary usage and disapproved district lines that used “different types of boundaries within the span of a few miles.” *Id.* at 656.¹⁵

¹⁵ *But see id.* at 699 (Canady, C.J., concurring in part and dissenting in part) (noting that the majority opinion “imposes a requirement to use ‘consistent’ boundaries . . . that is nowhere to be found in the text of section 21 and that cannot reasonably be implied from the text”).

The Senate complied with the *Apportionment I* Court’s interpretation of “political and geographical boundaries” and used those features, where feasible, in drawing district boundaries.

a. The Senate Plan’s boundary-analysis report confirms a very high use of existing political and geographical boundaries.

The boundary analysis report produced by the Legislature’s redistricting application illustrates that the Senate Plan uses existing political and geographical boundaries for a large proportion of its district boundaries:

Political and Geographic Boundaries:					
City	County	Road	Water	Rail	Non-Pol/Geo
15%	59%	24%	38%	2%	4%

Senate Plan (2022)

(A.432). The average Non-Pol/Geo score of 4% for the Senate Plan means that, on average, *96% of a Senate district’s boundaries* coincide with features identified by the U.S. Census Bureau’s geographic layers as city boundaries; county boundaries; interstates, U.S. highways, or state roads; contiguous water bodies

larger than 10 acres; or railroads. *Id.* Fourteen districts have a Non-Pol/Geo score of 0%, meaning that *100% of their district boundaries* consist of qualifying political and geographical boundaries. (A.432). All but three districts use qualifying political and geographical boundaries for at least *90% of their district boundaries*. (A.432).

The boundary analysis report for the Senate Plan also shows substantial quantitative improvements in boundary usage over the benchmark Senate Plan:

Political and Geographic Boundaries:					
City	County	Road	Water	Rail	Non-Pol/Geo
22%	53%	17%	37%	1%	11%

Benchmark Senate Plan (2015)

(A.440). The benchmark plan’s average Non-Pol/Geo score of 11% is almost three times higher than the Senate Plan’s score, which shows that the benchmark plan’s district boundaries use far fewer qualifying political and geographical boundaries. The benchmark Senate plan has only one district (District 3) that uses existing political and geographical boundaries for 100% of its district boundaries, in comparison to the *fourteen* such districts in the

Senate Plan. (A.432, 440). Only 23 districts in the benchmark Senate plan use qualifying boundaries for at least 90% of their district boundaries; the Senate Plan has 37 districts with at least this level of boundary usage. *Id.*

b. The enumeration of county and municipal “splits” does not necessarily measure compliance with the boundary-usage standard, but the Senate Plan nevertheless scores highly on this metric.

As described above, the Committee Directives that guided the Senate’s map-drawing process prioritized the consistent use of static political and geographical boundaries such as county lines, major roads, water bodies, and railways. (SA.1024-26). As compared to these boundary types, the Senate placed a lower emphasis on the use of municipal boundaries, which are often irregular in shape and are subject to frequent changes. *Id.*

The City of Largo, for example, changed its city boundaries 364 times between January 1, 2010, and December 31, 2019—and another 31 times from January 1, 2020, through August 31, 2021. (SA.1131). The municipal boundary itself is composed of 75 parts and includes 59 “holes”:

Largo



Id. The City of Apopka in Orange County, with a population of 54,873, has a municipal boundary so irregular that its perimeter is greater than that of 28 of the 40 districts in the Senate Plan:

Apopka



(SA.1127; A.432).¹⁶

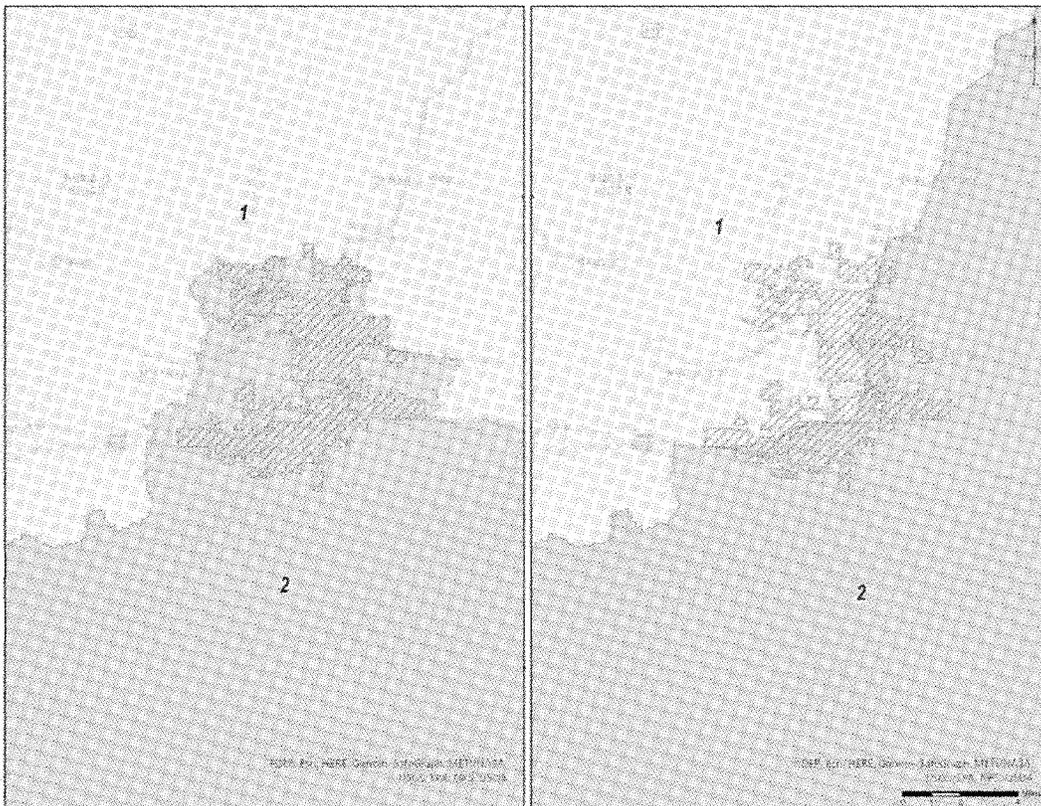
¹⁶ The Senate Appendix includes other illustrative examples of Florida's irregular municipal boundaries. (SA.1127-33).

At times, this Court’s precedents from the last decade appeared to characterize the number of counties or cities “split” in a redistricting plan as a measurement of compliance with an independent Tier-Two standard. *See, e.g., Apportionment VIII*, 179 So.3d at 292 (describing a reduction in municipal splits as an improvement in “tier-two compliance”). The Senate views the count of counties and municipalities kept “whole” within a plan as, at best, an imperfect proxy for the constitutional requirement that districts use “existing political and geographical boundaries” where feasible. Art. III, § 21(b), Fla. Const.

While keeping counties or municipalities whole (or minimizing “splits”) may be a constitutionally permitted objective, that statistic alone does not directly measure a plan’s compliance with the boundary-usage standard. For example, Washington County is contained entirely within District 2 in both the Senate Plan and the benchmark Senate plan; the City of Tallahassee is contained entirely within District 3 in both the Senate Plan and the benchmark Senate plan. (A.431, 439). But the district boundaries of Districts 2 and 3 do not coincide at any point with the boundaries of Washington County or Tallahassee. The fact that Washington

County and Tallahassee are kept whole and not “split” in the Senate Plan says little about the use of existing political and geographical boundaries by these districts.

Consider also two staff-drawn alternative configurations of the boundary between Senate Districts 1 and 2 that were presented to the Select Subcommittee on Legislative Reapportionment:



(SA.281). The configuration on the left keeps the City of Crestview “whole” by following a part of its municipal boundary. The configuration on the right has a district boundary that follows Interstate 10 and State Road 85 through this part of Okaloosa

County, resulting in the “split” of Crestview. *Both* of these configurations use existing political and geographical boundaries, and a decision to prioritize static boundaries such as interstate highways and state roads over irregular and impermanent municipal boundaries¹⁷ does not render a plan “less compliant” with the boundary-usage standard.

Notwithstanding the Senate’s relative prioritization of static boundaries, statistical reports show the Senate Plan keeps a large number of counties and municipalities whole:

District lines and City and County Boundaries in Senate Plan (2022)	
Number of Counties	67
Counties with only one district	51
Districts with only one county	16
Counties split into more than one district	16
Counties with all population in a single district	51
Aggregate number of county splits	48
Aggregate number of splits with population	48
Number of Cities	412
Cities with only one district	364
Cities split into more than one district	48
Cities with all population in only one district	373
Aggregate number of city splits	103
Aggregate number of splits with population	94

¹⁷ Crestview, with a 2020 census population of 27,134, had 36 municipal boundary changes from January 1, 2010, through August 31, 2021. (SA.1129)

(A.432). Consistent with the Committee Directives, the Senate Plan keeps 51 counties wholly within a district—one more than in the benchmark Senate plan. (A.432, 440). The Senate Plan contains 364 cities whose *municipal lines* fall wholly within a district, and 373 cities whose *population* falls wholly within a single district.¹⁸ The benchmark Senate plan contains 357 cities whose municipal lines fall wholly within a district (seven fewer than in the Senate Plan), and 373 cities kept whole by population. (A.440).

The Senate Plan complies with the Tier-Two boundary-usage standard. To the extent *Apportionment I* imposes “consistent” boundary-usage requirements beyond the constitutional text, *see id.* at 638 (accepting county and city boundaries, rivers, railways, interstate, and state roads; rejecting creeks, minor roads, and other “well-traveled roadways”), this Court should recede from that decision for the reasons cogently expressed in the dissenting

¹⁸ The population-based measurement is more relevant under this Court’s precedent, which has disregarded unpopulated splits. *See Apportionment VIII*, 179 So.3d at 294 n. 14 (“Since District 16 includes no population from Hillsborough County, it is not considered to include part of the county for the purpose of counting splits.”).

opinion. *Id.* at 699. No reliance interests justify this extra-textual restriction on legislative discretion in the use of political and geographical boundaries when drawing districts.

C. The Senate’s assignment of numbers to senatorial districts complies with the Florida Constitution.

The Florida Constitution requires Senate districts to be “consecutively numbered.” Art. III, § 16(a), Fla. Const. Senators are elected for four-year terms, with those from odd-numbered districts elected in years that are multiples of four and those from even-numbered districts elected in even-numbered years that are not multiples of four. Art. III, § 15(a), Fla. Const. All Senate districts are on the ballot in the first election following a reapportionment, with senators elected from odd-numbered districts in 2022 serving a two-year term “to maintain staggered terms.” *Id.* In some circumstances, this truncated two-year term following a reapportionment may allow a senator to serve for a total of ten—rather than eight—consecutive years. *Apportionment I*, 83 So.3d at 660.

In *Apportionment I*, this Court held that “the Legislature is prohibited from numbering the districts with the intent to favor or

disfavor an incumbent.” *Id.* at 659. Reasoning that the numbers assigned to Senate districts are “part of the ‘apportionment plan,’” *id.*, the Court found the “numbering scheme” in the 2012 Senate plan invalid because it allowed certain incumbents to serve longer than they would otherwise have been eligible to serve. *Id.* at 662. The Court ordered the Legislature to “renumber the districts in an incumbent-neutral manner.” *Id.* at 686.¹⁹

The partial dissent in *Apportionment I* contested the majority’s conclusion that the numbering of Senate districts fell within the constitution’s limitations on the Legislature’s power to “establish[] legislative district boundaries.” 83 So.3d at 700 (Canady, C.J., concurring in part and dissenting in part). As a textual matter, the dissent noted that “[t]he prohibition on action to ‘favor or disfavor . .

¹⁹ During the 2012 Extraordinary Apportionment Session, the Senate complied with the Court’s direction by conducting “a bingo-style drawing complete with ping-pong balls and serious questions about their gravitational integrity”; “heated debate” over “Senate Lotto”; and concern from one Senator that “the drawing constituted illegal gambling.” Matt Dixon, *With Help from Ping-Pong Balls, Florida Senate Map OK’d*, Fla. Times Union, Mar. 22, 2012. (available at: <https://www.jacksonville.com/story/news/politics/2012/03/22/help-ping-pong-balls-florida-senate-map-okd/15871944007/>)

. an incumbent’ applies only to the manner in which district lines are ‘drawn.’” *Id.* (quoting Art. III, § 21(a), Fla. Const.). The dissent concluded that the majority had “stretch[ed] the text of section 21 to reach legislative decisions that are not within the scope of section 21.” *Id.*

During its 2022 reapportionment process, the Senate complied with this Court’s existing precedent by assigning district numbers in an incumbent-neutral manner. During the final meeting of the Committee on Reapportionment, the results of a random drawing were used to assign “even” or “odd” numbers to each Senate district. (SA.905-06, 999, 1041, 1045). The Committee then adopted an amendment to renumber the districts in accordance with the random drawing. *Id.*

Notwithstanding its compliance with the majority opinion’s holding in *Apportionment I* when adopting the Senate Plan, the Senate respectfully submits that the analysis of the dissenting opinion in that case is more faithful to the language of the Florida Constitution. The constitution’s plain language prohibits the Legislature from intentionally favoring or disfavoring incumbents “[i]n establishing legislative district boundaries” and in the manner

in which an apportionment plan or district is “drawn.” Art. III, § 21, Fla. Const. Even accepting the proposition that an incumbent Senator may stand to gain or lose from the assignment of an “even” or “odd” district number, the assignment of a district number plainly does not involve the “draw[ing]” of “legislative district boundaries.” *Id.* The Senate therefore asks the Court to recede from *Apportionment I* to the extent it holds that the assignment of district numbers is subject to this Court’s review for validity under Article III, section 21(a), of the Florida Constitution.

As noted earlier, “[t]he doctrine of stare decisis bends . . . where there has been an error in legal analysis.” *Puryear*, 810 So.2d at 905. When this Court has chosen to reassess a precedent and has concluded that it is clearly erroneous, “the proper question becomes whether there is a valid reason *why not* to recede from that precedent.” *Poole*, 297 So.3d at 507. “The critical consideration ordinarily will be reliance.” *Id.*

As to the assignment of district numbers, the type of reliance interests ordinarily cited as a justification for retaining erroneous precedent are nearly nonexistent. The holding in *Apportionment I* involving the review of Senate district numbers does not involve

property or contract rights, does not govern primary conduct, and does not implicate the reliance interests of private parties. *Id.* The Court has good reason to address this matter now, during this proceeding, to “restore[] discretion” that *Apportionment I* “wrongly took from the political branches” on the assignment of district numbers for the redistricting cycle following the next decennial census. *Poole*, 297 So.3d at 507.

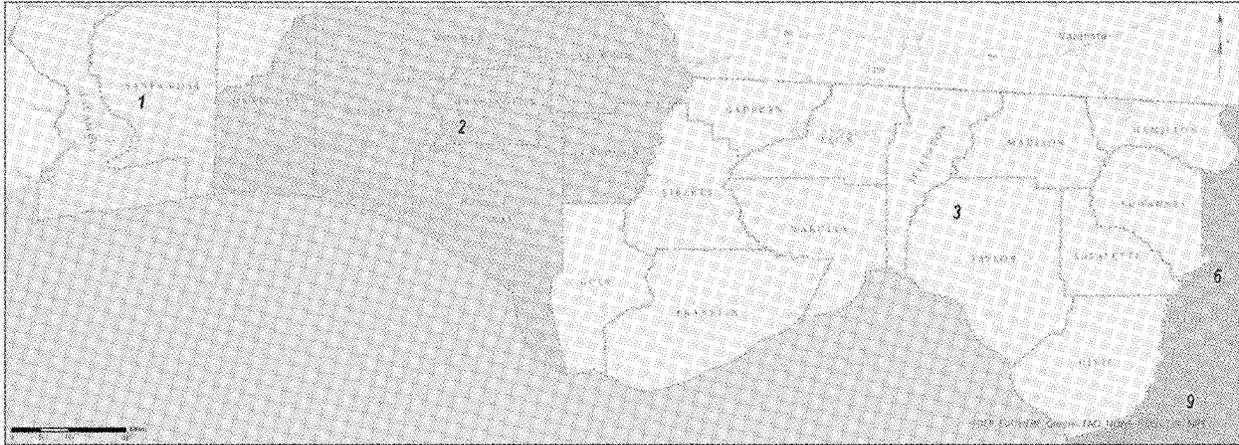
IV. THE SENATE DISTRICTS COMPLY WITH ALL CONSTITUTIONAL STANDARDS FOR ESTABLISHING LEGISLATIVE DISTRICT BOUNDARIES.

The Senate Plan also satisfies all constitutional standards for the drawing of legislative district boundaries on a district-by-district basis. The following district-specific arguments are supplemental to the plan-wide arguments discussed above, which apply equally to each individual district unless otherwise noted.

No Senate district was drawn with the intent to favor or disfavor a political party or an incumbent. Art. III(a), § 21, Fla. Const. No district was 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. *Id.* All districts consist of

contiguous territory. *Id.* Finally, all districts satisfy the Florida Constitution’s population-equality, compactness, and boundary-usage standards. *Id.*

A. Florida Panhandle (Senate Districts 1-3).



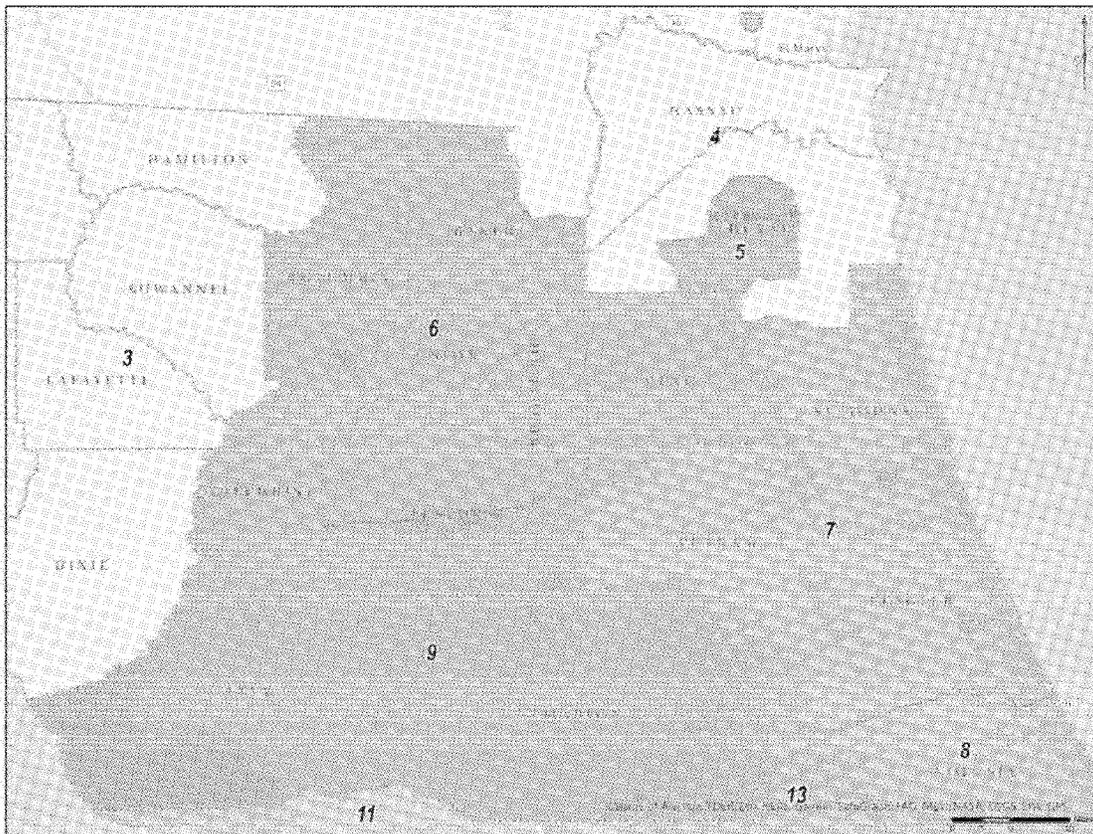
The Senate Plan’s districts in the Florida Panhandle satisfy the Florida Constitution’s standards for establishing legislative district boundaries.

The configuration of Districts 1 and 2 is fully contained within Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Calhoun, and Jackson Counties. District 3 consists of all of Gadsden, Liberty, Gulf, Leon, Wakulla, Franklin, Jefferson, Madison, Taylor, Hamilton, Suwannee, Lafayette, and Dixie Counties in their entirety.

Consistent with the Committee Directives, the districts in the Florida Panhandle largely consist of whole county groupings.

(A.431-32). Each of these districts also achieves the highest possible boundary-analysis score for use of existing political and geographical boundaries. The “easily ascertainable and commonly understood” political and geographical boundaries coinciding with 100% of the district boundaries are described in the Senate Appendix. (SA.1046-1225).

B. Big Bend and Northeast Florida (Senate Districts 4, 5, 6, 7, and 9).



The Senate Plan's districts in the Big Bend and Northeast Florida satisfy the Florida Constitution's standards for establishing legislative district boundaries.

The configuration of Districts 6 and 9 is fully contained within Columbia, Baker, Union, Bradford, Clay, Gilchrist, Alachua, Levy, and Marion Counties. Districts 4 and 5 are fully contained within Nassau and Duval Counties. District 7 consists of all of St. Johns, Putnam, and Flagler Counties, and part of northern Volusia County.

Consistent with the Committee Directives, the districts in the Big Bend and Northeast Florida largely consist of whole county groupings. (A.431-32). Each of these districts also achieves the highest possible boundary-analysis score for use of existing political and geographical boundaries. The "easily ascertainable and commonly understood" political and geographical boundaries coinciding with 100% of the district boundaries are described in the Senate Appendix. (SA.1046-1225).

District 5 is a "historically performing minority district," *Apportionment I*, 83 So.3d at 625, that is protected against diminishment in the ability of Black voters to elect representatives

of their choice. A functional analysis of the statistical data that this Court analyzed in *Apportionment I* confirms that District 5 does not diminish the ability to elect as compared to its predecessor district, District 6 in the benchmark Senate plan. (A.435-38, 443-46).

C. Central Florida and Space Coast (Senate Districts 8, 10, 12, 13, 15, 17, 19, 25).



The Senate Plan's districts in Central Florida and the Space Coast satisfy the Florida Constitution's standards for establishing legislative district boundaries.

District 12 is fully contained within Polk County. Districts 15 and 17 are fully contained in Orange County. District 10 consists of all of Seminole County and part of Orange County. District 13 consists of all of Lake County and part of Orange County. District 25 consists of all of Osceola County and part of Orange County. The configuration of Districts 8 and 19 is fully contained within Volusia and Brevard Counties.

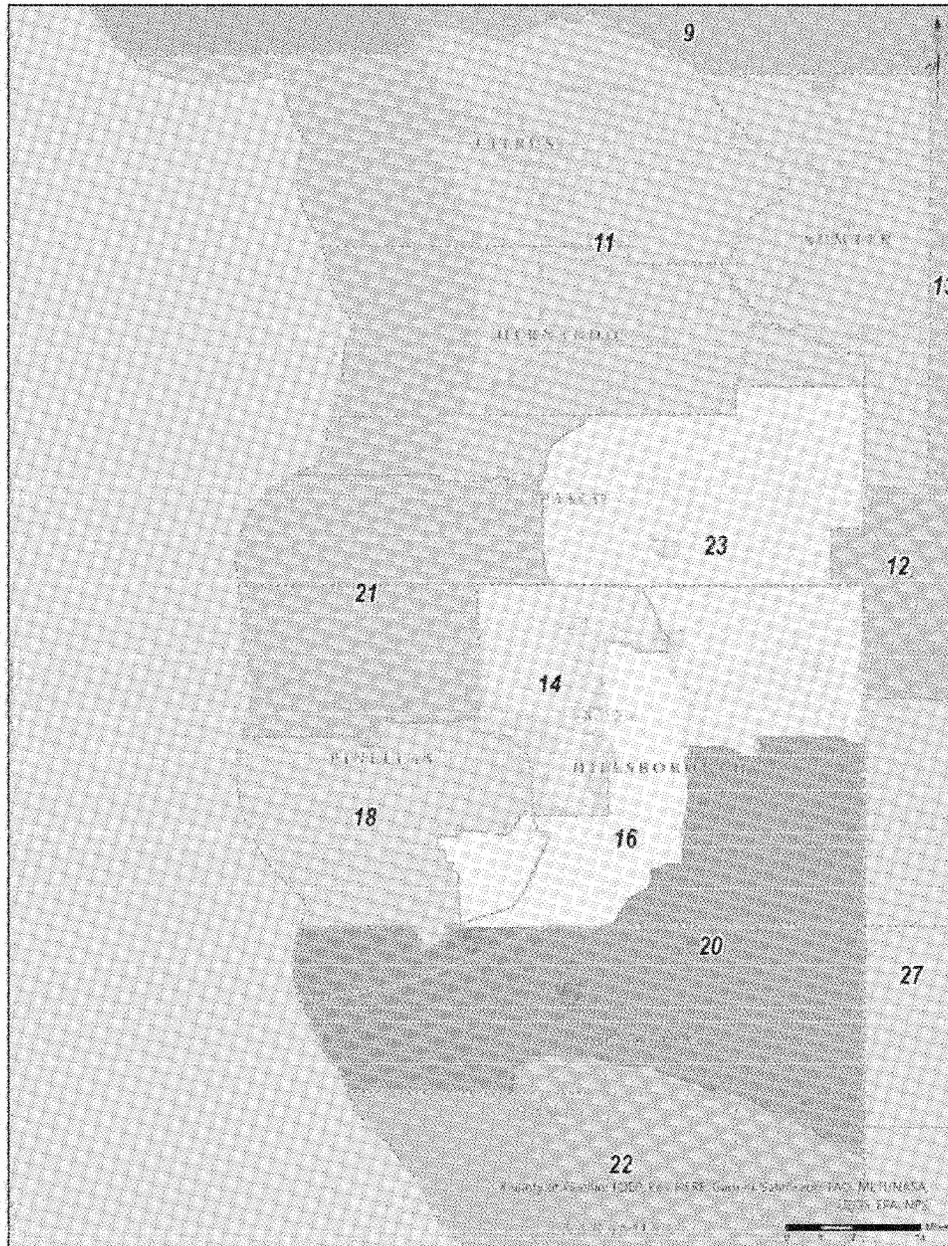
Consistent with the Committee Directives, the districts in Central Florida and the Space Coast seek to keep districts wholly within counties in more densely populated areas and consist of whole counties in less populated areas, with deviations as necessary to comply with the population-equality standard and the Tier-One protections for racial and language minorities.

Where it is feasible to do so, these districts exhibit a high use of existing political and geographical boundaries: 100% for Districts 8 and 19; 98% for Districts 10, 12, 13, and 25; 94% for District 15; and 93% for District 17. (A.432). The “easily ascertainable and commonly understood” political and geographical boundaries coinciding with these district boundaries are described in the Senate Appendix. (SA.1046-1225)

District 15 is a “historically performing minority district,” *Apportionment I*, 83 So.3d at 625, that is protected against diminishment in the ability of Black voters to elect representatives of their choice. A functional analysis of the statistical data that this Court analyzed in *Apportionment I* confirms that District 15 does not diminish the ability to elect as compared to its predecessor district, District 11 in the benchmark Senate plan. (A.435-38, 443-46).

District 25 is a “historically performing minority district,” *Apportionment I*, 83 So.3d at 625, that is protected against diminishment in the ability of Hispanic voters to elect representatives of their choice. Due to an increase in the Hispanic population in Central Florida, District 25 is now a majority-minority district. (A.432). A functional analysis of the statistical data that this Court analyzed in *Apportionment I* confirms that District 25 does not diminish the ability to elect as compared to its predecessor district, District 15 in the benchmark Senate plan. (A.435-38, 443-46).

D. Tampa Bay (Senate Districts 11, 14, 16, 18, 20, 21, 23).



The Senate Plan's districts in Tampa Bay satisfy the Florida Constitution's standards for establishing legislative district boundaries.

District 11 consists of all of Citrus, Sumter, and Hernando Counties and part of Pasco County. District 14 is fully contained in Hillsborough County. District 16 consists of a part of Hillsborough and a part of Pinellas County. District 18 is fully contained within Pinellas County. District 20 consists of a part of Hillsborough and a part of Manatee County. District 21 consists of a part of Pinellas and a part of Pasco County. District 23 consists of a part of Hillsborough and a part of Pasco County.

Consistent with the Committee Directives, and where feasible, the districts in Tampa Bay seek to keep districts wholly within counties in more densely populated areas, and consist of whole counties in less populated areas, with deviations as necessary to comply with the population-equality standard and the Tier-One protections for racial and language minorities.

Where feasible, these districts also exhibit a high use of existing political and geographical boundaries: 100% for District 11; 93% for District 14; 82% for District 16; 92% for District 18; 91% for District 20; 99% for District 21; and 93% for District 23. (A.432). The “easily ascertainable and commonly understood” political and

geographical boundaries coinciding with these district boundaries are described in the Senate Appendix. (SA.1046-1225).

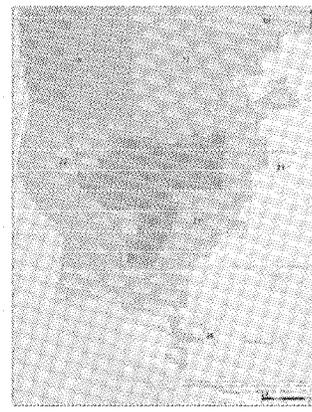
District 16 is a “historically performing minority district,” *Apportionment I*, 83 So.3d at 625, that is protected against diminishment in the ability of Black voters to elect representatives of their choice. A functional analysis of the statistical data that this Court analyzed in *Apportionment I* confirms that District 16 does not diminish the ability to elect as compared to its predecessor district, District 19 in the benchmark Senate plan. (A.435-38, 443-46).

District 16 is also more compliant on Tier-Two metrics than its predecessor district in the benchmark Senate plan, with improvements on boundary usage, visual compactness, and the Convex Hull and Polsby-Popper quantitative compactness measures.

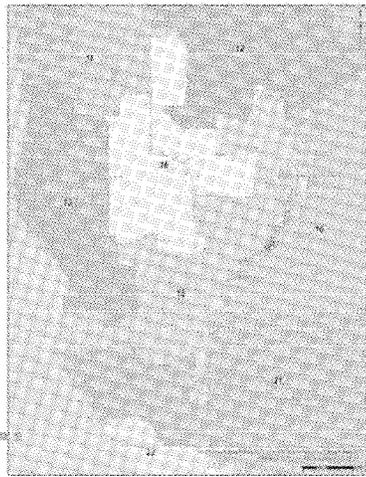
Although District 16 compares favorably with its immediate predecessor on Tier-Two metrics, its visual compactness improvements over its predecessor districts from the past three decades is even more remarkable:



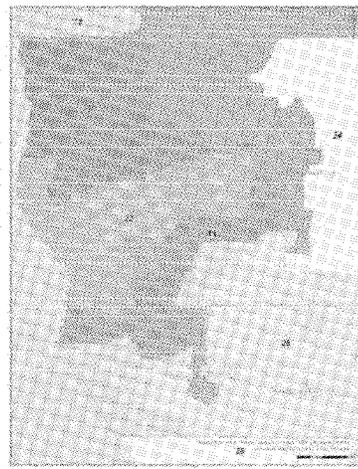
1992 Senate Plan (Court-Ordered)



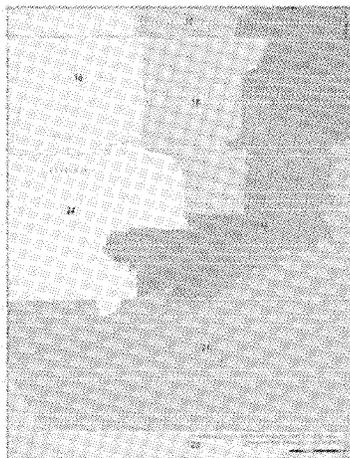
1996 Senate Plan (Court-Ordered)



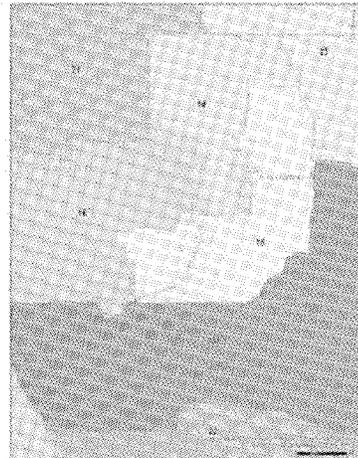
2002 Senate Plan



2012 Senate Plan (SJR 2-B)



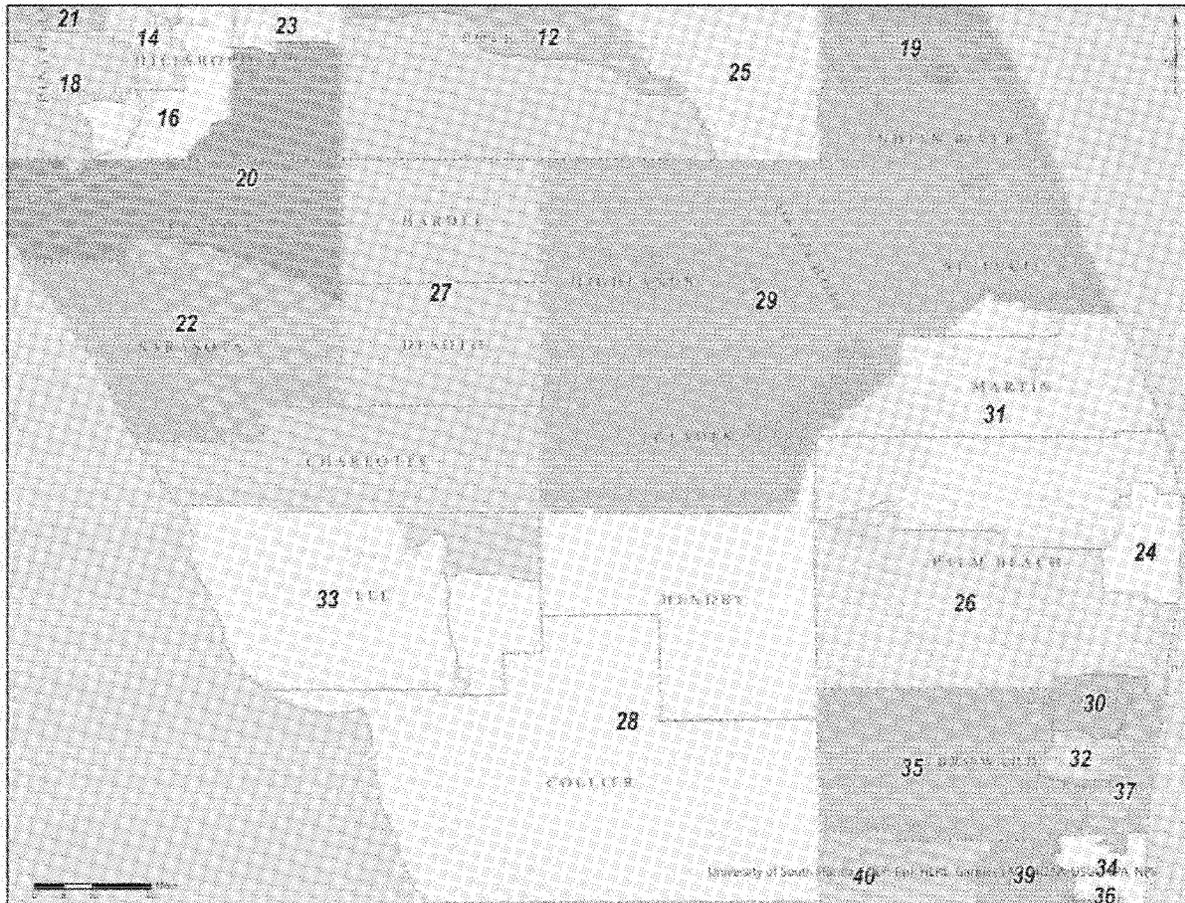
2016 Senate Plan (Court-Ordered)



2022 Senate Plan

(A.431, 439; SA.1140).

E. Heartland and Southwest Florida (Senate Districts 22, 27, 28, 29, 33).



The Senate Plan’s districts in the Heartland and Southwest Florida satisfy the Florida Constitution’s standards for establishing legislative district boundaries.

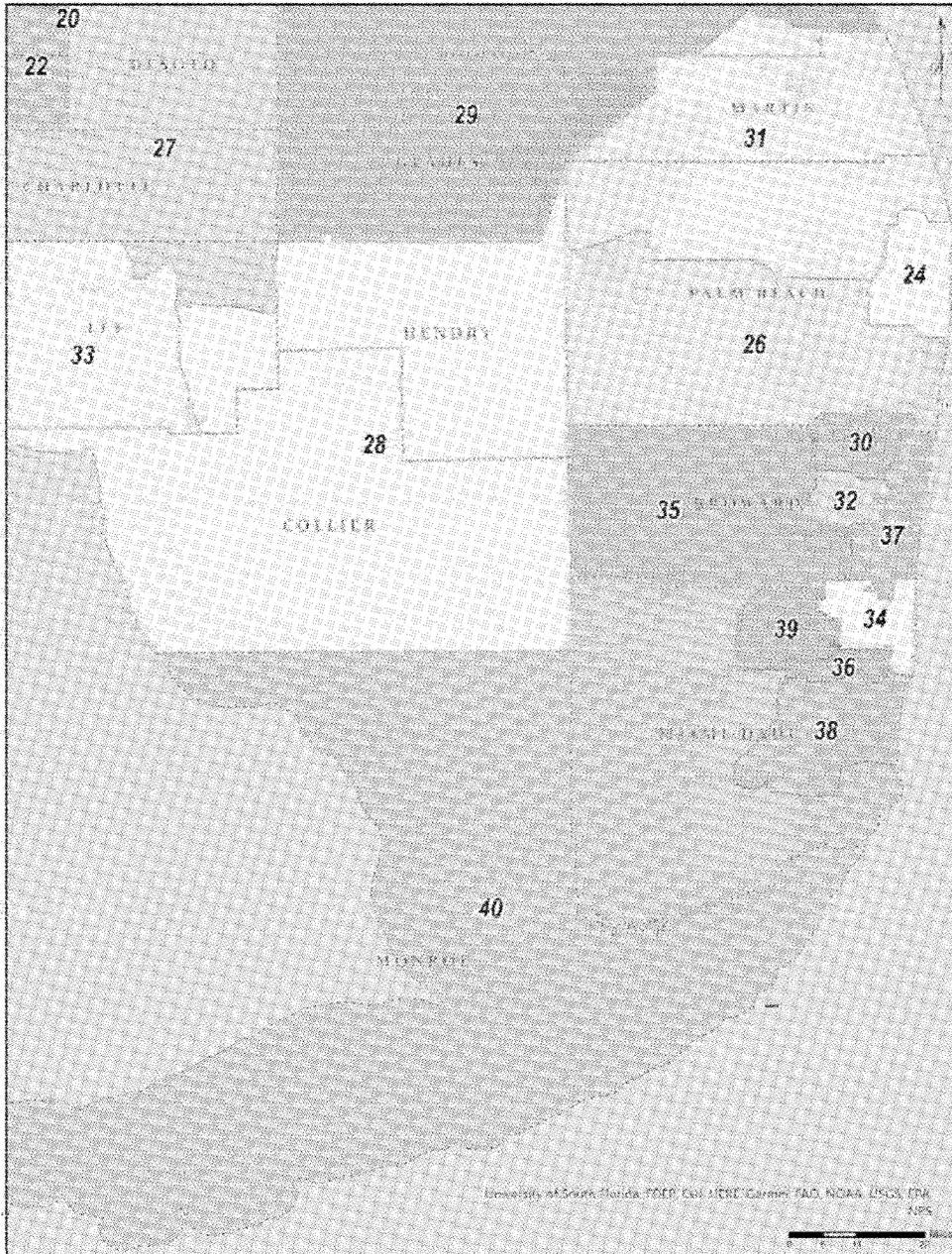
District 22 consists of all of Sarasota County and part of Manatee County. District 27 consists of all of Charlotte, DeSoto, and Hardee Counties and parts of Lee and Polk Counties. District

28 consists of all of Collier and Hendry Counties and part of Lee County. District 29 consists of all of Glades, Highlands, Okeechobee, and Indian River Counties and part of St. Lucie County. District 33 is wholly contained in Lee County.

Consistent with the Committee Directives, the districts in the Heartland and Southwest Florida seek to keep districts wholly within counties in more densely populated areas and consist of whole counties in less populated areas, with deviations as necessary to comply with the population-equality standard.

Where feasible, these districts all exhibit a high use of existing political and geographical boundaries: 98% for District 22; 96% for District 27; 97% for District 28; 99% for District 29; and 100% for District 33. The “easily ascertainable and commonly understood” political and geographical boundaries coinciding with these district boundaries are described in the Senate Appendix. (SA.1046-1225).

F. Southeast Florida (Senate Districts 24, 26, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40).



The Senate Plan’s districts in Southeast Florida satisfy the Florida Constitution’s standards for establishing legislative district boundaries.

Districts 24 and 26 are contained wholly within Palm Beach County. Districts 32 and 35 are contained wholly within Broward County. Districts 34, 36, 38, and 39 are contained wholly within Miami-Dade County. District 31 consists of all of Martin County and parts of St. Lucie and Palm Beach Counties. District 40 consists of all of Monroe County and part of Miami-Dade County. District 30 consists of parts of Broward and Palm Beach Counties. District 37 consists of parts of Broward and Miami-Dade Counties.

Consistent with the Committee Directives, the districts in Southeast Florida seek to keep districts wholly within counties in more densely populated areas and consist of whole counties in less populated areas, with deviations as necessary to comply with the population-equality standard and the Tier-One protections for racial and language minorities.

Where it is feasible to do so, these districts all exhibit a high use of existing political and geographical boundaries: 100% for Districts 37 and 40; 99% for District 35; 97% for District 32; 96% for District 34; 95% for Districts 31 and 39; 94% for District 38; 92% for District 26; 91% for District 36; 86% for District 24; and

84% for District 30. (A.432).²⁰ The “easily ascertainable and commonly understood” political and geographical boundaries coinciding with these district boundaries are described in the Senate Appendix. (SA.1046-1225).

Districts 32 and 34 are “majority-minority” or “historically performing minority district[s],” *Apportionment I*, 83 So.3d at 625, that are protected against diminishment in the ability of Black voters to elect representatives of their choice. A functional analysis of the statistical data that this Court analyzed in *Apportionment I* confirms that Districts 32 and 34 do not diminish the ability to elect as compared to their predecessor districts, District 33 and 35, respectively, in the benchmark Senate plan. (A.435-38, 443-46).

Districts 32 and 34 are also more compliant on Tier-Two metrics than their predecessor districts in the benchmark Senate plan, with both districts showing improvements on boundary usage,

²⁰ The boundary-usage scores for District 24 and District 30 are adversely affected by their use of Hypoluxo Road and Glades Road, respectively, for significant portions of their respective district boundaries. Although these are significant thoroughfares in Palm Beach County, they are not coded by the U.S. Census Bureau as “primary or secondary roads within the federal or state highway systems” for the entirety of their length in Palm Beach County.

visual compactness, and all three quantitative compactness measures. (A.432, 440).

Districts 36, 38, 39, and 40 are majority-minority districts that are protected against diminishment in the ability of Hispanic voters to elect representatives of their choice. *Apportionment I*, 83 So.3d at 625. A functional analysis of the statistical data that this Court analyzed in *Apportionment I* confirms that Districts 36, 38, 39, and 40 do not diminish the ability to elect as compared to their predecessor Tier-One protected districts in Miami-Dade County, Districts 36, 37, 39, and 40, in the benchmark Senate plan.²¹ (A.435-38, 443-46).

Districts 36, 38, 39, and 40 are also more compliant on Tier-Two metrics than their predecessor districts in the benchmark Senate plan, with improvements in boundary usage, visual

²¹ The substantial reconfiguration of the four Hispanic majority-minority districts in Miami-Dade County complicates the task of identifying specific corresponding “benchmark” and “successor” districts. The Senate’s functional analysis therefore confirmed non-diminishment in the ability to elect as to the set of four districts collectively.

compactness, and various quantitative compactness measures.

(A.432, 440).

V. THE COURT SHOULD CONFIRM THAT A JUDGMENT DETERMINING THE APPORTIONMENT TO BE VALID WILL BE BINDING UPON ALL THE CITIZENS OF THE STATE.

Under the Florida Constitution, this Court must “enter its judgment” as to the validity of the apportionment within thirty days after the filing of the Attorney General’s petition. Art. III, § 16(c), Fla. Const. The “effect of [the Court’s] judgment in apportionment” is also constitutionally specified: “a judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state.” Art. III, § 16(d), Fla. Const. The judgment in this proceeding should therefore confirm, consistent with the plain language of the Florida Constitution, that a decision determining the apportionment to be valid is “binding” and precludes collateral state-court attacks on the Court’s declaratory judgment. And this Court should recede from *Florida House of Representatives v. League of Women Voters of Florida*, (“*Apportionment III*”), 118 So.3d 198 (Fla. 2013), to the extent that decision’s holding contravenes the unambiguous language of Article III, Section 16(d).

In *Apportionment II*, this Court entered a “declaratory judgment declaring the revised Senate apportionment plan as contained in Senate Joint Resolution 2-B to be constitutionally valid under the Florida Constitution.” 89 So.3d at 891. The Court’s declaratory judgment of validity was based on the conclusion that the opponents had “failed to demonstrate that the revised Senate plan as a whole or with respect to any individual district violates Florida’s constitutional requirements” set out in Article III, section 21. *Id.* at 890-91.

Notwithstanding this Court’s declaration that the revised Senate plan was “constitutionally valid,” a group of plaintiffs sued in circuit court alleging that the revised Senate plan violated Article III, Section 21. *Apportionment III*, 118 So.3d at 202. After the circuit court denied a motion to dismiss asserting lack of subject matter jurisdiction, the House and Senate sought extraordinary-writ relief from this Court: either a writ of prohibition (on the basis that this Court has exclusive jurisdiction to review legislative apportionment) or a constitutional writ under the “all-writs” authority (on the basis that the circuit court’s exercise of jurisdiction interferes with the binding judgment of validity). *Id.* at 203.

This Court denied relief, concluding that the circuit court had subject matter jurisdiction to adjudicate “subsequent fact-based challenges to the legislative apportionment plan.” *Id.* at 213. The majority opinion construed the review under Article III, section 16, as a “facial” review that did not preclude subsequent “as-applied” challenges in the trial court based upon alleged violations of the same constitutional standards addressed in the Court’s declaratory judgment of validity. *Id.* at 204.

Two justices dissented, “strongly disagree[ing] with the majority’s decision, which consigns section 16(d) to the status of a dead letter.” *Id.* at 214 (Canady, J., dissenting). The dissent faulted the majority for failing to address the “unambiguous text,” and instead relying on “dicta from prior opinions that also failed to reckon with the constitutional text.” *Id.* at 214-15. The language of section 16(d), according to the dissent, “is unconditional and unequivocal.” *Id.* at 215.

It is plainly designed to conclusively determine and settle once for all the validity of a redistricting plan under state law. The plain import of the provision that a judgment of validity “shall be binding upon all the citizens of the state” is that no citizen is permitted to thereafter challenge the validity of the redistricting plan that has been held valid. If the citizens of the state are bound by a judgment of

validity, they are necessarily precluded from challenging the validity of the redistricting plan in subsequent litigation. Those who are bound by a judgment will not be heard to challenge that judgment. Nothing in the constitutional text or structure suggests that the rule of preclusion in section 16(d) is limited to claims that are actually litigated in a section 16 validation proceeding.

Id. The Senate respectfully asks this Court to recede from *Apportionment III* in favor of the clear and unambiguous constitutional language vesting exclusive state-court jurisdiction in this Court to pass on the validity of the legislative apportionment, Art. III, § 16(d), Fla. Const.

If this Court agrees that *Apportionment III* is clearly erroneous for the reasons cogently explained in that case’s dissenting opinion, no reliance interests or other factors would justify adherence to that precedent. “[C]laims of stare decisis are at their weakest” in cases involving constitutional interpretation, *Vieth*, 541 U.S. at 305, and “reliance interests are lowest in cases . . . involving procedural and evidentiary rules.” *Poole*, 297 So.3d at 507 (internal quotation marks and citation omitted).

As in *Vieth*, it “is hard to imagine how any action taken in reliance upon [*Apportionment III*] could conceivably be frustrated—

except the bringing of lawsuits, which is not the sort of primary conduct that is relevant.” 541 U.S. at 306.

“Because the Florida Constitution in article III, section 16(d), unambiguously precludes challenges under Florida law to a legislative redistricting plan that has been declared valid by this Court in a proceeding under article III, section 16,” *Apportionment III*, 118 So.3d at 214 (Canady, J., dissenting), this Court should recede from its contrary precedent and confirm that a judgment determining the apportionment to be valid “shall be binding upon all the citizens of the state.”

CONCLUSION

The Court should enter a declaratory judgment determining the apportionment to be valid, and should confirm that the Court’s judgment is binding upon all citizens of the state.

Respectfully submitted,

/s/ Daniel Nordby

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I HEREBY CERTIFY that a true and correct copy of this Brief has been filed via the E-Filing Portal and served via electronic service on February 19, 2022, to:

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I hereby certify that this filing complies with the typeface requirements of Rule 9.045(b), Florida Rules of Appellate Procedure because it was prepared in a proportionally spaced typeface using 14-point font Bookman Old Style. This brief complies with the type volume limitations set in Rule 9.210(a)(2)(B), Florida Rules of Appellate Procedure. This brief contains 12,998 words, excluding the parts of the brief exempted by Rule 9.045(e).

/s/ Daniel Nordby
Attorney

EXHIBIT 17

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

CASE NO. 2022 CA 000666

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

Plaintiffs,

vs.

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

Defendants.

TRANSCRIPT OF PROCEEDINGS

(Plaintiff's Motion to Strike Affirmative Defenses/
Status Conference)

DATE TAKEN: June 5, 2023

TIME: 3:00 p.m. to 4:30 p.m.

PLACE: Leon County Courthouse, Room 3D

BEFORE: J. LEE MARSH
CIRCUIT JUDGE

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were stenographically reported by:

STENOGRAPHICALLY REPORTED BY:

SANDRA L. NARGIZ
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2

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13 JOSEPH VAN de BOGART, ESQUIRE
14 Secretary of State
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1 The following proceedings began at 3:00 p.m.

2 **THE COURT:** We are here today in Leon
3 County, Case 2022 CA 000666, Black Voters
4 Matter Capacity Building Institute and others
5 versus Laurel Lee, actually now it's Cord Byrd
6 and others. We are here today on the
7 Plaintiffs' Motion to Strike Affirmative
8 Defenses.

9 Before we begin, I am not sure who is
10 appearing for each party today, so we'll go
11 ahead and announce our appearances on the
12 record and we can move forward.

13 **MR. WERMUTH:** Fritz Wermuth for the
14 plaintiffs, and I am here with Joyoti
15 Jasrasaria who will be arguing for the
16 plaintiffs today.

17 **THE COURT:** All right.

18 **MR. BARDOS:** Your Honor, Andy Bardos for
19 Florida House of Representatives.

20 **MR. NORDBY:** Dan Nordby from Shutts &
21 Bowen on behalf of the Florida Senate. With me
22 today are Tara Price, also from Shutts & Bowen,
23 and Carlos Rey, General Counsel for the Florida
24 Senate.

25 **MR. JAZIL:** Mohammad Jazil on behalf of

1 Secretary Byrd. Your Honor, I've got Michael
2 Beato on behalf of the Secretary Byrd and Joe
3 Van de Bogart for the Secretary as well.

4 **THE COURT:** All right. You may please
5 proceed.

6 **MS. JASRASARIA:** Good afternoon, Your
7 Honor. My name is Jyoti Jasrasaria and I am
8 appearing on behalf of plaintiffs.

9 As this Court knows, plaintiffs move to
10 strike five of defendants' 13 affirmative
11 defenses under the Public Official Standing
12 Doctrine, which bars public officials from
13 challenging the constitutionality of the duties
14 prescribed to them by Florida law.

15 The doctrine itself has been recognized by
16 the Florida courts for more than a century and
17 it's very straightforward. When a government
18 officer takes an oath of office to uphold the
19 state and federal constitutions, he cannot then
20 turn around and use that oath as an excuse to
21 question the constitutionality of his legal
22 duties and elect not to comply with the duties
23 with which he disagrees. And that is because
24 the judiciary alone has the power to determine
25 a law's constitutionality, and unless and until

1 the judiciary says otherwise, public officials
2 must follow the law as it is.

3 And so an affirmative defense seeking to
4 justify defendants' failure to comply with the
5 Fair Districts Amendment by challenging the
6 constitutionality of the amendment itself is no
7 defense at all. Importantly here, none of the
8 fundamental elements of the Public Official
9 Standing Doctrine are in dispute.

10 One, defendants are indisputably public
11 officials who are not members of the judicial
12 branch.

13 Two, the House and Senate have a duty to
14 follow Congressional districts and the
15 Secretary had the duty to implement those
16 districts.

17 Three, the Fair Districts Amendments
18 affect those duties.

19 And four, defendants have asserted no
20 personal injury, and nor does the amendment
21 affect the disbursement of public funds. And
22 so none of the exceptions to the Public
23 Official Standing Doctrine apply.

24 So as a result, the Public Official
25 Standing Doctrine plainly holds that this Court

1 lacks subject matter jurisdiction to consider
2 defendants' affirmative defenses which assert
3 that the Fair Districts Amendment is
4 unconstitutional and that should settle this
5 motion.

6 To the extent there are questions about
7 why this doctrine applies, it's important to
8 take a step back and remember it stems directly
9 from the separation of powers principles, and
10 that it's critical to preserving the rule of
11 law itself.

12 By way of illustration, when a private
13 plaintiff challenges the constitutionality of a
14 law, the challenged law still remains the law,
15 and unless and until a judge says otherwise,
16 everyone continues to follow the law or they
17 face consequences for not following the law.

18 On the flip side, when a public official
19 justifies their failure to follow the law by
20 challenging the law's constitutionality, then
21 that public official has taken it upon himself
22 to adjudicate and apply the law however he sees
23 fit. And so the public official has
24 essentially nullified the law, and the law is
25 not in place unless and until a judge says

1 otherwise.

2 And so if that second scenario were
3 allowed, public officials could unilaterally
4 decide not to follow a law simply because they
5 could assert that the law was unconstitutional.
6 And even though a judge would have the
7 opportunity to make an ultimate decision on
8 that matter, months or years could pass and in
9 this case, in fact, an election cycle has
10 passed, during which a public official could
11 simply ignore their legal duty without any
12 consequences.

13 That cannot be, and the Public Official
14 Standing Doctrine is critical to preserving the
15 rule of law.

16 Unless the Court has any questions, I'd
17 like to reserve my time for rebuttal.

18 **THE COURT:** Counsel, has there ever been a
19 case where this has been applied to a
20 legislature or legislators in their legislative
21 capacity?

22 **MS. JASRASARIA:** That's a good question,
23 Your Honor.

24 There is not a case where it's been
25 applied to the legislature, but it's very clear

1 that the Florida House and Senate make up the
2 legislative branch, which is not part of the
3 judicial branch, and the Separation of Powers
4 Doctrine set forth in Article 3, Section 1, of
5 the Florida Constitution is very clear that the
6 separation of powers applies across all three
7 branches.

8 And Atlantic Coast Line, which is a case
9 that established this doctrine in the first
10 place, mentioned that this case is about a
11 branch of the government other than the
12 judiciary. And so the legislature squarely
13 falls within that.

14 And, of course, it makes sense that this
15 particular set of circumstances is quite rare,
16 that's partly because the legislature doesn't
17 have all that many affirmative duties placed
18 upon it by the Constitution.

19 **THE COURT:** That's what I wanted to ask
20 you. Atlantic talks about ministerial duties.

21 Is it a ministerial duty of the
22 legislature to enact laws and to draw
23 Congressional districts? Is that a ministerial
24 duty or is that something else?

25 **MS. JASRASARIA:** So I think those are two

1 different things.

2 The legislature certainly doesn't have a
3 ministerial duty to enact laws. For example,
4 it didn't need to enact its most recent voting
5 legislation, but here there is no dispute that
6 the task itself, which is the drawing and
7 implication of the Congressional districts --
8 or sorry, the legislature, the drawing of the
9 districts, that is not a discretionary task.
10 It's very clear in the Federal Constitution, in
11 the State Constitution, in case law that the
12 legislature is under an obligatory duty to
13 redistrict every 10 years.

14 And, of course, there is some discretion
15 in how they choose to draw those districts, but
16 the drawing of the districts and in compliance
17 with the Constitution is not discretionary.

18 And I will just point out Atlantic Coast
19 Line itself involved a task that would
20 inherently involve discretion, which was to
21 hear and determine an appeal.

22 And so there, the Court issued a writ of
23 mandamus for the Board of Equalizers, which
24 included the Governor, the Attorney General and
25 the Treasurer to hear the appeal, but it did

1 not tell them how to decide that appeal.

2 So similarly here, the duty to draw the
3 districts in compliance with the Constitution
4 is not discretionary, even though there is
5 certainly some discretion within that task.

6 **THE COURT:** All right. All right. That
7 is all the questions I have for now. I will
8 obviously allow you more time as things come up
9 from the defendants.

10 **MS. JASRASARIA:** Perfect. Thank you.

11 **THE COURT:** I am not sure, it looks like
12 Mr. Bardos, you are going to go first.

13 **MR. BARDOS:** Yes, Your Honor.

14 Good afternoon, Your Honor, Andy Bardos
15 with the GrayRobinson firm for the Florida
16 House of Representatives.

17 I think what we have here is a situation
18 where the plaintiffs are trying to fit a square
19 peg into a round hole. This is a doctrine that
20 was designed for a very different scenario and
21 not the one we have here.

22 Here, what the legislature was confronted
23 with during the legislative process was a clash
24 of constitutional principles. It had to
25 balance the United States Constitution's

1 guaranty of equal protection against the State
2 Constitution's prohibition against the
3 diminishment and ability of minority voters to
4 elect candidates of their choice.

5 To determine whether the Public Official
6 Standing Doctrine applies here, I think it's
7 helpful to look at the Atlantic Coast Line
8 case, which is a case that really originated
9 this doctrine, and to look at what the
10 underpinnings of the doctrine were and what
11 motivated the Court to adopt it.

12 And the first thing that the Court, that I
13 think is apparent from that case and which is
14 apparent throughout all the cases since then,
15 is that the Public Officials Standing Doctrine
16 prohibits public officials from challenging the
17 constitutionality of a statute, that is
18 something that we see throughout the cases. It
19 was true in Atlantic Coast Line and it's been
20 true ever since.

21 When we look at other cases where public
22 officials challenged laws that are not
23 statutes, for example, the Gronemeyer case and
24 Reid, those were not statutes and the Courts
25 allowing those constitutional challenges to

1 proceed.

2 In Gronemeyer, it was an ordinance that
3 was being challenged, and the Court said that
4 this is permissible because the public
5 official, quote, does not challenge the
6 validity of any state statute, end quote.

7 And then in Reid, the public official
8 challenged the directive of the Department of
9 Revenue, and the Court held that this is
10 permissible because the public official is,
11 quote, not challenging the validity of statutes
12 applicable to him, and therefore distinguished
13 the line of cases that we saw.

14 What the plaintiffs rely on is the one
15 word dicta in the Markham case where the Court
16 said that disagreement with a constitutional or
17 statutory duty is not something that can lead
18 to a challenge; but there is no challenge to a
19 constitutional provision in Markham, and so
20 clearly that's quintessential dicta.

21 And then when the Florida Supreme Court
22 revisited that in the Crossings case, it
23 summarized Markham by saying that the common
24 law principle expressed in Markham is that
25 public officials lack standing to challenge the

1 constitutionality of a statute.

2 So we are back to challenges to a statute.
3 So there's been no case in the 100 years since
4 Atlantic Coast Line was decided where the
5 Public Official Standing Doctrine was applied
6 to bar a public official from challenging a
7 state constitutional provision.

8 The next thing about Atlantic Coast Line,
9 which I think is relevant, is what explains why
10 the doctrine is limited to statutes, and that
11 is the Court noted several times that statutes
12 are entitled to a presumption of
13 constitutionality. And that is because the
14 legislature, in passing statutes, takes an oath
15 to uphold the Constitution, and the public
16 officials have to presume that the legislature
17 complied with that and that the statutes that
18 the legislature passed is constitutional.

19 I am not aware, and the plaintiffs have
20 not cited any cases to suggest, that there is
21 any presumption that a state constitutional
22 provision is necessarily presumed to be
23 consistent with the Federal Constitution. So
24 the same presumption does not apply.

25 And so when Atlantic Coast Line says we

1 presume and public officials must presume that
2 state statutes are constitutional, and that
3 they must continue to apply them until they are
4 judicially determined to be invalid, that does
5 not apply to a state constitutional provision.

6 The third thing that Atlantic Coast Line
7 pointed out, and Your Honor alluded to this, is
8 that the duty being challenged -- the challenge
9 will be barred if the duty is a ministerial
10 one.

11 And I think it's notable that Atlantic
12 Coast Line referenced ministerial officers and
13 ministerial duties 16 times. And we see that
14 word used again in cases as recent as Santa
15 Rosa, which is a recent First DCA decision.

16 And the reason for this is a ministerial
17 duty is a positive and precise command to a
18 public official: A public official must
19 certify a document; a public official must send
20 out notice, something that is precise. A
21 public official must hear an appeal. The fact
22 of hearing an appeal is a clear mechanical duty
23 that they must follow that process. Those are
24 ministerial duties that are assigned to public
25 officials.

1 But I think it's no exaggeration to say
2 that there is no duty that is less ministerial
3 than the enactment of legislation. And even
4 within the enactment of legislation, when there
5 are state constitutional provisions that occur
6 with the discretion of the legislature and
7 limit what it can do, such as the diminishment
8 standard, that does not prescribe a ministerial
9 duty.

10 And I think it's important to note that
11 not all duties are ministerial. There are
12 duties that are not ministerial. Otherwise,
13 the term ministerial duty, which we see so
14 frequently in cases, would be a redundancy.

15 So when we see a duty, for example, of the
16 nondiminishment standard or, for that matter,
17 equal protection or due process, which also
18 limits the discretion of the legislature
19 enacting legislation, that's very different
20 from the sort of precise and positive commands
21 to public officials that courts usually treat
22 as ministerial duties.

23 So the legislature, of course, must comply
24 with it. It is a duty, but it is not
25 ministerial, it is not mechanical. There is a

1 significant amount of discretion involved,
2 because there is endless disagreement as to
3 what these standards mean and endless varieties
4 of methods by which to interpret and implement
5 them in drawing a redistricting map. So it's
6 very much unlike a ministerial duty.

7 And the fourth thing that I think is
8 notable about Atlantic Coast Line is the policy
9 purpose for this doctrine. And the Court noted
10 that the purpose is to ensure that the public
11 business is administered in a stable and
12 orderly way.

13 The Court alluded to this in the Barr case
14 as well, where the Court said that the state's
15 business cannot come to a standstill while the
16 validity of a particular statute is contested by
17 the very agency charged with the responsibility
18 of administering it.

19 The Florida Supreme Court in the Crossings
20 case alluded to the same doctrine, said that
21 the Public Officials Standing Doctrine promotes
22 important public policy of ensuring an orderly
23 and uniform application of state law, because
24 we cannot have public officials across the
25 state picking and choosing when they apply

1 ministerial duties.

2 That doesn't apply here either. In fact,
3 the public business would be conducted in a
4 much more stable and orderly way if both
5 constitutional challenges were heard at once;
6 plaintiffs' challenged to the statute under the
7 nondiminishment standard and the legislature's
8 challenge to the nondiminishment standard under
9 equal protection; and, for that matter, all
10 defendants challenged that. And the reason is
11 this.

12 If the defense is stricken and the
13 plaintiffs move forward and demonstrate that
14 the district does not comply with the
15 nondiminishment standard, then that district
16 must be redrawn.

17 At that point someone else may come along
18 and assert the equal protection challenge that
19 the defendants are unable to assert here, and
20 then strike down that district. And then we
21 must redraw the district again. And we would
22 have three different districts instead of
23 deciding all of the issues at once. And so we
24 see here that --

25 **THE COURT:** Hold on. Doesn't that go to

1 standing? Don't we deal with that in these
2 courts all the time? There would be plenty of
3 cases -- this Court would love to say let's
4 just deal with it once, but standing ends up in
5 the way and we have to take it piecemeal. So
6 what's wrong with that?

7 **MR. BARDOS:** That's right, Your Honor. I
8 am simply alluding to the fact that the public
9 policy motivation for adopting this very
10 special and unique standing doctrine of public
11 official standing is not supported but rather
12 undermined by its application here which tends
13 to show --

14 **THE COURT:** What is the peril to the
15 legislature? How are they unable to, assuming
16 the constitutionality of a Florida
17 constitutional provision, they are now claiming
18 it's some harm to them?

19 What's the harm? That they can't pass
20 redistricting? Didn't they do that in the
21 original session? They passed what they
22 thought was legislation that would actually
23 comply with the Florida -- so what's the harm
24 here?

25 **MR. BARDOS:** I don't think there is any

1 necessary showing of harm. I think the Public
2 Official Standing Doctrine doesn't exist
3 because of any sort of harm to the public
4 official. I think that the reason the
5 doctrine --

6 **THE COURT:** Right, that's why they don't
7 have standing. There is no harm to the
8 official of complying with the statute. Isn't
9 that what Atlantic Coast says?

10 So when we look at, in essence, the
11 plaintiff has shown this to be a jurisdictional
12 issue of hearing this challenge; where does the
13 legislature have standing? Don't they need any
14 harm?

15 **MR. BARDOS:** Your Honor, I don't think
16 asserting an affirmative defense requires harm.
17 Bringing a claim, standing to assert a claim on
18 the plaintiffs' part requires the plaintiff to
19 demonstrate that the plaintiff has been
20 injured, but I don't think --

21 **THE COURT:** Doesn't this affirmative
22 defense in essence require this Court to rule
23 on the constitutionality of a provision, so
24 seeking this Court weighing in on that?

25 That seems like there needs to be standing

1 to assert that a provision in the Florida
2 Constitution, voted in by the electors of this
3 state; the electors said this is what we want
4 in our constitution.

5 Where is the harm by which the legislature
6 can then challenge the voters and their
7 decision?

8 **MR. BARDOS:** Again, I don't think that a
9 defendant needs to demonstrate harm in order to
10 assert an affirmative defense. I think harm is
11 typically something that's required of a
12 plaintiff in order to bring a claim, so that we
13 know the plaintiff has a stake sufficient to
14 justify a resolution of the plaintiffs'
15 grievance.

16 But I don't think that in this situation
17 the defendant has to show that when the
18 defendant is defending the statute, which is
19 what we are doing, that that defense is based
20 on some sort of harm or that invalidation of a
21 statute would lead to some sort of harm, that
22 we can't defend the statute unless the statute
23 harms us.

24 We can defend the statute when we are
25 sued. Now there is --

1 **THE COURT:** But you are defending statutes
2 saying it's okay because that portion of the
3 constitution is unconstitutional at the federal
4 level.

5 **MR. BARDOS:** Right, but I still think that
6 doesn't require harm in order to assert that.

7 Now if we were to come within the Public
8 Official Standing Doctrine, if the court were
9 to find that that does apply, then there are
10 exceptions where a public official could show I
11 really am harmed, and so that exception then
12 trumps the Public Official Standing Doctrine.

13 Our position is the Public Official
14 Standing Doctrine doesn't even apply in the
15 first place. And so just like any other
16 defendant who's asserting affirmative defense,
17 the defendant doesn't have to demonstrate that
18 it would suffer some harm before it can assert
19 an affirmative defense. So --

20 **THE COURT:** No, but doesn't it has to show
21 the Court has some jurisdiction on deciding
22 that claim?

23 **MR. BARDOS:** Right. So jurisdiction --
24 that's an interesting question. The plaintiffs
25 raise the jurisdictional issue, but standing is

1 not jurisdictional in this state.

2 Now there is certainly some cases where
3 there is language that goes both ways on that
4 issue, but I think the most significant source
5 of -- source that we should look to in that
6 respect is the Florida Supreme Court's recent
7 decision in Page versus Deutsch Bank, 308
8 Southern Third 953. And when Florida courts
9 have deliberately considered this issue of
10 whether standing is a jurisdictional matter in
11 Florida in state court, they have answered the
12 question in the negative.

13 And so what the Florida Supreme Court said
14 in the Page decision is that the subject matter
15 of jurisdiction is universally acknowledged to
16 never be waivable; but this Court has held that
17 the issue of standing is a waivable defense.
18 And if standing is waivable, then standing is
19 obviously not a component of subject matter
20 jurisdiction.

21 That is the Florida Supreme Court
22 reasoning that standing is waivable, therefore,
23 it's not a jurisdictional issue.

24 The First DCA said the same thing,
25 standing is an affirmative defense that's

1 waived if not raised in a responsive pleading,
2 Collins Asset Group versus Property Asset
3 Management.

4 In that respect, Your Honor, I will note
5 that the plaintiffs did not assert the Public
6 Official Standing Doctrine in their reply.
7 They are asserting it now in a motion, but it
8 is an avoidance at the very least, so they
9 should have asserted it in their reply.

10 **THE COURT:** Whether it's called standing
11 or whether it's called subject matter
12 jurisdiction, you'd agree this Court always has
13 to be concerned with subject matter
14 jurisdiction because it can be raised any time,
15 including on appeal; correct?

16 **MR. BARDOS:** Absolutely, Your Honor. Our
17 position is simply that standing is not a
18 jurisdictional issue.

19 So, Your Honor, we think that the Public
20 Official Standing Doctrine does not apply here.
21 It has to be a statute, because of a
22 presumption of validity; it has to concern
23 ministerial duties, which the enactment of
24 legislation is not. And so we haven't found a
25 case either applying it to the legislature --

1 **THE COURT:** Why shouldn't there be a
2 presumption of validity to a provision of a
3 Florida constitution? Why should we not
4 presume what the Florida Constitution says is
5 valid? Like, one of which they cited was the
6 separation of power.

7 Shouldn't I presume that that one is
8 valid? So why not assume all provisions of the
9 Florida Constitution, until otherwise shown,
10 are, in fact, valid?

11 **MR. BARDOS:** I think there are a couple of
12 answers. I think the simpler answer may be,
13 Your Honor, is looking for something more, but
14 the simpler answer is I don't believe there is
15 a case that expresses that there is such a
16 presumption.

17 Beyond that, though, I think the
18 presumption is based on the notion that when
19 the legislature passes a statute, we have a
20 body of elected representatives and public
21 officials performing their duties under oath,
22 and they have taken an oath to comply with the
23 Constitution.

24 And so we have to presume that they do
25 that in good faith, and that the statutes that

1 they passed carry with them a presumption of
2 validity.

3 A constitutional provision, in particular
4 one proposed by citizen initiative like the one
5 here, doesn't have that same pedigree, it
6 doesn't come from a body established and
7 operating under oath to ensure that its actions
8 are constitutional.

9 **THE COURT:** But isn't that the whole point
10 of the constitution? The U.S. Constitution,
11 the Florida Constitution, that is exactly --
12 it's the consent of the government, it is the
13 common people come together to form their
14 government through a constitution, splitting
15 the powers into the various elected officials,
16 be they executives, judiciary or legislature.
17 It's still those common people, isn't it?

18 **MR. BARDOS:** Absolutely. But the question
19 is whether the state constitution is presumed
20 to be consistent with the federal constitution.
21 And that's simply a presumption that if it
22 exists, it would rest on different grounds from
23 the presumption of constitutionality that
24 attends a statute, and it hasn't been expressed
25 in the cases, to the extent that I have seen.

1 Now maybe the plaintiffs will point us to a
2 case that has recognized such a presumption.

3 So, Your Honor, I think -- and I think
4 it's important also to note that Miami-Dade
5 Expressway Authority case distinguish Reid and
6 Gronemeyer on the ground that those cases did
7 not challenge the constitutionality of the
8 state statute; so again, very recently we have
9 the First DCA expressing that this doctrine is
10 limited to statutes.

11 So that's the Public Official Standing
12 Doctrine.

13 The other point we raised, Your Honor, in
14 our response is this difference between a
15 1.140(b) motion to strike and a motion under
16 1.40(f). And we think this is an important
17 issue.

18 So a motion to strike under 1.140(b) is
19 the equivalent of a motion to dismiss. It
20 challenges the legal sufficiency of a pleading.
21 Just like the motion to dismiss challenges the
22 legal sufficiency of a complaint, a 1.140(b)
23 motion challenges the legal sufficiency of an
24 answer.

25 Just like the motion to dismiss can raise

1 defenses that would be raised in an answer, the
2 1.140(b) motion raises arguments that can be
3 raised in a reply.

4 So they are parallel. There is a
5 parallel, the 1.140(b) motion is due at the
6 same time the reply is; we see how that works
7 together. Just like the defendant would have
8 to raise standing in an answer as an
9 affirmative defense in a challenge to a claim,
10 a plaintiff would have to raise it in a reply
11 and challenge to an answer.

12 They didn't do that here. It wasn't
13 raised in their reply. They didn't file a
14 motion to strike within the 20 days, and so
15 instead they filed a motion to strike under
16 Rule 1.140(f), which can be done at any time.

17 Now 1.140(f) is an entirely different
18 standard, and we submitted to Your Honor the
19 Chris-Craft case which says these are two
20 entirely different tests, 1.140(b) versus (f).

21 And 1.140(f) says essentially that if
22 the -- if a complaint is -- or a complaint --
23 or an answer in this case -- is legally
24 sufficient, then the Court can strike improper
25 allegations from that complaint, if those

1 allegations have nothing to do with the case or
2 if they are scandalous or if they are --

3 **THE COURT:** Talk to me about the two words
4 immaterial and impertinent. Why does that not
5 refer to -- if they don't have a legal ability
6 to bring this claim, that therefore it's
7 immaterial and impertinent?

8 **MR. BARDOS:** Yeah. So I think there are a
9 couple of answers to that.

10 One is what immaterial and impertinent
11 looks at is whether this issue that's raised is
12 wholly unrelated to litigation. And it's
13 clearly not.

14 Clearly the issue is relevant to the
15 litigation, whether the nondiminishment is
16 constitutional or not has a direct bearing on
17 this case.

18 And so a situation where it is wholly
19 impertinent is the case that plaintiffs cite,
20 the Hodges case which they cite in support of
21 their reading. But in fact, if you looked at
22 that case, the argument that was made in a
23 motion to strike is not simply that there was a
24 lack of standing.

25 But, in fact, what the Court -- what was

1 argued in Hodges is that a judicial declaration
2 of constitutionality is totally unnecessary to
3 complete adjudication of plaintiffs' claims for
4 damages to the property and such
5 constitutionality argument is not an issue
6 between the parties.

7 So the plaintiff there had raised an equal
8 protection claim in the complaint and the
9 defendant's argument was this has nothing to do
10 with our dispute. Not only is there is no
11 standing, but it has nothing to do with our
12 dispute. So it was both. So the Court said
13 that 1.140(f) was appropriate in that case.
14 But that's the distinction, Your Honor.

15 And the other part of this is if a claim
16 is irrelevant whenever it's not legally
17 sufficient, then the 20-day deadline under
18 1.140(b) doesn't mean anything; that any party
19 could ignore that 20-day deadline, go beyond
20 the 20 days and then turn around, file a
21 1.140(f) motion at any time and say, well, this
22 claim is legally insufficient and therefore
23 it's irrelevant.

24 And I just don't think that's how the
25 rules were intended to operate. I think the

1 20-day deadline was intended to have some
2 meaning. I think the legal sufficiency
3 analysis, if it is distinct as the Chris-Craft
4 case said, they are two separate tests, and
5 they have to be, in order for that 20-day
6 deadline to mean anything.

7 **THE COURT:** But talk to me about 1.140(b).
8 One of those says lack of jurisdiction over
9 subject matter and it talks about this
10 timeline. Well, that timeline doesn't apply to
11 lack of subject matter jurisdiction, does it?

12 **MR. BARDOS:** Yeah, that's right.

13 So the 20-day deadline applies -- it
14 appears in the plush language beneath 1 through
15 6. So jurisdiction -- it doesn't apply to 20
16 days, it appears beneath that list and applies
17 specifically to a motion to strike, motion to
18 strike for legal insufficiency.

19 So, yes, if it's a jurisdictional, which
20 we contend this is not, then that could be
21 raised at any time.

22 But if it's not a jurisdictional issue and
23 it challenges legal sufficiency of a defense,
24 then that 20-day deadline in the rule applies,
25 and the plaintiff cannot then turn around and

1 say, well, I missed that.

2 And the fact they didn't plead this in
3 their reply and then didn't file a motion
4 within 20 days suggests that this is probably
5 something they thought of too late.

6 But they can't turn around then and say,
7 well, it's irrelevant because it's legally
8 insufficient, because the 20-day deadline
9 really has no meaning at that point.

10 So, Your Honor, we do think there is a
11 significant difference between the (b) and (f)
12 motions.

13 On top of that, striking pleadings, as the
14 Bay Colony case demonstrates, is not favored,
15 it's considered drastic action, it's used
16 sparingly, and all doubts are resolved against
17 striking the pleadings.

18 So unless Your Honor has any further
19 questions, I will wrap up and we'll ask that
20 the Court deny the motion.

21 **THE COURT:** All right. Mr. Nordby.

22 **MR. NORDBY:** Thank you, Judge.

23 On behalf of the Florida Senate, I agree
24 with Mr. Bardos' argument. I just want to make
25 a few more brief points, if I could.

1 I certainly agree with his arguments as to
2 the timeliness. To read a motion to strike for
3 lack of legal sufficiency to be subsumed within
4 the immaterial or impertinent provision of (f),
5 I think where you really read the time
6 limitation out of 1.140(b) out of the
7 requirement at all. So I think timeliness is
8 one way to resolve this that we think would be
9 appropriate under the rules, but would also
10 avoid some of the more practical concerns that
11 you have expressed with regards to merits of
12 it.

13 But on the merits of the Public Official
14 Standing Doctrine, this case does not fall into
15 really any of the precedence the plaintiffs
16 have cited here. Those cases really fall into
17 two categories.

18 The one is what some of the cases call an
19 affirmative challenge to legislation. That was
20 the case in the Miami-Dade County Expressway
21 Authority decision from the First DCA that
22 actually Mr. Jazil and I litigated in front of
23 Judge Cooper in this courtroom about a year and
24 a half ago.

25 In that case a state agency affirmatively

1 sued and asked the court to declare that a
2 statute was unconstitutional. And the First
3 District said no, that's not proper, the Public
4 Official Standing Doctrine prohibits a state
5 agency from suing for the declaration that a
6 statute is unconstitutional.

7 It did distinguish the cases, the
8 Gronemeyer case and others, on the basis that
9 was being challenged in those cases was not a
10 statute, and therefore the Public Official
11 Standing Doctrine did not apply.

12 **THE COURT:** I want to interrupt you
13 because cases of first impression -- this is
14 that type of case. We've already been -- some
15 of the defendants have already asked this Court
16 to recognize an executive privilege that didn't
17 exist anywhere in case law that I could find
18 from the state.

19 Now that ended up not being an issue in
20 this case; it happened in another case
21 somewhere in the circuit. But in this case, it
22 was not executive function, it was legislative
23 function of the Governor.

24 So why not say it now? Why not say, we
25 got government officials who are challenging

1 their own constitution and whether it meets the
2 constitution? Why not say the rationale is
3 similar?

4 **MR. NORDBY:** A couple reasons.

5 One is the nature of the pleading here is
6 an affirmative defense. It's not a
7 counterclaim, it's not a crossclaim. The
8 defendants in this case are not asking the
9 Court affirmatively to make a declaration.

10 **THE COURT:** Right, but that's because what
11 they are arguing -- I am not saying I agree
12 with it. Their argument is because the
13 legislature has nullified, which is the very
14 ham that the Public Official Standing Doctrine
15 seeks to avoid.

16 Their argument is that the legislature has
17 nullified it and said, we think it's
18 unconstitutional, therefore this is the
19 legislation we are going to pass.

20 That's the very reason -- it doesn't have
21 to be brought in an initial claim, if the
22 Public Official Standing Doctrine doesn't exist
23 for the legislature. So that's the very --
24 that's the very essence. So why not extend it
25 here?

1 **MR. NORDBY:** So here's why.

2 I think this case is different from the
3 cases that they cited which is on the other
4 side of the Public Official Standing Doctrine
5 cases, the public official who refuses to
6 perform a duty on the alleged grounds that that
7 duty is unconstitutional.

8 In that case, that would be the scenario
9 here if, for example, the Secretary of State
10 were to say I am not going to enforce
11 Chapter 2022-265, Laws of Florida, because I
12 believe this Congressional map is
13 unconstitutional. That would be the case in
14 which the negative implication of the Public
15 Official Standing Doctrine might come into
16 play.

17 Of course, the Secretary of State and the
18 Supervisors of Elections have not done that.
19 They are enforcing the law that was passed by
20 the legislature and signed by the Governor
21 here.

22 This case does not involve a claim by the
23 plaintiffs that the Article 3, Section 20, of
24 Florida Constitution is itself
25 unconstitutional. This course, in adjudicating

1 the constitutionality of the legislation that
2 was passed by the legislature and was signed by
3 the Governor, will necessarily have to contend
4 with the application of the federal
5 constitution as well; just as the legislature
6 did when it was considering this legislation.

7 It's not only the Florida Constitution
8 that applies to redistricting legislation, such
9 as this. Federal Voting Rights Act may apply
10 for the manner of legislation that could be
11 applied, the Federal Equal Protection Clause
12 may apply. We cited the elections clause as
13 well.

14 **THE COURT:** And I get it that -- I forgot
15 which Alabama case it is -- Allen v.
16 Milligan -- I get that there is some -- we are
17 waiting on rulings from the U.S. Supreme Court
18 at least in Allen v. Milligan on the Voting
19 Rights Act, but isn't there a host of other
20 federal legislation that has been found to be
21 constitutional and in conformance with the
22 Equal Protection Clause that uses this same
23 language that's in the Florida Fair Districts
24 Amendment?

25 **MR. NORDBY:** I don't think there is

1 anything precisely on point with this language
2 and the sort of arguments that are being made
3 here.

4 My point was simply that when considering
5 the enactment of legislation, the legislature
6 has an obligation to consider all superior laws
7 here, anything that the supremacy clause would
8 hold to prevail over provisions of the state
9 constitution or over state statute. And it did
10 so here.

11 And in the course of adjudicating this
12 dispute here, this Court cannot blind itself,
13 we would submit, to the application of the
14 Equal Protection Clause.

15 **THE COURT:** Well, then, am I to take --
16 and based on prior filings, didn't they do that
17 once? And it was vetoed. And so am I to take
18 it -- were they deciding to operate
19 unconstitutionally then or now? I mean --

20 **MR. NORDBY:** Neither is the case. Of
21 course, we are defending the constitutionality
22 of the legislation that was passed.

23 My point is simply these are not easy
24 questions. I point you to a different decision
25 from Alabama, Chief Judge Pryor writing for a

1 three-judge panel in the case, where he says
2 these are easy questions. Sometimes under the
3 existing case law, the requirements of the
4 Equal Protection Clause may run up against the
5 requirements of the Voting Rights Act; may run
6 up against the requirements of the Florida
7 Constitution requirement here.

8 So in the course of trying to enact
9 legislation that will first satisfy
10 bicameralism presentment and then satisfy the
11 application of all of these different doctrines
12 of federal law and state law, the legislature
13 had to consider all of the sources of authority
14 that would apply to that legislation. And this
15 Court, too, cannot as Mr. Bardos said, cannot
16 blind itself to the application of the federal
17 constitution and federal law in adjudicating
18 the plaintiffs' claim here.

19 If this Court were to proceed only with an
20 examination of what the Florida Constitution
21 requires in isolation from the other provisions
22 of law that apply to this, we could end up with
23 a ruling that would itself fail to comply with
24 superior law under the Federal Constitution and
25 that would be a poor place to find ourselves

1 in.

2 **THE COURT:** Once again, and I want to make
3 sure this is clear, this affirmative defense is
4 in the alternative argument, isn't that
5 correct?

6 You are not conceding that the legislation
7 violates the statute, the Florida
8 constitutional provision; this is in the event
9 the Court even finds that. So we may never
10 reach this question, is that correct?

11 **MR. NORDBY:** That's absolutely correct.
12 It's an affirmative defense, so this Court may
13 never reach these affirmative defenses.

14 If this Court finds for us on the merits
15 of the primary claims being described by the
16 plaintiffs here, then it will never reach these
17 affirmative defenses as grounds for its
18 decision.

19 **THE COURT:** All right.

20 **MR. NORDBY:** Thank you very much.

21 **THE COURT:** Mr. Jazil.

22 **MR. JAZIL:** Thank you, Your Honor.

23 May it please the Court, I echo the
24 comments made by my colleagues, Mr. Bardos and
25 Mr. Nordby, and I join in them.

1 There is a footnote in the plaintiffs'
2 reply saying that it would be inappropriate for
3 the Secretary to join in the arguments that are
4 being made. I would like too address that
5 point.

6 I think it's perfectly appropriate for the
7 Secretary to join those arguments because those
8 arguments in part are that the Public Official
9 Standing Doctrine is rooted in challenges to
10 statutes, not constitutions. The only contrary
11 authority on that point is the dictum from
12 Markham as Mr. Bardos explained.

13 Markham dealt with a statutory issue and
14 talked about the Public Official Standing
15 Doctrine; the Atlantic Railroad case from 1922
16 dealt with a statute, dealt with the Public
17 Official Standing Doctrine in a statutory
18 context.

19 The Florida Supreme Court's most recent
20 and most elaborate explanation of the doctrine
21 in 2008, the Flemings case, talked about it in
22 a statutory context.

23 So Your Honor is correct. One of the
24 questions of first impression here that must be
25 squarely addressed is whether or not the Public

1 Official Standing Doctrine serves as a bar for
2 public officials to raise as an affirmative
3 defense the possible unconstitutionality of
4 provisions of the Florida Constitution.

5 And there, Your Honor, I point the Court
6 back to the Separations of Concept Doctrine
7 that underlies the notion of public official
8 standing. And the cases say, look, it's
9 inappropriate for an executive official to
10 challenge an enactment of the legislative
11 branch because that is a separations of power
12 issue.

13 So then the question becomes, okay, if
14 it's a provision of the state constitution that
15 was put there through a citizen initiative, are
16 the same separations of power concerns
17 implicated? And I would suggest to the Court
18 that they are not.

19 This is not an instance where you have one
20 branch of government fighting with another
21 branch of government over what one has done and
22 the other refuses to follow. This is an
23 instance where there is a provision in the
24 Florida Constitution, and the question is,
25 well, okay, if there is a provision in the

1 Florida Constitution and one branch of
2 government passes a statute, enacts something
3 consistent with what they believe that
4 provision requires, another branch of
5 government signs it and puts it into law, is
6 that in and of itself appropriate?

7 Under the Federal Constitution, right,
8 because we got two -- we got federalism and
9 separations of power both working here. And I
10 will posit to the Court that the state level
11 standing doctrine, Public Official Standing
12 Doctrine, and its separations of power concerns
13 are not implicated in this instance as they
14 have been, and have been discussed in other
15 cases.

16 Your Honor, I also would like to discuss
17 this subject matter jurisdiction question that
18 you discussed with my friends.

19 I tried convincing the Florida
20 Supreme Court a year and a half ago to try to
21 make a standing subject matter jurisdiction
22 issue and receive from the discussion in the
23 Polk versus Deutsch Bank case. The very last
24 paragraph of that case talked about how subject
25 matter jurisdiction cannot be waived. Subject

1 matter jurisdiction can be raised at any time,
2 but standing in state court is not a subject
3 matter jurisdictional issue. It is in federal
4 court, it is not in state court.

5 So I just would like to underscore that
6 point.

7 And, Your Honor, my friend cited to the
8 Hodges case from 1965, the Florida
9 Supreme Court discussing the appropriateness of
10 filing a motion to strike.

11 And my friend Mr. Bardos discussed the
12 case and I defer to his distinction of the
13 Hodges case, but I simply note that the case is
14 from 1965. The rules that we're operating
15 under are substantially revised in 1972. And
16 so I would simply point the court to the
17 advisory committee notes from 1972 that talk
18 about how a motion to strike -- they broke it
19 up into two parts in the revisions from 1972,
20 subpart (f) and subpart (b).

21 And once the motion to strike is broken up
22 that way -- we made the point in our papers,
23 Your Honor -- and I am not going to read the
24 papers to you -- that the plaintiffs' filings
25 is more akin to a motion under subpart (b)

1 which must be filed within 20 days, and this is
2 untimely.

3 With that, Your Honor, I have nothing
4 further to add, unless the court has some
5 questions.

6 **THE COURT:** Let me ask. So you say there
7 is a difference -- this isn't -- perhaps I
8 shouldn't use warring or a difference of
9 opinion between multiple branches, that it
10 makes a difference that it's a citizen-based
11 initiative, but what if the citizens said, you
12 know what, we only want judges to serve one
13 term, the Governor to serve one term, and
14 legislature to serve one term, that's two or
15 four years. And they put that in the
16 constitution, and it passes. And it goes over
17 the threshold and it's put in the constitution.

18 Then we have a legislature that says, I
19 don't really like that. We are going to make
20 this law and the Governor says, yeah, I don't
21 like that either. And then the judiciary gets
22 to pass on it.

23 So why all of a sudden do we look at it
24 differently? Why can the ministerial act of a
25 state official not prevent them from

1 challenging that?

2 **MR. JAZIL:** Your Honor, I would say in
3 that scenario, if you have the Governor or a
4 member of the legislature saying some part of
5 that citizen initiative violates the federal
6 constitution, I would think they would have a
7 good case for arguing that they have standing
8 to try to sue and to say this is inappropriate.

9 We can make your hypothetical more
10 complicated, Your Honor, but let's assume we
11 have a citizen initiative that says we are
12 going to have segregated schools, Black
13 citizens and white citizens shouldn't go to the
14 same schools. And that citizen initiative gets
15 the requisite number of signatures, gets placed
16 on the ballot and it passes.

17 The question then becomes: Does the
18 public official have a duty to implement that
19 provision of the state constitution for a
20 statute or otherwise if it's self implementing
21 rather, or does that same official have a duty
22 to read that provision and say, okay, I got
23 this provision in the state constitution; I
24 also have a federal provision, the Equal
25 Protection Clause and cases 1954 on say that

1 this is completely unconstitutional. How
2 should I balance the duty? How should I deal
3 with it? What are my responsibilities to the
4 folks who elected me?

5 And so I am trying to enforce both a state
6 constitutional provision and a federal
7 provision that are inconsistent with one
8 another and the supremacy clause says one
9 should trump the other.

10 **THE COURT:** But why does it leave just an
11 individual party, like we had happen in the
12 past, we have Brown sue the Board of Education
13 for that very, very same thing. Why don't we
14 have an individual person that seeks a
15 declaratory action? Why is it that the
16 government starts getting -- I thought we are
17 about less government; government of restraint.
18 Why is it now the government is proactively
19 deciding what they want against the wishes of
20 people? Why isn't it that the people bring
21 that and say it violates our constitution?

22 **MR. JAZIL:** Sure. Your Honor, Brown sues
23 the Governor of Florida to implement the
24 constitutional provision I described. The
25 governor of Florida raises that as an

1 affirmative defense that that constitutional
2 provision is in fact inconsistent with the
3 Federal Equal Protection Clause.

4 Under the plaintiffs' reading of the
5 cases, Your Honor would be required to strike
6 the governor's affirmative defense saying that
7 provision requiring segregation isn't an
8 affirmative defense.

9 And so, Your Honor, I use that to
10 highlight the point that it's appropriate for
11 the court to consider these issues as the cases
12 proceed and as -- if the plaintiffs succeed, to
13 consider whether or not our affirmative defense
14 is appropriate.

15 And as practical matter, Your Honor
16 brought up the Alabama cases, Allen versus
17 Milligan, and Merrill versus Milligan, and
18 whichever way captured it, and these are some
19 of the issues that the state and the law,
20 Section 2 of the Voting Rights Act is at stake
21 at the U. S. Supreme Court.

22 And one of the options the U. S. Supreme
23 Court has, the argument that the state of
24 Alabama made, was that Section 2 is at war with
25 the Equal Protection Clause. That was their

1 argument, and I think I am probably quoting it
2 right; if I am misquoting, I apologize to
3 Mr. LaCour, Alabama Solicitor General, but
4 their point was, what Section 2 is requiring
5 and what the Equal Protection Clause are
6 requiring seemed to be incompatible.

7 I note, Your Honor, the U.S. Supreme Court
8 has always assumed but never decided that
9 compliance with Section 2 of the Voting Rights
10 is a compelling state interest.

11 So these points, to Mr. Nordby's comment,
12 aren't in flux. These are difficult issues and
13 we just don't know where all the balls will
14 land in the next few months as some of these
15 cases get decided.

16 **THE COURT:** Thank you, Mr. Jazil.

17 **MR. JAZIL:** Thank you, Your Honor.

18 **MS. JASRASARIA:** Your Honor, I would like
19 to briefly begin with timeliness.

20 As plaintiffs' papers state, they move to
21 strike under Rule 1.140 (f), and here the
22 defense of that issue are, quote, wholly
23 irrelevant and can have no bearing upon the
24 equities and no influence upon the decision as
25 to the relief granted, because this Court lacks

1 jurisdiction to consider the defenses.

2 And I will just note that in Crossings,
3 the petitioner's Supreme Court on the merits
4 explains that it successfully moved to strike
5 respondent's affirmative defenses under the
6 Public Official Standing Doctrine years into
7 the litigation, which strongly suggests that
8 its motions were brought under the same rule,
9 which allows a motion to strike at any time.

10 And with respect to the standing issue
11 that was raised, first, I will just note that
12 we just heard about these additional cases that
13 were being cited in the past 30 minutes, but my
14 point is that the Public Official Standing
15 Doctrine is about more than whether a public
16 official can just bring a particular claim;
17 it's also about whether this Court can
18 adjudicate that claim. And so it is a subject
19 matter jurisdiction issue.

20 And, you know, after the Page case was
21 decided, the First DCA did hold that the trial
22 court lacked subject matter jurisdiction
23 because the party lacked standing under the
24 Public Official Standing Doctrine; that was the
25 Department of Transportation versus Miami-Dade

1 County Expressway Authority.

2 Similarly, the School District of Escambia
3 County case noted that a public official's
4 disagreement with a constitutional or statutory
5 duty does not create a judicable controversy or
6 provide an indication to give a judicial
7 opinion.

8 So this is more than just a separate
9 issue. This is a subject matter jurisdiction
10 issue.

11 **THE COURT:** Right, but isn't that --
12 that's just the Court weighing in willy-nilly
13 on somebody wants to know what the answer is.

14 Why is it not judicable that the court has
15 to render a decision, or potentially does --
16 and I discussed that with Mr. Nordby -- that
17 this may never come before the Court? I am not
18 sure.

19 But if it does, isn't it -- the Court is
20 not issuing an opinion for just so we know;
21 it's because it is pertinent and relevant to
22 this very lawsuit brought by the plaintiffs.
23 And it's the only way, if it gets to an
24 affirmative defense, it's the only way
25 defendants get to justify their actions.

1 **MS. JASRASARIA:** Well, I would argue that
2 it's not relevant to the issues that are before
3 this Court, which is whether the congressional
4 districts comply with the constitution. And
5 the defendants may continue to defend the
6 congressional districts under the law as it is
7 but not under the basis that they don't have to
8 comply with the law because it's
9 unconstitutional.

10 And as this Court was beginning to point
11 out, the Atlantic Coast Line case, even though
12 it's about a defensive posture, does note that
13 when a party is bringing a constitutional
14 challenge, injury will not be presumed, it must
15 be shown.

16 And so the injury is required here, even
17 though this is an affirmative defense. And so
18 any decision about the constitutionality of the
19 Fair Districts Amendment, if they have not been
20 followed, would be a hypothetical question.
21 It's not a question that is currently before
22 this Court.

23 **THE COURT:** But if we get to the
24 affirmative defense, then don't they have a
25 duty to prove whatever that affirmative defense

1 is?

2 **MS. JASRASARIA:** If we get to the point
3 where this Court decides that the districts
4 were not in compliance with the Fair Districts
5 Amendment, then under the law as it is,
6 defendants would be obligated to draw districts
7 and implement districts that are in compliance,
8 and at that point, as this Court mentioned, an
9 individual could certainly allege that their
10 equal protection rights were being -- were
11 harmed under a map that does comply with the
12 Fair Districts Amendment, in which case they
13 could challenge the Fair Districts Amendment's
14 constitutionality, that's the type of claim we
15 have seen time and time again. But that's not
16 the issue in this case where plaintiffs are
17 asking this Court to adjudicate the
18 constitutionality under this particular
19 provision. And --

20 **THE COURT:** Couldn't that be severed? I
21 mean, they are not asking, I don't think -- and
22 they can correct me if I am wrong; they are not
23 asking the Court to strike down the entirety of
24 the Fair Districts Amendment, are they?

25 I think no portion of a plan or individual

1 district shall be drawn with the intent to
2 favor or disfavor a political party, they are
3 not saying that that's unconstitutional under
4 the Florida -- under the U.S. Constitution.

5 So I mean, I think they are only talking
6 about a small portion. Why can't the Court
7 find that, if that comes up? It may not be an
8 issue. We don't know yet until we heard the
9 trial on the merits portion to see if these
10 don't comply with it as it is currently
11 written.

12 But if they don't comply as currently
13 written, then why can't the Court find --
14 potentially, I am not saying I would, but
15 potentially find that a small portion of the
16 Fair Districts Amendment is not in line with
17 the U.S. Constitution? Why can't the Court do
18 that?

19 **MS. JASRASARIA:** Your Honor, the answer to
20 that question is simply found within the Public
21 Official Standing Doctrine itself, which states
22 that even if potentially there may be a
23 question of constitutionality, public officials
24 are not parties that can raise those questions.

25 And so even if there were a scenario in

1 which one of these provisions -- one section or
2 provision were unconstitutional, that's not
3 before this Court, and these parties do not
4 have standing to raise that issue; and that is
5 because this is again a very straightforward
6 application of the doctrine.

7 And I will just note that -- I will note
8 that the affirmative defenses that have been
9 raised are not simply challenging under the
10 Equal Protection Clause of the Federal
11 Constitution. They are also challenging under
12 the Elections Clause of the Federal
13 Constitution.

14 And as plaintiffs did note in their reply
15 to the answers, that issue has already been
16 adjudicated by both the Florida Supreme Court
17 and the 11th Circuit. And so in the event of
18 those affirmative defenses, not only are the
19 House and Senate prejudging the issue, but they
20 are actually openly disagreeing with a Court
21 decision. And so in that case --

22 **THE COURT:** Well, that won't be the first
23 time they done that in this case, is it? They
24 specifically said that as it relates to
25 legislative privilege in this case. We had a

1 big discussion on that, that they made sure the
2 record was very clear, and it has gone up to
3 the DCA, and it's very clear this Court and the
4 DCA is bound by the decision under
5 Apportionment 4.

6 So that wouldn't be the first time, if
7 they want to preserve this for appeal, that
8 they have to raise it, right? If they do
9 disagree, they have to raise it down here at
10 the trial level, correct?

11 **MS. JASRASARIA:** Well, the doctrine is --
12 the separation of powers are clear, and the
13 doctrine is binding on this Court certainly.
14 But a party cannot raise an issue like this
15 because they have to follow the law as it's
16 judicially determined, and until and unless the
17 judge says otherwise, they have to presume that
18 the provisions of the constitution -- any law
19 that provides a duty to a public official is
20 the law.

21 **THE COURT:** Right. They have to raise it
22 here if they think the law -- the law got it
23 wrong, right?

24 Crawford versus Washington, Crawford had
25 to raise jurisprudence, over a hundred years

1 word of jurisprudence not in his favor, he
2 still had to raise that before he could get to
3 the U.S. Supreme Court, and then to say, you
4 know what, he is right, look at the text of the
5 constitution. They have to raise it, right?

6 I am not saying they win at trial court
7 level, but they got to raise it, don't they, if
8 they want to preserve it? Just because there
9 is case law that is not in their favor, they
10 need to disclose that. But they have to raise
11 it, don't they, if they are challenging that
12 ultimately above that?

13 **MS. JASRASARIA:** If they are trying to
14 challenge something that affects their duties
15 under Florida law, then they cannot challenge
16 that and it must be struck.

17 So that's again very clear under the law,
18 under the doctrine. And again, this is a
19 straightforward application of the doctrine. I
20 think that my friends were trying to say that
21 these are not easy questions, but frankly, the
22 easiest answer to try to figure out which law
23 to follow is simply follow the law as it is
24 until and unless it's judicially determined
25 otherwise. And so that is what we have here.

1 And I will just note that some of the
2 concerns around the fact this is a
3 constitutional provision, I will just say that
4 the separation of powers issue at stake here is
5 not a disagreement between the legislature and
6 the executive branch. It's the fact that the
7 judicial branch is the only one with the
8 authority to determine the constitutionality of
9 a provision.

10 And the legislature is also similarly
11 prohibited from encroaching on the judicial
12 power, and that's the separation of powers
13 issue that's at issue here. And the fact that
14 this is a constitutional provision, again,
15 Markham does mention constitutional duty, and
16 the purpose of the doctrine is to prevent
17 against selective enforcement of the law. And
18 it rests on the premise that people of the
19 state have the right to expect that their
20 government officials will promptly carry out
21 and put into effect the will of the people.
22 That comes from Crossings, which is quoting
23 Barr.

24 And, of course, in Crossings, the will of
25 the people was effectuated through the

1 legislative enactment, but here the will of the
2 people is even clearer because this is a
3 constitutional provision that's been passed by
4 popular vote.

5 And so I think, again, there's really no
6 question that here the constitutional provision
7 which happens to affect a clear duty of the
8 legislature falls equally into this doctrine,
9 even though it is a unique circumstance.

10 To the point of trying to balance the
11 Florida Supreme Court with the U.S.
12 Constitution, I will just note that here
13 defendants are citing federal law that they say
14 bars the use of race in the way CD-5 was drawn.
15 No court has held that CD-5 follows the 14th
16 Amendment.

17 And so again, here we are dealing with a
18 constitutional provision, and then defendants'
19 interpretation of federal case law, but there
20 is -- they, under the Public Officials Standing
21 Doctrine, don't have the authority to consider
22 the constitutionality or determine the
23 constitutionality without a court's decision on
24 that point, whether it's the federal
25 constitution or the state constitution.

1 Unless the court has any further
2 questions --

3 **THE COURT:** Thank you. We are here before
4 the Court today in Case 2022 CA 66, Black
5 Voters Matter Capacity Building Institute and
6 others versus Florida Secretary of State and
7 others. We are here today on the Plaintiffs'
8 Motion to Strike Affirmative Defenses.

9 What's clear in this case is, like many
10 things in this case, we get to start afresh and
11 look at issues that have maybe not been
12 previously adjudicated, one of which is this
13 very issue.

14 I don't feel confident that I have been
15 given any case law directly on point as to the
16 Public Official Standing Doctrine on
17 challenging a Florida Constitution, challenging
18 the constitutionality of a portion of the
19 Florida Constitution vis-a-vis the U.S.
20 Constitution.

21 What the Court has, that is most closely
22 at hand, is statutory provisions. There are a
23 numbers of cases cited by both sides, but they
24 ultimately rest on Atlantic Coast Line Railroad
25 Company, 84 Florida 592, from the Florida

1 Supreme Court way back in 1922 that discusses
2 that matter.

3 Here, we are dealing with an entirely
4 different creature, and that is one of the
5 legislature of the State of Florida operating
6 under its constitutional mandate and power to
7 enact legislation and present it to the
8 Governor of the State of Florida for the
9 Governor to either veto, sign into law, or
10 allow to pass into law without signature.

11 And accordingly, as to both the House and
12 the Senate, this Court finds that the Public
13 Official Standing Doctrine does not apply,
14 especially as it relates to -- and the Court
15 considers this important -- as this is an
16 affirmative defense in this case.

17 As to the Secretary, I will tell you it's
18 a much closer call, because in this case, with
19 the Secretary, the Secretary does not have that
20 power to enact legislation. The Secretary is
21 merely carrying out the legislation, whatever
22 it may be.

23 And accordingly, the Court is going to
24 extend the Public Official Standing Doctrine to
25 the Secretary in this case as it relates to

1 challenging a provision of the Florida
2 Constitution vis-a-vis the U.S. Constitution.
3 And I am going to extend the Public Official
4 Standing Doctrine.

5 However, the Court is going to note that
6 as it relates to the Secretary and both the
7 House and the Senate, the Court ultimately
8 concurs that as it relates to a motion to
9 strike, the Court finds it to be untimely and
10 will not strike it as to each.

11 Ultimately, whether this Court has to
12 adjudicate this issue or not is yet to be seen.
13 But it is ultimately one that, as noted by both
14 parties I believe in their briefs, each public
15 official, the undersigned judge included, swore
16 an oath to both the U.S. Constitution and the
17 State Constitution. And the Court is mindful
18 of that.

19 So, no, I don't believe a state court can
20 ever disregard the import of the federal
21 constitution in a ruling.

22 So I look forward ultimately to hearing
23 the arguments of the parties regarding this
24 matter.

25 Maybe we'll have some higher courts help

1 illuminate the situation for us; maybe we will,
2 maybe we won't. But ultimately, the Court
3 finds that it isn't an issue that may
4 ultimately -- I have to say it that way -- may
5 ultimately be ripe for this Court to opine
6 upon.

7 But once again, as an affirmative defense,
8 we know ultimately the plaintiff initially, at
9 least before we ever get there, has a burden
10 going forward to make out its claims. And
11 then, to the extent it may or may not, the
12 defendants shall be allowed to put on whatever
13 defenses they have to the allegations in these
14 cases or in this case, in these counts.

15 So with that, I will have -- and I will
16 let the defendants kick which attorney has the
17 lower stack of work to -- I will let you do
18 that off on your own, but I will have the
19 defendants provide a draft order, obviously
20 running it through the plaintiffs for entry.

21 But I appreciate the excellent work of
22 counsel. Again, as we see, now it appears like
23 it will be every 10 years, we see novel issues
24 that come before the Court, excellent work by
25 counsel from all the parties on bringing those

1 to light.

2 And it's the job of this Court to -- what
3 I say at the trial level, it's the job of this
4 Court to try to get it right in a timely
5 fashion, and ultimately it's the job of our
6 appellate courts to get it right, because they
7 got a little bit more time to act. And I
8 respect that separation.

9 And so with that, I know the parties are
10 working really hard moving forward. You guys
11 have worked out a lot amongst yourselves, I
12 appreciate that, I applaud that. And I believe
13 the people of Florida appreciate that.

14 These are important issues as to all the
15 parties, because they go ultimately to the
16 heart of our jurisprudence, and that is how do
17 we choose the people that represent us in the
18 legislative branch, in the executive branch,
19 and, at least as it relates to the state, we in
20 the judicial branch here in the state. And
21 these are important issues, so I appreciate the
22 hard work of all parties.

23 Thank you all.

24 **MR. WERMUTH:** We have one additional issue
25 notice.

1 **THE COURT:** You are right. That's the
2 part I didn't know what you guys wanted to talk
3 about. Please, everybody be seated. There was
4 an issue of case management. I did see that
5 for me it was kind of an afterthought. It
6 might not have been for you guys. Go ahead.

7 **MR. WERMUTH:** Yes, Your Honor. Well,
8 basically the parties have been talking about
9 case management issues leading up to trial and
10 one of those issues is we obviously have trial
11 set to begin on August 21st, and we have been
12 looking at deadlines coming up.

13 The first of those that are going to be
14 coming up is on the 23rd of June, we have
15 pretrial motions due. And the parties were
16 looking at doing a few things here, that is to
17 divide out the response times for the motions
18 that will be filed on the 23rd of June if they
19 are filed.

20 And we were looking -- currently the Court
21 has pretrial statements -- a pretrial
22 conference set on July 14th, and in order to
23 kind of permit the briefing to go in a regular
24 course, we were hoping to have the pretrial
25 moved to the 3rd of August, if the Court is

1 available, and have the motions for summary
2 judgment heard that time, if you are available.
3 If not, we have to revert back to a previous
4 schedule.

5 **THE COURT:** Here's my concern, whenever we
6 get into this scheduling, is the way this
7 normally happens is, oh, the parties agreed for
8 this date for summary judgment, and then they
9 hand me a stack this tall. And they give me
10 about a day and a half to read it, if I am
11 lucky; sometimes it's like three hours.

12 So my concern is when I am going to get it
13 so that I actually have time to read it and
14 when we can get all of these things done in a
15 timely manner?

16 **MR. WERMUTH:** If I may approach, I have an
17 actual schedule.

18 **THE COURT:** Absolutely. Let me see it.
19 Because some of you guys have done this once
20 before, like last cycle. I have not.

21 **MR. WERMUTH:** On the current schedule,
22 Your Honor, the motions will be filed on
23 June 23rd, and our responses would be due on
24 July 7th, and then you would have seven days to
25 look at those in advance of the pretrial

1 conference, which I imagine will be the time we
2 could hear the summary judgment motion.

3 So we are actually looking to make the
4 response deadline for the summary judgment
5 motions on the 14th of July, which would then
6 give you -- I am not sure of the number of
7 days, it would be at least 16 days, actually
8 more, 20 days.

9 **THE COURT:** I understand, but I also have
10 other jury trials.

11 **MR. WERMUTH:** Yes, all of this assumes
12 that you have time on that day or perhaps the
13 following day, which would be August the 4th.
14 I know the parties are available on the 3rd
15 because I confirmed, but if not, then we would
16 have to revert to the 14th.

17 **THE COURT:** This is the proposed
18 modification?

19 **MR. WERMUTH:** It is. The old schedule
20 was, if you look on the docket, it's on
21 September 29, 2020 -- or 2022, I misspoke.
22 Then you will see there are other matters
23 addressed in that.

24 **THE COURT:** When are we going to hear
25 summary judgment?

1 **MR. WERMUTH:** Hearing summary judgment, we
2 would imagine that would occur on the date of
3 pretrial conference.

4 **THE COURT:** Seeing I will likely be out of
5 town that Monday, Tuesday and Wednesday that
6 week, I don't know I necessarily want to hear
7 the summary judgment on Thursday.

8 **MR. WERMUTH:** Are you available Friday,
9 August 4th?

10 **THE COURT:** If the Court could do
11 August 4th, do we want to leave the pretrial
12 for August 3rd? That's fine, I just don't know
13 about hearing a full summary judgment on the
14 3rd. I don't mind leaving the pretrial on the
15 3rd.

16 **MR. WERMUTH:** That would be fine for us.

17 **THE COURT:** Does that work for the
18 defendants?

19 **MR. BARDOS:** It does for the House, Your
20 Honor.

21 **MR. JAZIL:** Does for the Secretary, unless
22 my friend Mr. Wermuth is about to sue me in
23 another case in federal court.

24 **THE COURT:** I do realize there is a
25 somewhat parallel path on this one going on in

1 federal court. I don't mind then, they don't
2 mind me. So until and unless I have to --

3 **MR. JAZIL:** Your Honor, they have adopted
4 your order, it's essentially governing the
5 depositions in the federal case now.

6 **THE COURT:** I thought they found
7 legislative privilege and said goodbye?

8 **MR. JAZIL:** To the legislative parties.

9 **THE COURT:** Yeah, which I understand that,
10 because they are not operating under the
11 provision under the Florida Constitution. I
12 get that. Okay.

13 **MR. NORDBY:** Judge, August 3rd works for
14 the Senate as well.

15 **THE COURT:** For the 3rd, right, but what
16 about the 4th for the summary judgment?

17 **MR. NORDBY:** Yes.

18 **THE COURT:** That works? Why don't we do
19 that? We'll leave the pretrial conference on
20 August 3rd, and we'll do the summary judgment
21 on August 4th.

22 And I will make -- let's put together a
23 full revised scheduling order. One of the
24 things I realized last time is the clerk
25 didn't -- we'll include the clerk in so they

1 get the dates actually put in, they won't
2 docket it as a pretrial date, and I will work
3 on that. But if we do just a fully amended
4 order with the dates on there, we can get that
5 entered, no problem. That should work.

6 **MR. WERMUTH:** The parties were also
7 looking at the issue of what the Court may want
8 in terms of documentation produced as a
9 pretrial statement. And you will see in the
10 proposal that I made, it envisions having
11 deposition designations, having exhibits with
12 objections all ready.

13 **THE COURT:** Again, the more, the merrier;
14 the earlier, the better, because what I don't
15 want to do is at the last second, like we have
16 three days' worth of motion hearings to go
17 through before we actually even start the
18 trial.

19 **MR. WERMUTH:** I guess to understand,
20 perhaps if you could give us guidance on what
21 you would like as far as content for a pretrial
22 statement, beyond what you see envisioned in
23 this schedule.

24 **THE COURT:** Really, I just need to know
25 where the parties agree and where they

1 disagree.

2 I've got a lot of background, you have
3 done enough. And I read Judge Smith's order, I
4 read the DCA's order on top of that, so I get
5 kind of where we are. But I do need to know
6 the major sticking point areas that are going
7 to take time.

8 I don't know that this is the case, but
9 when I am doing a standard auto injury case or
10 something, somebody will say, oh, we got
11 motions in limine. Well, if they are the
12 standard "you can't do this, or you can't do
13 that," then I can rule on it very quickly.

14 And in criminal cases, it's no
15 self-serving hearsay by the defendant. Yeah,
16 those are quick, they get filed.

17 If it's something that's going to take an
18 hour or two hours, I need to know about that
19 kind of thing in advance just for planning
20 purposes so we know; because we have got quite
21 a bit of time scheduled for this trial, but you
22 got quite a bit of information to present, both
23 sides.

24 But that way we are mindful of any live
25 witnesses, we are mindful of those sorts of

1 things. So we are not dealing with motions
2 practice when we've got people sitting out in
3 the hallway ready to testify, or if you guys
4 agree to remote appearances, we don't have
5 people sitting in Zoom waiting rooms waiting to
6 testify.

7 That's always my concern. I get that this
8 is a bench trial. Anybody that's tried a jury
9 trial in front of me knows what upsets me the
10 most is making jurors wait while we do what I
11 call other court business; it's very important,
12 but they don't need to be sitting here in the
13 courthouse, same thing with witnesses.

14 I will take the time with you guys.
15 That's my job, that's what I've sworn an oath
16 to do, is to take the time it takes. But I
17 want to be mindful of there are going to be
18 other people that are getting paid, but taking
19 their time where they could be doing something
20 else instead of being here. So I just need to
21 those sorts of things.

22 **MR. WERMUTH:** In terms of exhibits, would
23 you envision -- is the trial going to be in
24 this room?

25 **THE COURT:** I have no idea. My guess is

1 likely, it will probably be in 3G or 2F, is my
2 guess. This is not a bad size courtroom, but
3 it will probably in one of the very big
4 courtrooms. I imagine we are going to have a
5 lot of people interested in it.

6 It is a very important matter within this
7 state. So I don't want to, like in a courtroom
8 like this, I don't want people to not be able
9 to come in and see, because we are not -- we
10 may have media people that are broadcasting;
11 that's up to the media and we welcome them, but
12 we are not going on Zoom with it.

13 This is a public courtroom in the State of
14 Florida open to any individual that wants to
15 come in and sit and watch. And that's why we
16 are probably going to be in one of the bigger
17 courtrooms, and where the parties are.

18 You guys are making use of your space
19 here, but those actually have -- I think it was
20 2F, I tried a four-defendant attempted murder
21 trial, we had the state and four other parties,
22 and we fit in there, we made that work.

23 I want the public to be able to be here at
24 the trial, and I want the parties to be able to
25 spread out appropriately, as you will have

1 exhibits and binders and all of those others
2 things you need to do to convey a lot of
3 information to the Court. So --

4 **MR. WERMUTH:** I guess with the setup --
5 forgive me if I am asking something that should
6 be referred to a technology person at the
7 courthouse, but I am curious to know, are you
8 going to be interested in seeing hard copy
9 exhibits in binders?

10 **THE COURT:** I do like hard copy. You can
11 have electronic, but I am known to flip
12 through. And I don't ask lots of questions,
13 but when I am a fact finder, sometimes I have
14 questions of witnesses and I may want to write
15 on my own copy; and obviously a copy for the
16 clerk, but I like having my own copy of the
17 exhibits.

18 **MR. WERMUTH:** The clerk will want a copy,
19 hard copy? It could be voluminous exhibits.

20 **THE COURT:** Generally they do because you
21 start getting into digital, they are going to
22 need a paper copy also anyway.

23 They may appreciate one in both forms, I
24 don't know. I will let you talk to the clerks
25 that day.

1 But yes, they will need a hard copy
2 because there is nothing worse than when the
3 computers die, power goes out across town or a
4 server goes down, we have paper copies, we may
5 move forward.

6 **MR. WERMUTH:** I guess, is there somebody
7 we should contact about electronic exhibits in
8 terms of --

9 **THE COURT:** Marci -- court administration,
10 you can talk to court administration people,
11 Marci will have that number, but court admin;
12 because again, we'll be working with them
13 earlier and see if we can nail down a courtroom
14 earlier.

15 I will tell you how it normally works, is
16 civil gets last. We might be able to get a
17 little more sway on this case, but civil gets
18 the last bite at the apple; the felony guys get
19 to go first because there is life, liberty,
20 pursuit of happiness, and speedy trials, a lot
21 of individual liberties are at stake in those.

22 **MR. WERMUTH:** I remember back in 2014 when
23 we had the courtroom down -- ceremonial
24 courtroom down at that end of the building that
25 had a big monitor. I guess we are just

1 confirming that --

2 **THE COURT:** Well, likely that's where we
3 are going to be. We'll put them on notice we
4 need a big courtroom. So whether that's 3G or
5 2F, I am not sure yet. Court admin will be
6 working that issue.

7 And technology-wise, I think they are both
8 set up if we needed Zoom, they are both set up
9 to do it.

10 So again, I don't know what you guys have
11 got and agreed on and what have you. But also,
12 if there is videotaped depositions, they play
13 that way, whatever.

14 **MR. WERMUTH:** I guess that's all. On the
15 scheduling issues, we'll submit an agreed
16 schedule.

17 And the only other thing we have
18 outstanding, there is a current pending motion
19 on the motion to compel regarding the Foltz.

20 **THE COURT:** I tell you on a motion to
21 compel, if somebody wants to call up for
22 hearing, they contact the judicial assistant
23 because sometimes motions to compel resolve
24 issues without being heard, sometimes they
25 don't. If there is agreement by the parties to

1 hold a hearing, so be it, but somebody needs to
2 let me know.

3 **MR. WERMUTH:** It was assumed to be just
4 submitted on the papers under your procedures,
5 but we can --

6 **THE COURT:** Again, as I said, it may be
7 done, but I will tell you generally when there
8 is disagreement, there is filings on both
9 sides, I usually wait for the whole hearing.
10 But if the parties want me to hear it without a
11 hearing, I will read and rule.

12 **MR. WERMUTH:** That's our preference.

13 **MR. JAZIL:** That's fine with the
14 Secretary, Your Honor.

15 **THE COURT:** Okay. I think this is -- if I
16 am not mistaken, is this one the third party
17 to -- is it Mr. Foltz's e-mails and stuff?

18 **MR. WERMUTH:** The reason it's being
19 submitted on the papers is because it involves
20 issues that the Court has already ruled upon.

21 **THE COURT:** I guess I am going to ask
22 this. I thought when we discussed this
23 previously, he was employed by the state to do
24 a job.

25 Why is that not public record? Because he

1 is an employee of the state at the time even as
2 a contractor. I thought the case law was
3 pretty clear that contractors, when doing jobs
4 for the state, that's all public records.

5 Why is that any different? I guess I will
6 ask Mr. Jazil, because frankly, when I read the
7 motion, that was exactly what I was thinking.

8 And I know we are not here to hear it, but
9 that was the question that came up. So I guess
10 you know what's likely to happen if I walk back
11 into my office without having that question
12 answered.

13 **MR. JAZIL:** Well, Your Honor, I will then
14 ask for a hearing at some point.

15 **THE COURT:** Let's get it scheduled. We
16 can do it next week sometime.

17 **MR. JAZIL:** Yes, sir, I will coordinate.

18 **THE COURT:** We'll hear it next week.
19 Thank you. Thank you all.

20 (Proceedings concluded at 4:30 p.m.)
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25

1 CERTIFICATE OF REPORTER
2
3
4
5

6 STATE OF FLORIDA)
7 COUNTY OF LEON)
8
9

10 I, SANDRA L. NARGIZ, RPR, CM, CRR, CRC,
11 CCR, certify that I was authorized to and did
12 stenographically report the foregoing proceedings,
13 and that the transcript is a true and complete
14 record of my stenographic notes.

15 DATED on June 13, 2023.
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SANDRA L. NARGIZ
RPR, CM, CRR, CRC, CCR-GA
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EXHIBIT 18

1 (Beginning of Video Recording.)

2 CHAIR RODRIGUES: The Committee on
3 Reapportionment will now come to the order.
4 Dana, please call the roll.

5 DANA: Chair Rodrigues?

6 CHAIR RODRIGUES: Here.

7 DANA: Vice Chair Broxson? Senator
8 Bean? Senator Bracy? Senator Bradley?

9 SENATOR BRADLEY: Here.

10 DANA: Senator Burgess?

11 SENATOR BURGESS: Here.

12 DANA: Senator Gibson? Senator
13 Harrell?

14 SENATOR HARRELL: Here.

15 DANA: Senator Rodriguez?

16 SENATOR RODRIGUEZ: Here.

17 DANA: Senator Rouson?

18 SENATOR ROUSON: Here.

19 DANA: Senator Stargel? Senator
20 Stewart?

21 SENATOR STEWART: Here.

22 DANA: Quorum is present, Mr. Chair.

23 CHAIR RODRIGUES: Thank you, let the
24 records reflect that Senator Bean is excused
25 from today's meeting. Before we begin, please

1 silence all of your electronic devices. Next,
2 COVID-19 precautions are in place where
3 applicable. And the third thing to check off,
4 here anyone wishing to testify before the
5 Committee must fill out an appearance card,
6 and hand it to a member of the Sergeant's
7 Office. Should you select waive your speaking
8 time, your position will be read into the
9 record.

10 Before we get into the agenda, there
11 are a few things to update committee members
12 on. Since our last meeting on September 20th,
13 the House and the Senate have launched the
14 joint website, www.floridaredistricting.gov.
15 It went live on September 22nd. That same
16 day, we also launched our redistricting
17 application.

18 Since then, members of the public have
19 been able to draw and submit maps using the
20 same application and data used by the
21 legislature, all they have to do is to
22 register for a free account. All senators
23 also have access to the map drawing
24 application. Each of you has received
25 credentials and instructions for logging in.

1 If any senator has questions on how to access
2 their account, they should contact our
3 committee staff.

4 In the time between our meetings, our
5 staff has been working with their counterparts
6 in the House to provide enhancements to the
7 map drawing application. On Friday, October
8 the 8thm voter registration, voter turnout,
9 and election result data was added. Users can
10 now access that data, and use it to conduct
11 the functional analysis needed to ensure that
12 the proposed districts are not diminishing the
13 ability of racial or minority candidates to
14 participate in the political process, and to
15 elect candidates of their choice.

16 Additionally, we have been working with
17 our partners in the House to document -- to
18 have documents, excuse me, that are posted on
19 the joint website translated. Our staff will
20 be able to use a translator to communicate and
21 provide support to any foreign language
22 speakers. Finally, several publicly submitted
23 maps have been received and made available on
24 Floridaredistricting.gov.

25 We have also implemented a new comment

1 tool. It will allow users to submit their
2 comments directly through the website. Staff
3 director Mr. Ferrin will walk us through the
4 website, and show us how to access these
5 submissions and these comments for our own
6 independent review. If a member of the
7 committee would like staff to consider
8 incorporating concepts from a submission or
9 comment, they should bring that request to the
10 attention of the committee at our next
11 meeting.

12 I suggest that prior to doing so, a
13 member reach out to the author of the plan to
14 discuss methodology and intent. So today, in
15 addition to a review of the website, Mr.
16 Ferrin will also be demonstrating the map
17 making application for us. We will also hear
18 from counsel on the legal environment and
19 redistricting related case law, that will
20 guide us through this process. Do we have any
21 questions? Senator Gibson, you're recognized.

22 SENATOR GIBSON: Thank you. Thank you,
23 Mr. Chair. Just as we start, just because
24 I've heard from constituents in in my district
25 and across the state, actually, in terms of a

1 burden on the public to access information, or
2 go through the multiple steps that we have.
3 So -- for revelation I would call it. So just
4 for as we get started, in terms of registering
5 for the website, and visiting the website or
6 drawing your own maps, or saving your own maps
7 for this -- is for the public, are people --
8 do people remain anonymous? Is there any
9 capturing of who they are? How does that part
10 work?

11 And maybe we can talk about it as we
12 proceed, but I think it's important that the
13 public understands that we're not trying to
14 overburden them, but we're trying to give them
15 the opportunity to be included in the process,
16 I think. But I think some do have a question
17 about anonymity. So, thank you.

18 CHAIR RODRIGUES: Senator Gibson, what
19 I have been briefed on is, anyone can access
20 the website. So, they can create a username
21 and submit a web address, and then create any
22 username or web address they want. So, if
23 they want to access the website, that could be
24 done anonymously. However, if they wish to
25 submit a plan, it is required that they put

1 their name on the plan. And if you will
2 recall in our first meeting, we went over why
3 we're doing that this time around, to
4 eliminate any option or opportunity for a
5 shadow operation to submit maps, like the
6 court found happened in the last round of
7 redistricting.

8 So, they can go into the application
9 anonymously, but if they choose to submit a
10 map that they want to be considered, a name
11 will have to be on that map in order for a
12 senator to speak to somebody if they're going
13 to consider sponsoring it. Senator Stewart?

14 SENATOR STEWART: Thank you, Chair.
15 The only comment in -- that I have been
16 receiving in e-mail, I'm sure many of you have
17 as well, is at the beginning the public was
18 having difficulty submitting comments. But it
19 sounds to me in your explanation that that's
20 been fixed. So, I should be getting less and
21 less emails. Thank you.

22 CHAIR RODRIGUES: And I would agree
23 with that, Senator Stewart. In the beginning,
24 we were having issues with the received
25 comments, but we believe that that's been

1 corrected. Any other questions or comments?

2 SENATOR ROUSON: Chair?

3 CHAIR RODRIGUES: Senator, you're
4 recognized.

5 SENATOR ROUSON: Thank you very much.
6 And along your comments, both at the first
7 meeting and today about transparency, there
8 have been some questions raised about hiding
9 things from the public.

10 Specifically, the contract with Florida
11 State University to create a database of the
12 election, and then specifically exempting this
13 data from open records requests. Can you
14 comment on that? Like why is it exempted from
15 a public records request if it's in the
16 contract?

17 CHAIR RODRIGUES: Senator, let me begin
18 with -- and I'm glad you have raised the
19 question -- there was an allegation that the
20 contract had been hidden from the public. I'm
21 going start by -- and (inaudible) us having
22 some discussion here. The contract was
23 originally posted to the web when it was
24 executed, which would have been last year.
25 The original contract expired in October.

1 At the expiration, that came down from
2 the web, and we have since executed a new
3 contract, which has been put up on the web.
4 So, I would reject that we have been hiding
5 the contract, when it's been publicly
6 available for anyone to see it, except for the
7 period of time where it was expired and then
8 we executed another one.

9 So for at least from December of last
10 year through October 1st of this year, that
11 contract was publicly available. So I
12 dismissed the concern that we have been hiding
13 that contract. Could you tell me your second
14 concern again, please?

15 SENATOR ROUSON: Well, my concern was
16 not that the contract was being hidden, it was
17 that the contract calls for the creation of a
18 database of election results, and then exempts
19 this data from public records requests.

20 CHAIR RODRIGUES: Okay. So, let's
21 start with the database, because I think we
22 need to have explained exactly what it is
23 we're getting. We executed a contract with
24 Florida State University, we received from the
25 US Census Bureau the data in census blocks,

1 which is the lowest denominator that the data
2 is segregated in, or aggregated in. We get
3 from our supervisors of elections what their
4 precincts are.

5 We have the Florida State University
6 Center take the data that we have gotten from
7 the census, which is census block, and the
8 data that we have gotten from the Supervisors
9 Of Elections, which is precinct data, and tied
10 those out. Because without that, we don't
11 have any way to associate the census block
12 with the existing precinct.

13 Then when we have that data tied out,
14 it gets tied to the data we get from the
15 Division Of Elections which are the actual
16 election results by precinct, which we then
17 need to use for the functional analysis when
18 that's performed later.

19 So, this is something that's been done
20 in the previous redistricting cycles, not just
21 the last one, but the one before that. And if
22 I'm not mistaken, the one before that as well.
23 That's why we had that contract and why we
24 have done that.

25 SENATOR ROUSON: Thank you for that

1 explanation, may I follow it up with another
2 question?

3 CHAIR RODRIGUES: Yes.

4 SENATOR ROUSON: The E-S-R-I contract
5 for geocoding services, it calls for geocoding
6 services, but the allegation is that geocoding
7 services is not necessary for any
8 redistricting purpose. Are you familiar with
9 that area of the contract?

10 CHAIR RODRIGUES: Yes. And let me
11 begin by saying, I find that that portion of
12 the op-ed that was put out was inaccurate and
13 it was misleading. The geocoding service is
14 not available within the mapping application,
15 therefore it cannot be used to identify
16 incumbent legislator's addresses while drawing
17 maps.

18 There is a geocoding function, because
19 we have an interactive website and part of the
20 interactive website will be to allow the
21 public to put in their address as they've done
22 maps to see where they fall. You have to have
23 geocoding in order to have that service
24 available, but we do not have geocoding in our
25 mapping software anywhere, anyplace.

1 SENATOR ROUSON: Thank you.

2 CHAIR RODRIGUES: Any other questions?

3 Okay, let's proceed to the agenda. Let's pick
4 up tab one, walkthrough of
5 Floridareistricting.gov. Mr. Ferrin.

6 MR. FERRIN: Thank you, Mr. Chairman.
7 I wanted to take some time today, since this
8 was not live for our last committee meeting,
9 and walk through the Board Of Legislatures
10 Joint Redistricting website.

11 I hope the members of the committee
12 have had an opportunity to visit this in the
13 meantime, but if not we will go through it
14 today, so you can see everything that's on
15 there, and talk about the way we continue to
16 make improvements to the site as we progress
17 through this process.

18 So what you see in front of you on the
19 screen is the -- and I apologize, there isn't
20 a slideshow or anything for this, the website
21 is interactive, so the interaction doesn't
22 translate well to paper. But the -- so what
23 we see on the screen here is the home page for
24 the website here, and we have some information
25 about the redistricting process in general,

1 mentioning that we provide through this
2 website free public access to the same data
3 and map drawing application used by the
4 legislature.

5 And on the home page here, we have this
6 interactive map that talks about the over-
7 under populations. So, at our last meeting we
8 did have these in the slides, we have got them
9 up on the website now. And so through using
10 this, you can go into any one of these maps,
11 we have the House map, the Senate map,
12 Congressional map, counties and cities.

13 And you can zoom around the map and see
14 which districts are overpopulated, under --
15 and underpopulated. And the color coding here
16 is detailed in the legend, which shows that
17 the redder or pinker districts are
18 underpopulated and will need to grow in order
19 to have the equal population as required under
20 the Florida Constitution when we redraw the
21 maps.

22 So, you can also click on these
23 districts and get some additional information
24 about the demographics within that district,
25 and this map is tied particularly to the total

1 population. So, we have the ideal population
2 for Congressional District listed, the total
3 population of the district as it is in 2020
4 numbers, and then the deviation, which is the
5 difference between the ideal and the actual
6 2020 Census population.

7 And then we express that here as a
8 percentage as well, so you can see in this
9 particular case Congressional District 3 is
10 3000 -- roughly 3000 people underpopulated,
11 which translates to less than 4 percent -- or
12 .04 percent. So, we have got this available,
13 it's a pretty nifty tool for visualizing how
14 the population demographics and population
15 growth has been uneven throughout the state.

16 We also provide it at the county level.
17 Counties obviously don't have an ideal
18 population, so we base that off of the 2010 to
19 2020 change. And so you can visualize on this
20 page which counties have potentially actually
21 lost population, so the counties that are
22 shaded darker shades of blue will have grown
23 exponentially, whereas the counties that are
24 in the pink or the red will have shrunk
25 upwards of 10 to 15 percent. There's very few

1 counties that have lost population, but
2 nonetheless that's true.

3 And as you can probably imagine in the
4 Panhandle here that some of that may be
5 related to some of the storms that we have had
6 in that area, and people moving out of the --
7 out of the area as a result.

8 The last one we have -- excuse me -- on
9 the interactive page here, on the home page,
10 is the city one. And this is the same concept
11 as it is with the counties, in that we are
12 basing this as compared to the 2010
13 population.

14 And this is just going to display the
15 growth and change by cities. And so here I
16 clicked on Wildwood and you can see the 2010
17 population in Wildwood was 6,709, in 2020 it's
18 increased to 15,730 for a change of 9,000 give
19 or take, and then a 134 percent population
20 increase. And so, this may be a useful tool
21 as you're communicating with constituents
22 about the results of the census and the growth
23 in your area that we thought would be helpful
24 for members in the public to view as well.

25 So, that's the home page of the

1 website, on the about page we get into a
2 little bit more depth about redistricting.
3 So, this is going to contain information which
4 we have talked about at our last meeting,
5 about what the differences between
6 redistricting and reapportionment are, and
7 give us some information about the process.

8 We have got this table here, which
9 shows our ideal calculations for the
10 congressional seats, the ideal populations --
11 or excuse me, the Congressional Districts,
12 House Districts, and Senate Districts with
13 their 2010 ideal population, the 2020, and
14 then the difference from last year -- or last
15 cycle.

16 We have also got some information here
17 to inform the public about the sections of the
18 Voting Rights Act that may apply and a little
19 note about preclearance, and how Shelby County
20 v. Holder invalidated the preclearance
21 formula and so we no longer have coverage
22 jurisdictions in Florida.

23 But we do note that it does affect the
24 validity of the diminishment standard in the
25 Florida Constitution. We also have some

1 reference -- direct references to the language
2 that governs our process here in the
3 legislature, including Article 3 Section 16
4 which is what we derive our authority to draw
5 the districts from, or one of the sources.
6 And then, Article 3, Sections 20 and 21, which
7 were the amendments that were adopted in 2010,
8 and so that language is here for reference for
9 the public and members.

10 We also mention the statute that
11 requires us to use these census data for
12 redistricting, and then have these charts that
13 we have probably shown you all before, but
14 have the flow chart.

15 And I apologize for the smallness of
16 the text there, but this is going to show the
17 process and how it's been followed in the past
18 for passing a state legislative redistricting
19 plan or set of plans. And then the timeline
20 for Florida, which has been -- as we have
21 discussed -- somewhat generalized by the
22 delayed census data.

23 So, jumping back to the website, the --
24 there are two pages here for the respective
25 committees, so this is the House's committee

1 page. I won't go through this in great
2 detail, but you can find information about the
3 process on the House side here. And then we
4 have a similar page for the Senate committee
5 with the membership of the committee there, we
6 post any memos or correspondence that goes out
7 from the chairman or the president's office on
8 the website here as well as it relates to
9 redistricting.

10 We link back to the find your elected
11 officials tool that is on the existing
12 flsenate.gov site, so that constituents that
13 are looking for redistricting information can
14 find out who their representative is and
15 contact your office appropriately.

16 We also link to the bill tracker, which
17 is also a feature of the flsenate.gov site.
18 That does also require a login, but you can
19 come in here and log in to view the bill
20 tracker and see what -- follow legislation as
21 it goes through the process. That's a free
22 account, it just requires an e-mail and
23 password creation.

24 Finally, on this page we have the
25 appearance cards and so these are -- this just

1 links to an appearance card that can be filled
2 out in preparation for appearing at one of our
3 committee meetings, or any Senate committee
4 meeting. We do have a note there that --
5 (coughs) excuse me -- in order to submit the
6 appearance card, you do have to -- you cannot
7 sit in submitted electronically, it does have
8 to be delivered to the committee meeting.
9 That's standard practice for Senate
10 committees.

11 We do link back to the Senate Committee
12 page here -- (coughs) excuse me. This is
13 going to take us back to the Reapportionment
14 Committee page where you can track all of our
15 meeting notices, packets, attendance, expanded
16 agendas, and audio and video of our committee
17 meetings.

18 This links back to a Senate
19 Redistricting page on the flsenate.gov site,
20 which is going to contain a lot of the same
21 information that we have talked about here.
22 It has just traditionally lived on that Senate
23 page, we have -- since we're doing a joint
24 site with the House, we have opted to put most
25 of that information on the joint site, but to

1 keep up the Senate site as well.

2 And then lastly, we linked to the
3 Senate calendar, so that constituents can
4 track what's going on in the Senate generally.
5 As you can see here today our reapportionment
6 committee is there, and a link to watch the
7 meeting live is posted there as well.

8 So, that takes care of the Senate page,
9 I'll move on to the Resources page. So, at
10 the top of this page and we will talk a little
11 bit more about this later, and I think we will
12 have another presentation that's going to
13 touch some more on these historical plans, but
14 we have posted all the different redistricting
15 plans for the state of Florida going all the
16 way back to 1982 for the House, Senate, and
17 Congressional District plans.

18 We do go in reverse order, so the most
19 recent one you see here is the 2016 Senate
20 plan. And this is interactive, in that users
21 can zoom around the map, and explore the plan,
22 and see how the districts were configured.

23 The neat thing about this page is that
24 as you scroll down the districts will change,
25 and so you can get a historical perspective on

1 what the districts used to look like and how
2 they look today, and it will keep the same
3 extent.

4 And so, as we go back in time and see
5 some of the plans that were enacted last
6 cycle, you can see the differences as they
7 progress. Going -- here we are in 2002, we
8 can scroll all the way back to '96, and '92,
9 all the way back to the 1982 plan. That was
10 about the latest we could -- furthest back we
11 could go, prior to that it was mostly paper.

12 So, we do have those for Congressional
13 and the House as well, we have also got a
14 glossary on this page that contains a number
15 of terms that we have worked through during
16 our last committee meeting, but talk about
17 just general vernacular for redistricting.

18 This link to the Census Bureau's
19 hierarchy is a good explanation of the
20 geographical hierarchy that we use during
21 redistricting, talking about how the
22 relationships between counties, census tracts,
23 block groups, and blocks. And then, we also
24 link to the census data itself -- or excuse
25 me, that one's the apportionment results.

1 We also link to the actual data where
2 users can go to download the same census data
3 that we have used in our redistricting
4 application, it's available here in multiple
5 formats. And then finally, we do link to the
6 Florida Department of State's Division Of
7 Elections page. This is where users can go to
8 download the raw data that enters into a
9 functional analysis, this is as it's submitted
10 by the supervisors of elections through the
11 division.

12 On our next page here, this is the Get
13 Involved page, which contains links to -- for
14 users to go to sign up for the redistricting
15 application, and use to access the software
16 and draw maps. We have also added a button
17 here for the public input that the chairman
18 mentioned.

19 So, this is -- and I'm sorry I forgot
20 who asked about it, but in terms of filling
21 out the form and providing comments this kind
22 of is a way around the PDF. And so, we can
23 provide here where users will type in their
24 information and agree to -- these are the same
25 terms that are on the redistricting suggestion

1 form -- but agree to this and submit their
2 comment. We will be posting the comments that
3 we have received in batches that are available
4 for public review and for review by the
5 members. And that -- I believe that will live
6 on this page as well.

7 This is the form that I was -- just
8 mentioned that is available in PDF form, we
9 have discussed that. It is fillable. And we
10 did -- so that users don't have to print it
11 out, and then return it, and scan it -- or
12 excuse me, print it out, scan it and return
13 it.

14 We did load the site with some
15 instructions on how to apply that signature
16 without having to use the scanner, we also
17 provided a link -- this is in the footer at
18 the bottom of each page where users can go to
19 download a free version of Adobe Acrobat
20 Reader that will allow them to put their mark
21 on the redistricting suggestion form and
22 submit it without having to print it.

23 Getting back to this page, we do link
24 to both the quick start guide and the help
25 manual. The quick start guide for the

1 application is a relatively short overview of
2 how to access the application, including how
3 to sign up for an account, how to create a
4 plan, how to save the plan, export the plan,
5 real basic functionality.

6 The help manual goes into some more
7 depth, it does cover the same general topics
8 but is going to provide some more information
9 on the specifics and more detailed
10 functionality about exactly how to navigate
11 around the map and change the base map, zoom
12 in and out, that kind of thing.

13 There is also a series of video
14 tutorials for users, this -- subjects for
15 these are, you know, how to create account and
16 change the password, how to load a template
17 plan, and save a plan, how to import and
18 export a plan, how to use the actual map
19 drawing tools, and then how to run reports and
20 submit plans to the legislature.

21 Which brings me to the Submitted Plans
22 page. So, we were just able to add this
23 recently, this is the page where all of the
24 plans that are submitted by users -- so using
25 the application the user will submit a

1 redistricting plan, we will respond to them
2 and say you know we have received your
3 submission, please complete this -- the
4 redistricting suggestion form, we will then
5 process that plan and post it on the web along
6 with the form.

7 And so users and members can go here to
8 review the submissions that we have received.
9 So, the reports that we have created are going
10 to be available for the public submissions,
11 and so you can click, for example, the
12 boundary analysis report -- that may have been
13 a bad example, no that's fine.

14 So this is the plan that was submitted,
15 this is the plan number P0006-- C0006. And
16 I'll just go ahead and explain the
17 naming convention there. So, in order to
18 standardize the naming formats and give us
19 some sense of what's been received, and what
20 kind of plans they are, we have developed this
21 standard naming convention.

22 So, the first character for a public
23 plan is the letter P. If it's a plan that was
24 submitted by these -- a Senator or the Senate
25 Committee, it will receive the letter S there,

1 a House will receive H. And then the next
2 three digits are a number, so for a public
3 plan that's going to get 000, for a member of
4 the legislature that's going to get their
5 district number, and that's how we identify
6 the member author.

7 The next character is a letter, that is
8 the plan type so, S for Senate, H for House, C
9 for Congress. And then, this is a serial
10 number the last four digits that -- this plan
11 just happens to be 6, which for the public
12 plans we're going in order. I believe for the
13 Senate and House plans, we will go odd even,
14 the same way we do bill numbers. And that
15 should -- I believe that explains everything
16 about the naming convention.

17 So, jumping back to this submitted
18 plans page, the reports that are posted here
19 currently are the boundary analysis report,
20 the district compactness report, which I will
21 pull up here, and we will go through some of
22 these later on, but this is just to show you
23 what kind of reports you can get for submitted
24 plans.

25 But you can get the district

1 compactness report which reports the
2 compactness scores for each one of the
3 districts in the plan, you can get an image
4 which shows the plan as it was drawn by the
5 submitter, a KMZ which is a file that will
6 open in Google Earth and allow users to
7 interactively maneuver around the plan using
8 that application. The .plan file is a file
9 format that will open within our redistricting
10 application.

11 So, if a user wants to load up one of
12 these public plans into their account, they
13 can just download this .plan file, and when
14 they load it into their account, it will carry
15 over the same district coloring, and district
16 numbering, and demographic fields that are
17 displayed in the application for the plan as
18 it was drawn.

19 The TXT file here is a block assignment
20 file, and this is the basic format for
21 redistricting plans, this is what's been
22 recognized by the Department of Justice for
23 decades at this point as a standard format for
24 a redistricting plan.

25 And the way these work is that they

1 list each census block within the state, if
2 it's a complete plan. If it's less than a
3 complete plan, it won't have all the census
4 blocks. But that 15 digit code is actually a
5 census block identifier, those are composed of
6 the state, the county, the tracked the block
7 group, and the block all embedded into one 15
8 character code, a comma, and then the district
9 number.

10 So, a district number, you see here,
11 all these blocks that have to -- happen to be
12 listed in this instance are in District 3.
13 And using this, sort of, universal format for
14 redistricting plans users can both export and
15 import plans into our redistricting
16 application.

17 This is universally accepted as an
18 import and export method for this process, and
19 we make these available for all the submitted
20 plans on our website.

21 The other ones here, this zip file, is
22 a set of shapefiles. And so shape files are
23 GIS-based file formats that allow users to
24 import that file into another commonly used
25 GIS program, such as ArcGIS. That's what that

1 is, that embedded that includes the layers and
2 the population data embedded in it as well.

3 We have the completed redistricting
4 suggestion form here, and this -- and this
5 particular one -- so members if you're
6 reviewing a submitted plan and have an
7 interest in potentially providing that to the
8 committee for consideration, or asking for it
9 to be considered for inclusion in a -- in a
10 staff product, one would come look at this
11 form and get the author's contact information,
12 and -- as the chairman suggested -- consider
13 reaching out to them prior to offering a plan
14 up for consideration.

15 And then the last report here is the
16 VAP summary report and this is a population
17 statistics report for the redistricting plan,
18 so here you can see the total population,
19 voting age population, population -- voting
20 age population by race. This is all
21 prepopulated in this report.

22 The other thing that I wanted to
23 mention about this is the interactive map
24 that's here, so if you click the web map link,
25 this is going to take you to that submitted

1 plan and its ability to maneuver around the
2 map and see what's -- what their map looks
3 like in an interactive fashion.

4 SENATOR GIBSON: Mr. Chair? Thank you.
5 Can we go back to the voting age population?
6 I'm trying to figure out what I heard, but I
7 didn't hear. You said -- you said it's
8 prepopulated by, is it by census track?
9 What -- I didn't hear, it's prepopulated by
10 what?

11 MR. FERRIN: Thank you --

12 SENATOR GIBSON: The voting
13 (inaudible).

14 MR. FERRIN: -- Mr. Chairman. I
15 apologize, Senator, so this is by district.
16 So, this is going to show the total population
17 of the plan that was drawn by the submitter
18 for District 1 the number below that is a
19 percentage that -- of the statewide population
20 that that is made-up of that district, so it
21 should be pretty well balanced.

22 And then we have the total voting age
23 population in that district, and the
24 percentage below that indicates that the total
25 voting age population for that district makes

1 up 78 percent of the district population in
2 this instance. And I'll try to zoom in, maybe
3 that helps.

4 The single race non-Hispanic white
5 voting age population is listed here as well,
6 and that that VAP number is calculated the
7 same way as a -- or the percentage is
8 calculated the same way as a percent of the --
9 it's calculated as a percent of the total
10 voting age population.

11 And then, we have the same thing for
12 non-Hispanic black voting age population,
13 Hispanic black voting age population Hispanic
14 not black, other voting age population, all
15 Hispanic voting age population -- so of any
16 race -- and then all black voting age
17 population.

18 And this is -- in an effort to try to
19 provide a standardized report, these were the
20 fields that were selected for inclusion in the
21 default report that we're running for posting
22 of the submitted plans. If there's additional
23 demographics, such as -- and we will get to
24 this later today -- the political data for
25 conducting a functional analysis, in order to

1 do that you will have to log into the -- you
2 will have to download the plan and log into
3 the application, and report it out that way.

4 SENATOR GIBSON: So, follow up?

5 CHAIR RODRIGUES: Another question? Go
6 ahead.

7 SENATOR GIBSON: On the -- on the
8 voting age population, is there something that
9 explains to the -- to the general public that
10 voting age population is certainly different
11 from the population in a district period? And
12 then, what's helpful about the voting age
13 population in drawing lines?

14 CHAIR RODRIGUES: Go ahead.

15 MR. FERRIN: Thank you, Mr. Chairman.
16 So, the -- we do define these fields and
17 provide documentation on what these fields are
18 within the help manual. And in terms of,
19 what's -- what voting age population is used
20 for in redistricting, this would be, you know,
21 in particular with regard to the creation of
22 min-- effective minority districts, where you
23 would be looking at voting age population in
24 concert with the other data that's been
25 specified as something we should be using to

1 conduct the functional analysis, and ensure
2 that a district has the ability to elect a
3 racial or language minority's candidate of
4 choice.

5 We're not limited to using voting age
6 population, but as an initial drawing point, I
7 think that's traditionally used to indicate --
8 when you're attempting to draw a minority
9 district, one of things you're looking at is
10 the racial voting age population of that
11 district.

12 SENATOR GIBSON: Okay, follow up? One
13 last question.

14 CHAIR RODRIGUES: You're recognized.

15 SENATOR GIBSON: Thank you. So, in --
16 is it Columbia County? Those places where we
17 have correctional institutions, where the
18 individuals -- incarcerated individuals cannot
19 vote, but they are considered in the
20 population for drawing a district, how do we
21 explain that to folks? How it makes sense,
22 and then how that potentially impacts the
23 dis-- the next district on the side, top,
24 bottom.

25 CHAIR RODRIGUES: Senator, is your --

1 SENATOR GIBSON: Yes?

2 CHAIR RODRIGUES: -- your question why
3 we're including the population of the prison
4 in that district, or how we explain the voting
5 age aspect of that?

6 SENATOR GIBSON: Yes, the latter. How
7 we explain the voting age population. They
8 may be the age to vote, but they can't vote,
9 but they're considered in drawing the
10 population of the district. And then, that
11 impacts the next district over, up, side,
12 bottom --

13 CHAIR RODRIGUES: (Inaudible) --

14 SENATOR GIBSON: -- because the
15 population is being counted, but they can't
16 vote.

17 CHAIR RODRIGUES: Understood. And I
18 will recognize Staff Director Ferrin, but
19 before I do that the census counts the incar--
20 inmates incarcerated where they're
21 incarcerated.

22 And our state statute requires us to
23 use the census data as we're doing this, so
24 that's why we put them there. Now, I'll turn
25 it over to Staff Director Ferrin to address

1 the second part of your question.

2 MR. FERRIN: That's correct, Mr.
3 Chairman. The -- we don't alter the census
4 data, it's -- the residents are counted where
5 they are as of April 1st, 2020, which is
6 census day. The -- I believe the second part
7 of your question, which is how would you
8 account for an incarcerated population that's
9 not eligible to vote.

10 And I think that's where a functional
11 analysis comes in, and the results of that
12 analysis would indicate that perhaps the
13 population in that district, while it may have
14 a certain percentage of VAP, you will notice a
15 lower registration and turn out numbers to,
16 kind of, understand that. That's why we don't
17 consider VAP in isolation, because of other
18 factors such as that.

19 And that goes for electoral
20 participation, whether it's an area, or a
21 group of low propensity or incarceration it's
22 going to -- you know, examine a functional
23 analysis to ensure that the district will
24 perform, regardless of actually who is in it.
25 If that kind of makes sense.

1 CHAIR RODRIGUES: Are there any other
2 questions? Have we completed the
3 presentation?

4 MR. FERRIN: I believe we have a couple
5 more things to go through, Mr. Chairman.

6 CHAIR RODRIGUES: Okay.

7 MR. FERRIN: So, I think that covers
8 the plan -- Submitted Plans page, the -- we do
9 have links to the benchmark plans here at the
10 top of this page, so that a user can click
11 those and quickly jump to them.

12 They're in this table as well, but
13 because we -- they were the quote, first
14 submissions, they're at the bottom of the
15 list, and so we have those buttons to get
16 there quickly, which will provide the same
17 kind of reports for the benchmark plans. And
18 then, lastly, we have the Contact Us page,
19 where users can go to get contact information
20 for the committees.

21 And then, I don't believe I have
22 mentioned this, but we do make use of the
23 Google Translate service on our website, and
24 so users can select a language to translate
25 the site into. As the chairman mentioned,

1 we're also -- we have also engaged the -- or
2 are engaging the services of a translation
3 service to help us translate some of the PDFs
4 and other documents on here, and to help us in
5 the event that we find ourselves needing to
6 provide some support for a foreign language
7 speaker. We should be covered there. And Mr.
8 Chairman, I believe that concludes the website
9 walkthrough.

10 CHAIR RODRIGUES: Are there any
11 questions from the members? Senator Gibson,
12 you're recognized.

13 SENATOR GIBSON: Thank you, Mr. Chair,
14 and thank you for the transparency, it's very
15 transparent for sure. So, what -- I didn't
16 hear any discussion about coalition districts,
17 I know it was mentioned about minority access
18 districts. Are our coalition districts
19 explained, and is that -- how do we explain
20 that to the public, as well?

21 CHAIR RODRIGUES: Do we have a anything
22 on the website that would direct them to
23 protect those districts, or how does that
24 work?

25 MR. FERRIN: Thank you, Mr. Chairman.

1 I believe that's covered in the glossary.

2 SENATOR GIBSON: Oh, okay.

3 MR. FERRIN: I'm not sure where I left
4 off, and which tab that would be on, but I'm
5 pretty sure it's covered in the glossary. If
6 it's not, we can certainly take a look at
7 adding that to the glossary, and we will make
8 sure that a coalition district is defined
9 somewhere for public users.

10 SENATOR GIBSON: That would be great
11 (inaudible).

12 CHAIR RODRIGUES: Indeed. Seeing --

13 SENATOR GIBSON: Thank you, Mr. Chair.

14 CHAIR RODRIGUES: Thank you. Seeing no
15 further questions, we will move to the Tab 2
16 in our agenda, which is introduction to
17 redistricting law. We have our Senate council
18 on redistricting, Dan Norby, here today. Mr.
19 Norby, you're recognized.

20 MR. NORBY: Thank you, Mr. Chair and
21 members of the committee. So, my topic today
22 is an introduction to redistricting law. The
23 idea is to talk through both process and the
24 governing, constitutional, and statutory
25 standards that will guide your work in the

1 weeks and months to come, as you consider maps
2 that are presented in the subcommittees and in
3 this committee.

4 As the title suggests, it's an
5 introduction to redistricting law not a high-
6 level CLE course in redistricting law. But
7 the idea here will be to equip you with the
8 knowledge of the concepts that you will be
9 confronting, and some of the vocabulary at a
10 little bit of a higher level than what was
11 described last week during the introductory
12 presentation.

13 So, the three areas that I'll be
14 covering today are the constitutional
15 authority and legislative procedures for
16 redistricting, some of the federal
17 redistricting requirements both under the US
18 Constitution and under the Federal Voting
19 Rights Act, and then the Florida redistricting
20 requirements that are imposed by Florida's
21 Constitution.

22 So, in terms of congressional
23 redistricting authority, the requirement for
24 states to redistrict Congressional Districts
25 has been found in Article 1, Section 4 of the

1 United States Constitution, which provides
2 that the manner of holding elections for
3 representatives shall be prescribed in each
4 state by the legislature thereof. That's you
5 all.

6 So, that -- you have the obligation and
7 the responsibility to redistrict Congressional
8 Districts after reached decennial census.

9 The authority to redistrict legislative
10 districts is found, not surprisingly, in the
11 Florida Constitution in Article 3, Section 16,
12 which prescribes that the legislature in its
13 regular session, in the second year following
14 each decennial census shall apportion of the
15 state into not less than 30, nor more than 40,
16 consecutively numbered Senatorial Districts,
17 and into not less than 80, nor more than 120,
18 consecutively numbered Representative
19 Districts.

20 For quite some time now, the
21 legislature has exercised that authority by
22 creating the maximum number of Senate
23 Districts and the maximum number of State
24 House Districts. So, 40 Senatorial Districts
25 and 120 Representative Districts.

1 The procedures for adopting
2 redistricting plans vary depending on whether
3 it's a congressional plan or a state
4 redistricting plan. Congressional Districts
5 are formally established through amendments to
6 Chapter 8 of Florida Statutes, and a bill
7 establishing Congressional Districts is
8 subject to all of the constitutional
9 requirements that apply to any other piece of
10 legislation that you will be considering on
11 any of the committees and on the floor,
12 passage by a majority vote of each House, and
13 submission to the governor for either approval
14 or veto decision.

15 So, I have on your screen here what the
16 actual redistricting legislation looks like in
17 the non-map form, it's an assignment of those
18 particular tracks and blocks to particular
19 districts. And you can look in the Florida
20 statutes and find it there in legislative
21 language.

22 For obvious reasons, based on what's on
23 the screen it's much easier to describe it in
24 terms of how the map looks and what the lines
25 look like on a map. That is -- that is the

1 actual legislation that is passed.

2 The procedures for adopting legislative
3 redistricting plans are different from
4 congressional. State legislative districts
5 are formally established through amendments to
6 Chapter 10 of the Florida Statutes, and
7 they're adopted by joint resolution of the
8 House and Senate, rather than through a bill
9 that is submitted to the governor for approval
10 or veto. And that requirement is found in
11 Article 3, Section 16 of the Constitution as
12 well.

13 For legislative redistricting plans,
14 but not congressional redistricting plans,
15 Florida Constitution also provides for a
16 mandatory review of the joint resolution by
17 the Florida Supreme Court.

18 The language of the Constitution is
19 here on the screen, and I should mention that
20 throughout this presentation, what I've tried
21 to do is include the exact language of the
22 constitutional requirements that will be a
23 reference for you in the -- in the weeks and
24 months to come, so you can refer to that.

25 I have also tried to include the most

1 recent precedent on several of these issues,
2 understanding that redistricting law goes back
3 some 70 or 80 years at least. But I have
4 highlighted in particular some of the court
5 decisions from the Florida Supreme Court, or
6 from the United States Supreme Court from the
7 last decade. So, there'll be updates from the
8 last cycle of redistricting.

9 So, the judicial review of
10 apportionment is initiated within 15 days
11 after passage of the joint resolution by the
12 attorney general of the state of Florida, who
13 petitions the Florida Supreme Court for
14 declaratory judgment determining the validity
15 of the apportionment. And the Supreme Court
16 under the Constitution permits adversary
17 interests to present their views, and within
18 30 days from filing the petition enters its
19 judgment.

20 So, this is a very rapid proceeding
21 following the passage of the joint resolution.
22 And part of that, given the timelines that
23 your staff director laid out for you before
24 involves the short time period between the
25 legislative session in a year of

1 reapportionment and a candidate qualifying for
2 that fall's elections. Those two things
3 combined require a quick review by the Florida
4 Supreme Court on the validity of the plans.

5 The Florida Supreme Court's review
6 produces a judgment in apportionment, and the
7 Constitution provides that a judgment of the
8 Supreme Court of the State determining the
9 apportionment to be valid, shall be binding
10 upon all the citizens of the state.

11 If the Court decides that the
12 apportionment is invalid, violates some
13 standard that is in the Florida Constitution,
14 then the governor is directed to reconvene the
15 legislature within five days in an
16 Extraordinary Apportionment Session to
17 consider a -- adopting a joint resolution,
18 conforming to the judgment of the Supreme
19 Court.

20 And the chair mentioned during the
21 Introductory Session last time, that happened
22 in the last redistricting cycle, the Senate
23 was directed to adopt a new joint resolution
24 in an extraordinary apportionment session.

25 Following the extraordinary

1 apportionment session, if one is convened, the
2 attorney general files a second petition in
3 the Supreme Court, the Supreme Court then goes
4 through the same process again, considers the
5 validity of apportionment.

6 If the legislature fails to adopt a
7 resolution of apportionment during the
8 extraordinary session, or adopts an
9 apportionment that the Court determines is
10 invalid, then the Court within 60 days after
11 receiving the petition shall file with the
12 custodian of state records, who is the
13 Secretary of State an order making the
14 apportionment. So, this would be a judicial
15 apportionment of state legislative districts.

16 So we'll move on now to some federal
17 redistricting requirements now that I have
18 gone through the process. Under federal law,
19 there are two key sources of legal authority
20 that govern the redistricting process, the
21 first is the United States Constitution, the
22 second is the Voting Rights Act, particularly
23 Section 2 of the Voting Rights Act and Section
24 5 of the Voting Rights Act.

25 In terms of the constitutional

1 requirements, the primary federal
2 constitutional requirement that is a governing
3 standard for redistricting is equality of
4 population.

5 The United States Supreme Court decided
6 in a series of cases in the 1960s that
7 Congressional Districts must achieve precise
8 mathematical of equality of population, plus
9 or minus one person from the ideal population.

10 Some of the earlier cases suggest that
11 that standard is to be done to the extent
12 practicable for the states, while with the
13 current availability of data, more recent
14 decisions have held to that line that it is
15 essentially plus or minus one person, and that
16 is what state of Florida has done in recent
17 cycles.

18 The ideal population for Florida is now
19 28 Congressional Districts, is 769,221 people.
20 So that -- that's what we're shooting for each
21 of the 28 districts. I have included their
22 quote as well from Wesberry vs. Sanders, the
23 United States Supreme Court case from 1964
24 which grounded this equality of population
25 requirement in the language of Article 1,

1 Section 2 of the Constitution. It says,
2 representatives shall be chosen by the people
3 of the several states, or construed that to
4 mean equality of population, and subsequent
5 decisions have held to that.

6 In terms of state legislative
7 districts, the United States Supreme Court and
8 the lower federal courts, have provided
9 additional flexibility for state and local
10 districts in terms of population. They have
11 to achieve, it's called substantial equality
12 of population.

13 I have on the slide here the ideal
14 population for a Florida State Senate District
15 and for a Florida House District based on 120
16 house districts and 40 State Senate districts,
17 and quote from Reynolds vs. Sims here. The
18 equal protection clause requires a state to
19 make an honest and good faith effort to
20 construct districts in both houses of its
21 legislature as nearly of equal population as
22 is practicable.

23 So, before Reynolds vs. Sims several
24 states had as a redistricting practice some --
25 a similar set up to the United States Senate,

1 where the Senate districts represented count--
2 the State Senate districts represented
3 counties or larger groupings, and the State
4 House districts were more tied to population.

5 After Reynolds vs. Sims, that was no
6 longer a permissible way of drawing state
7 legislative districts, the substantial
8 equality of population is the governing
9 principle there for both houses of the state
10 legislature.

11 The courts have allowed reasonable
12 deviations from matica (phonetic) mathematical
13 equality for state legislative districts to
14 accommodate traditional districting
15 objectives, such as compactness, contiguity,
16 and respect for the boundaries of political
17 subdivisions. General rule established by
18 that federal precedent is that population
19 deviations of less than 10 percent are
20 presumptively valid. Population deviations
21 from one district to another of greater than
22 10 percent are presumptively invalid.

23 Traditionally, Florida has drawn
24 districts with the deviation of quite a bit
25 less than 10 percent, so those sort of

1 principles have not been tested. But some
2 other states have drawn districts with 10
3 percent deviation to allow them to better
4 accommodate keeping counties whole, for
5 example, for states that that require that.

6 In the last redistricting cycle here in
7 Florida as well, that explains some of the
8 population deviations from one district to
9 another. I believe there was one State House
10 district which was drawn with a greater
11 population than some of the others,
12 specifically because drawing a district a
13 little bit larger would allow it to keep
14 Charlotte County entirely within one house
15 district.

16 So, a little more population deviation
17 there. I think it was about three-and-a-half
18 percent, so still much less than the 10
19 percent that the case law is about.

20 Also, under the United States
21 Constitution one of the principles that that
22 is significant is the idea of political or
23 partisan gerrymandering claims. This was a
24 topic that required more discussion in the
25 analogous presentation to this committee ten

1 years ago, because at the time the United
2 States Supreme Court had held that partisan
3 gerrymandering claims were justiciable under
4 the Federal Constitution, that there could be
5 such a thing as a district that was redrawn in
6 two partisan away, but the Court had not
7 established what that standard would be to
8 measure how far is too far.

9 Since then, in 2019, I have *Rucho vs.*
10 Common Cause, the United States Supreme Court
11 has withdrawn from that field and has held it
12 as a matter of federal constitutional law.
13 Partisan gerrymandering claims present
14 political questions beyond the reach of the
15 federal courts.

16 So, we will talk later about the
17 Florida Constitution, which does heavily
18 restrict intent to favor or disfavor parties
19 or incumbents. But as a matter of Federal
20 Constitutional Law those claims are no longer
21 viable. And the United States Supreme Court
22 has said the federal courts will not take up
23 partisan or political gerrymandering claims.

24 Racial gerrymandering claims though are
25 something that the federal courts continue to

1 police quite heavily. The equal protection
2 clause of the 4th -- 14th Amendment forbids
3 racial gerrymandering, which is intentionally
4 assigning citizens to a district on the basis
5 of race without sufficient justification, and
6 it also forbids intentional vote dilution,
7 invidiously minimizing or canceling out the
8 voting potential racial or ethnic minorities.

9 These claims continue to be pressed in
10 every redistricting cycle, we cited here
11 *Abbott vs. Perez*, a United States Supreme
12 Court case from 2018 involving Texas'
13 redistricting, which considered racial
14 gerrymandering claims.

15 In considering these types of claims,
16 what the Court looks at is whether race was a
17 quote, predominant factor motivating the
18 legislature's decision to place a significant
19 number of voters within or without a
20 particular district. If so, then the district
21 must be narrowly tailored to achieve a
22 compelling interest.

23 The Court, in a variety of decisions,
24 has assumed without deciding that compliance
25 with the Voting Rights Act represents a

1 compelling interest that states are justified
2 in considering race in the assignment of
3 districts, voters to one district or another.

4 The narrow tailoring requirement under
5 Bethune-Hill vs. Virginia State Board of
6 Elections, the narrow tailoring requirement is
7 satisfied if the legislature has quote, good
8 reasons to believe that it must use race to
9 comply with the Voting Rights Act.

10 The Voting Rights Act, moving from
11 federal constitutional claims to federal
12 statutory claims, the Voting Rights Act of
13 1965, of course, was adopted to combat
14 discriminatory practices in voting and
15 elections, and to enhance minority
16 registration and participation rates.

17 There are two principal provisions of
18 the Voting Rights Act that are at issue in
19 redistricting cases, and have been for some
20 time, Section 2 of the Voting Rights Act,
21 Section 5 of the Voting Rights Act. So,
22 Section 2 of the Voting Rights Act is a
23 permanent provision, it is applicable
24 nationwide. Section 2 prohibits a state from
25 enacting a districting plan that provides less

1 opportunity for racial minorities to elect
2 representatives of their choice. And what
3 Section 2 is intent-- is most significantly
4 designed to protect is to protect minority
5 voters from practices that improperly weaken
6 or dilute minority voting strength.

7 Two of those in particular that I
8 reference here are cracking and packing. So
9 those would be either -- in the case of
10 cracking, taking a minority population that is
11 geographically compact and splitting it into
12 separate districts so that in neither district
13 can that minority voting population
14 effectively exercise its electoral power.

15 Packing is the opposite of that,
16 intentionally assigning voters to a particular
17 district to a level more than is necessary to
18 exercise an effective voting power. And in so
19 doing, diminish the minority voter's ability
20 to elect in a in a neighboring district.
21 Under certain circumstances, Section 2 of the
22 Voting Rights Act requires states to draw
23 opportunity districts in which minority groups
24 form effective majorities.

25 The standard that's been adopted by the

1 courts, and I have here at Thornburg vs.
2 Jingles from 1986, which is still the
3 governing standard that is applied. And this
4 is a highly complex area of Voting Rights Act
5 law, so I'm giving a high-level view of it
6 here.

7 We will talk about it much more when
8 we're examining specific maps and districts in
9 the weeks and months to come. But the general
10 standards under Section 2 are that Section 2
11 protects a group of minority voters that
12 satisfies what are called the Jingles factors.
13 And I have listed them there.

14 A geographically compact minority
15 population, sufficient to constitute a
16 majority in a single member district, there
17 has to be political cohesion among the members
18 of the minority group, meaning that they tend
19 to vote the same way, and block voting by the
20 majority is present that would defeat the
21 minorities preferred candidate of choice.

22 If all of those factors are true, and
23 the minority groups members under the totality
24 of the circumstances have less opportunity to
25 participate in the political process and elect

1 representatives of their choice, then Section
2 2 may provide a Voting Rights Act remedy. So,
3 this is a background principle that the
4 legislature must apply when it's drawing
5 districts is to ensure that in the drawing of
6 districts that it does not violate the
7 requirements of Section 2 of the Voting Rights
8 Act.

9 In 2009, in a case called Bartlett vs.
10 Strickland, so this was right before the last
11 redistricting cycle, the Supreme Court decided
12 a question that had been unsettled before a
13 long time before then, which is whether
14 Section 2's vote dilution provisions extended
15 to kind of coalition or opportunity-type
16 districts, where the minority group would not
17 constitute a numerical majority in the
18 district.

19 The United States Supreme Court said
20 that it did not, that in order for Section 2's
21 protections to be triggered, it must be
22 possible to draw a geographically compact
23 district in which the minority group would
24 constitute a majority in a single member
25 district.

1 We will move on now to Section 5 of the
2 Voting Rights Act. So, Section 5 of the
3 Voting Rights Act was a temporary measure
4 adopted in the 1960s that was not applicable
5 nationwide, it was applicable only in certain
6 covered jurisdictions that were identified
7 under a statutory formula based on voting
8 practices, turn out, and voter registration
9 rates in 1964.

10 When the original Voting Rights Act was
11 passed by the United States Congress,
12 Florida -- neither Florida as a state, nor any
13 counties or jurisdictions within Florida, were
14 considered covered jurisdictions based on the
15 application of those criteria. During a later
16 amendment to the Voting Rights Act in the mid-
17 1970s, five Florida counties were added to the
18 list of covered jurisdictions, Collier,
19 Hardee, Hendry, Hillsborough, and Monroe
20 Counties were added, along with the provisions
21 that were added on minority -- language
22 minority group provisions.

23 So, those five counties in the 1970s
24 employed English only ballots and had a
25 greater than 5 percent population that spoke a

1 language other than English. Based on the
2 application of that formula, those five
3 counties became covered jurisdictions. So,
4 what does that mean?

5 Well, covered jurisdiction under
6 Section 5 could not enact election laws and
7 immediately enforce them, a covered
8 jurisdiction was prohibited from enforcing any
9 change to an election law that has the purpose
10 or will have the effect of diminishing the
11 ability of the minority group to elect their
12 preferred candidates of choice.

13 And it could not enforce that until
14 those provisions were pre-cleared by the
15 Department of Justice or by a three-judge
16 Federal District Court. So the covered
17 jurisdictions had the burden of proof to
18 establish that any election changes within
19 those counties would not diminish the ability
20 of a minority group to elect their candidates
21 of choice, this applied to both voting
22 process-type provisions, as well as
23 redistricting plans that took place and
24 affected those counties.

25 So because those counties were affected

1 by statewide redistricting plans, Florida was
2 required to submit its statewide congressional
3 maps and its state legislative maps to either
4 the Department of Justice or to a three-judge
5 Federal Court to -- and to prove that those
6 plans would not diminish the ability of
7 minority candidates to elect their
8 candidate -- minority voters to elect their
9 candidates of choice in those five covered
10 counties.

11 In *Shelby County vs. Holder*, which is a
12 2013 United States Supreme court case -- so
13 after the first round of redistricting last
14 cycle -- the United States Supreme Court found
15 that the coverage formula found in Section 4
16 of the Voting Rights Act was unconstitutional,
17 because it had not been updated based on more
18 current data.

19 The covered jurisdictions continue to
20 be identified based on the data from the 1960s
21 and the 1970s, the voting practices turnouts
22 and registration rates from the 1960s and the
23 1970s. In in 2006 the Section 4 coverage
24 formula was extended for a 25 year period
25 without changing the formula and the United

1 States Supreme Court said that as a result of
2 that, the formula no longer reflected current
3 conditions, and was unconstitutional, and
4 could not be used as a basis for subjecting
5 jurisdictions to preclearance.

6 So, the actual Section 5 requirements,
7 the non-diminishment requirements were not
8 addressed in the majority opinion of the
9 Supreme Court, it was the coverage formula.
10 Congress has not adopted a new coverage
11 formula since Shelby County vs. Holder, so as
12 we -- as we stand here today, Section 5 is not
13 applicable to these redistricting plans,
14 although the principles of Section 5, as we
15 will talk about shortly, do apply to Florida's
16 redistricting plans.

17 I will move on now to Florida
18 redistricting requirements. Chair, I don't
19 know if this would be a good time to stop and
20 ask for questions, or if you would like me to
21 save that till the end.

22 CHAIR RODRIGUES: Yeah, let's see if
23 there are any questions on what's been
24 presented so far by the committee. Seeing
25 none.

1 SENATOR BRACY: Chairman, --

2 CHAIR RODRIGUES: Oh.

3 SENATOR BRACY: I got a quick question.

4 CHAIR RODRIGUES: Oh, you're
5 recognized.

6 SENATOR BRACY: Thank you. So, you are
7 saying now that Section 5 does not have to be
8 adhered to, only in principle, but it does not
9 have to be adhered to when drawing the maps.
10 Is that correct?

11 MR. NORBY: Chairman?

12 CHAIR RODRIGUES: You're recognized.

13 MR. NORBY: Senator, that's not quite
14 right and let me explain why. Section 5
15 itself is not enforceable as a result of the
16 United States Supreme Court decision. The
17 next section of my presentation will explain
18 why the Florida Constitution incorporates that
19 same non-diminishment requirement from Section
20 5 as a matter of state constitutional law.

21 So, in the drawing of congressional
22 maps and state legislative maps the
23 legislature is required to ensure non-
24 diminishment, that requirement just comes from
25 the State Constitution rather than from

1 federal law.

2 SENATOR BRACY: Thank you.

3 CHAIR RODRIGUES: Any other questions?

4 Okay, let's proceed.

5 MR. NORBY: Thank you, chair. So, now
6 I'll talk about the Florida redistricting
7 requirements that are in the State
8 Constitution. I'll talk about the Congress--
9 the constitutional standards for establishing
10 congressional and legislative district
11 boundaries, and then go into more detail with
12 the so-called Tier 1 standards and Tier 2
13 standards under the Florida Constitution, with
14 reference to some of the case law interpreting
15 those standards that developed over the last
16 redistricting cycle.

17 The first provision of the Florida
18 Constitution that provides standards for
19 congressional and legislative district
20 boundaries one that's been in place for some
21 time it's the one I cited earlier the
22 requirement that the legislature apportion the
23 state in accordance with the Constitution of
24 the state, and of the United States into a
25 certain number of Senatorial Districts, and a

1 certain number of State House Districts of
2 either contiguous overlapping or identical
3 territory.

4 The more detailed set of standards were
5 the ones adopted by the voters in 2010, found
6 in Article 3, Section 20 and 21 of the Florida
7 Constitution. I've grouped them together here
8 because the subsidy standards are identical
9 between the standards that apply for
10 Congressional Districts and the standards that
11 apply for state legislative districts, they're
12 just found in two separate provisions of the
13 Constitution.

14 So, there's no distinguishing between
15 the two of them, so I've grouped together
16 here. And they're there on this slide, but
17 then I'll be breaking them down in more detail
18 in the remainder of the presentation.

19 So the first set of standards are those
20 found in Paragraph A of Article 3, Section 20
21 and Article 3, Section 21. They're called the
22 Tier 1 standards because of the priority that
23 they're given under the Constitution. These
24 standards are that no apportionment plan or
25 individual districts shall be drawn with the

1 intent to favor or disfavor a political party,
2 or an incumbent.

3 Districts shall not be drawn with the
4 intent or result of denying or abridging the
5 equal opportunity of racial or language
6 minorities to participate in the political
7 process, or to diminish their ability to elect
8 representatives of their choice and their
9 requirement that districts consist of
10 contiguous territory.

11 So, three requirements are packed into
12 that one tier. First is the prohibition
13 against drawing a plan or district with an
14 intent to favor or disfavor a political party
15 or an incumbent, the second are what I'll call
16 the minority voting protection provisions of
17 Tier 1, and the third one is the requirement
18 that districts consist of contiguous
19 territory.

20 In the event of a conflict between the
21 requirements of this section of the
22 Constitution and the Tier 2 standards, the
23 Tier 1 requirements have priority. But the
24 order in which the Tier 1 standards are set
25 out does not establish any priority among the

1 standards within that tier, so each of them
2 stands on equal footing.

3 I'll break them down one at a time now.
4 The first one no apportionment plan or
5 individual district shall be drawn with the
6 intent to favor or disfavor a political party
7 or an incumbent.

8 I mentioned Rucho's decision from the
9 United States Supreme Court does not consider
10 political gerrymandering claims justifiable
11 under the Federal Constitution, one of the
12 things that the United States Supreme Court
13 referenced in that -- in that decision was
14 Florida's Constitutional provision which does
15 prohibit the drawing of plans to favor a
16 political party or an incumbent, or to
17 disfavor a political party or an incumbent.

18 So it's an expressed requirement of the
19 Florida Constitution even though it's
20 nonjusticiable at a federal level. This
21 prohibition applies both to the apportionment
22 plan as a whole and to each district
23 individually. The Florida Supreme Court in
24 interpreting this provision for the first time
25 in the last redistricting cycle held that

1 the -- Florida's Constitutional provision
2 prohibits intent, not effect, because any
3 redrawing of lines, regardless of intent, will
4 inevitably have an effect on the political
5 composition of a district, and likely whether
6 a political party or incumbent is advantaged
7 or disadvantaged.

8 So that's a recognition that any moving
9 of a line, for whatever reason, will have an
10 effect. But effect is not what the
11 constitution prohibits its intent the court
12 did say though that there is no level of
13 improper intent, a malevolent or evil
14 purpose -- some colorful language there from
15 the Court -- is not required to constitute
16 improper intent there is either improper
17 intent or there's not improper intent. If
18 there is, then it's an invalid district or
19 plan under the Constitution.

20 The Supreme Court Florida examines both
21 direct and circumstantial evidence of intent.
22 So direct evidence of intent would be a member
23 stating -- which I certainly hope would not
24 happen -- but a member would state that they
25 were wrong a map for some prohibited purpose.

1 Circumstantial evidence of intent though is
2 what the Court primarily looked at in the 2012
3 Redistricting Cycle opinion that I've cited
4 here.

5 They look to objective evidence, this
6 is during -- especially during the initial
7 review that the Court had of the joint
8 resolution. Objective evidence that could
9 bear on intent includes the shape of district
10 lines and the demographics of an area.

11 So, in 2012 the Supreme Court reviewed
12 voter registration, elections data,
13 incumbents, addresses to try to determine
14 incumbent favoritism, and demographics of the
15 district. All of that objective data was
16 looked at as circumstantial evidence that
17 could bear on the intent of the legislature.

18 The Court also noted that strict
19 compliance with the express terms of the Tier
20 2 redistricting standards may undercut or
21 defeat an assertion of improper intent. So,
22 the idea there is that the Tier 2 standards
23 that we will be discussing shortly,
24 compactness, respect for geographical and
25 political boundaries, if those are adhered to,

1 it's evidence that rebuts an idea that a map
2 was drawn intentionally for an impermissible
3 purpose. On the other hand, disregard of
4 those traditional redistricting principles set
5 out in Tier 2 can provide evidence of improper
6 intent.

7 So, a district that breaks county
8 boundaries, is grossly non-compact for
9 example, we will need a strong justification
10 by the legislature for why drawing it that way
11 was not done for an improper purpose.

12 The Court also said in relation to that
13 where the shape of the district in relation to
14 the demographics is so highly irregular and
15 without justification that it cannot be
16 rationally understood as anything other than
17 an effort to favor or disfavor a political
18 party, improper intent may be inferred.

19 So, I think what that language reflects
20 is that what the Court said in in 2012 is that
21 the legislature is owed deference in the
22 manner in which it chooses between
23 constitutionally compliant plans, and provided
24 it acts constitutionally within that broad
25 range of deference, only under these sorts of

1 circumstances will the Court infer improper
2 intent from circumstantial evidence.

3 With respect to incumbents, similarly
4 the shape of the district in relation to the
5 legal residence of an incumbent is relevant to
6 the evaluation of intent to favor or disfavor
7 the incumbent.

8 The chair mentioned earlier incumbent
9 addresses and information is not something
10 that is in the redistricting software, it's
11 not something that's considered in the drawing
12 of plans, but it is something that the Court
13 can consider when it's evaluating improper
14 intent.

15 So, for example, in the last cycle
16 there was one district in which a member's
17 residence was found to be at the end of a of a
18 long line that shot out from the district and
19 scooped up the member's house. The Court
20 inferred from that, that that district was
21 drawn that way to favor that particular member
22 whose house was brought into that district.

23 Also with respect to the incumbent
24 favoritism --

25 CHAIR RODRIGUES: You have a question?

1 SENATOR ROUSON: Yes, I do.

2 CHAIR RODRIGUES: You're recognized.

3 SENATOR ROUSON: Thank you very much.

4 So, conversely, if that was drawn specifically
5 to include, and that was the intent found by
6 the Court, it could also be the converse if a
7 member's house is drawn out of a district, is
8 that true?

9 CHAIR RODRIGUES: You're recognized.

10 MR. NORBY: Yes, Senator, any drawing
11 of lines that could -- that are found to be
12 done in a way that could favor or dis-- that
13 would have the intent of favoring or
14 disfavoring, there was circumstantial evidence
15 of that, could be something that the Court
16 could consider.

17 Similarly, if incumbents are paired
18 within a district, that could provide under
19 some circumstances circumstantial evidence one
20 way or another, but it doesn't necessarily
21 find that. It may be that members were paired
22 within a district because that district best
23 adhered to county boundaries, or rivers, or
24 roads.

25 So, it's -- all of those factors could

1 be considered as circumstantial evidence of
2 intent.

3 CHAIR RODRIGUES: Any other questions?

4 SENATOR ROUSON: No, just a statement
5 that this is not Texas.

6 CHAIR RODRIGUES: You may proceed.

7 MR. NORBY: Chairman, I would agree.
8 Finally, the -- on intent to favor or disfavor
9 a political party or an incumbent, one of the
10 arguments made in the first round of
11 redistricting litigation in the last cycle was
12 that access to political data by the
13 legislature presumptively demonstrated
14 prohibited intent.

15 And the Florida Supreme Court rejected
16 that argument, because in fact access to
17 political data, election results data, turn
18 out data, voter registration data is actually
19 a necessary component of the functional
20 analysis that the legislature must perform to
21 evaluate whether a minority group has the
22 ability to elect representatives of its
23 choice.

24 If the legislature does not look at
25 that data, if the legislature instead looks

1 purely at racial demographics in deciding how
2 to draw districts, then that would violate --
3 or could violate either federal racial
4 gerrymandering requirements, or the
5 requirements of the Voting Rights Act, or the
6 requirements of the minority voting protection
7 provisions of the Florida Constitution.

8 So, merely having access to that
9 political data, if it's used appropriately, is
10 not -- is not a matter of demonstrating
11 improper intent.

12 The next set of standards in Tier 1
13 are, again, what I have called the Minority
14 Voting Protection Standards, districts shall
15 not be drawn with the intent or result of
16 denying or abridging the equal opportunity of
17 racial or language minorities to participate
18 in the political process, or to diminish their
19 ability to elect representatives of their
20 choice.

21 So, this long provision here really
22 imposes two requirements that protect racial
23 and language minority voters in Florida during
24 the redistricting process. One is the
25 prevention of impermissible vote dilution, the

1 second is the prevention of impermissible
2 demission-- diminishment of a minority group's
3 ability to elect a candidate of its choice.

4 These two standards essentially restate
5 Section 2 and Section 5 of the Voting Rights
6 Act, respectively, which we discussed earlier.
7 Section 2 relates to claims of impermissible
8 vote dilution, Section 5 refers to attempts to
9 eradicate impermissible retrogression in a
10 minority group's ability to elect a candidate
11 of its choice.

12 The Florida Supreme Court in its first
13 opportunity to construe these provisions in
14 2012, stated that it would construe those
15 provisions as consistent with the
16 corresponding provisions of the federal Voting
17 Rights Act guided by prevailing United States
18 Supreme Court precedent.

19 That is the interpretation that was
20 offered when the Court approved the amendments
21 in 20-- that were adopted in 2010 for the
22 ballot. The sponsor of the amendment
23 represented that they should be interpreted in
24 that way, the Court did in fact interpret them
25 that way.

1 So the Court will construe them
2 consistent with the case law on Section 2 and
3 Section 5 of the Voting Rights Act.

4 The anti-vote dilution provisions of
5 the Florida Constitution, like Section 2 of
6 the Voting Rights Act requires the creation of
7 a majority-minority district where the jingles
8 preconditions are satisfied, and if so, where
9 the totality of the circumstances demonstrates
10 that minority voters' political power is truly
11 diluted.

12 And the anti-retrogression provisions
13 of the Florida Constitution provides that the
14 Florida Legislature cannot eliminate majority-
15 minority districts, or weaken other
16 historically performing minority districts
17 where doing so would actually diminish a
18 minority group's ability to elect its
19 preferred candidates.

20 So, in addition to majority-minority
21 districts, coalition or crossover districts
22 the senator represent-- referenced earlier,
23 that previously provided minority groups with
24 the ability to elect a preferred candidate
25 under the benchmark plan -- so the benchmark

1 plan is the prior plan -- those must also be
2 recognized and protected against diminishment.

3 In order to determine whether there has
4 been a retrogression or a diminishment, the
5 legislature must perform a functional analysis
6 to evaluate retrogression, and to determine
7 whether a district is likely to perform for
8 minority candidates of choice.

9 This is a complex, multi-factor
10 determination, it requires consideration of
11 minority populations in the districts,
12 minority voting age population in the
13 districts, political data, turn out data,
14 voter registration data, how a minority group
15 has voted in the past. There is no
16 predetermined or fixed demographic percentage
17 used at any point in that functional analysis.

18 And in fact under some of the prior
19 provisions of federal law, states have been
20 found to violate the racial gerrymandering
21 requirements of the Federal Constitution when
22 they have pegged a percent to a particular
23 racial percentage. So, functional analysis
24 considers multiple factors to protect against
25 diminishment.

1 In certain situations, compactness and
2 other traditional redistricting criteria may
3 be compromised to avoid retrogression. Under
4 the Florida Constitution, Tier 2 -- the Tier 2
5 requirements of compactness and adherence to
6 political and geographical boundaries give way
7 to the extent necessary to avoid
8 retrogression.

9 As I mentioned in response to your
10 question earlier, Section 5 of the Voting
11 Rights Act originally applied to only five
12 Florida counties. It's now unenforceable
13 following the Shelby County vs. Holder
14 decision, but the Florida Constitution's non-
15 diminishment requirements and anti-vote
16 dilution requirements in redistricting apply
17 to the entire state and they remain
18 enforceable by the Courts.

19 The final Tier 1 requirement is a
20 contiguity requirement. This has not
21 traditionally been as litigated as some of the
22 other requirements. The Supreme Court has
23 defined contiguity as being in actual contact,
24 touching along a boundary or at a point. And
25 it has found the a district lacks contiguity

1 when a part is isolated from the rest of the
2 territory of another district -- by the
3 territory of another district, excuse me, or
4 where the lands mutually touch only at a
5 common corner or right angle.

6 The principal place where this has been
7 litigated in Florida and elsewhere is
8 consideration of bodies of water. So, a
9 district that crosses a river and doesn't
10 touch it -- land on either side of the river
11 can still be contiguous, even though the
12 landmass doesn't touch. The Florida Keys are
13 another obvious example, they don't touch one
14 another other than through a roadway, but
15 they're still contiguous with one another over
16 that body of water.

17 So, moving on now to the Tier 2
18 standards of the Florida Constitution. And
19 these encompass what are often called
20 traditional redistricting criteria. Tier 2
21 states that in less compliance with the
22 standards in this subsection just here two
23 conflicts with the standards in Subsection 1A,
24 or with the federal law, districts shall be as
25 nearly equal in population as practicable,

1 districts shall be compact, and district shall
2 where feasible utilize existing political and
3 geographical boundaries.

4 So, population equality to the extent
5 practicable, compactness, and then where
6 feasible the use of existing political and
7 geographical boundaries. So, these
8 requirements are subordinate to both the Tier
9 1 requirements and to the requirements of
10 federal law, and of course the Federal
11 Constitution in the event of a conflict.

12 As with Tier 1, the order in which the
13 Tier 2 standards are set out in the
14 Constitution does not establish any priority
15 among those standards within the tier. So
16 compactness, population equality, and respect
17 for geographical and political boundaries are
18 all on an equal level for the legislature's
19 consideration, one of them is not any higher
20 rank than the others.

21 In terms of population equality, the
22 Florida Supreme Court has rejected arguments
23 that the population equality language in the
24 Florida Constitution now imposes any stricter
25 requirement than prevailing federal precedent.

1 The Court said that strict and unbending
2 adherence to the equal population requirement
3 will yield to other redistricting
4 considerations, as long as those
5 considerations are based on the expressed
6 constitutional standards.

7 So, population deviation in order to
8 keep existing counties whole, to follow
9 geographical or political boundaries are
10 permissible grounds for deviations in
11 population from one district to another. As
12 well as, of course, adherence to minority
13 voting protections can be a reason to adjust
14 population percentages. Because obtaining
15 equal population is an explicit constitutional
16 mandate, the deviations must be based on
17 compliance with other constitutional
18 standards.

19 Compactness is another requirement
20 under Tier 2, the Supreme Court says that
21 compactness is geographical compactness,
22 rather than a sort of community interest or
23 subjective based compactness which is one
24 argument that was made in the last cycle.

25 The review of compactness by the

1 Supreme Court begins by looking at the shape
2 of a district, so what's sometimes called the
3 interocular test, how does it look when you
4 look at it with your eyes?

5 A compact district should not have
6 quote, bizarre designs. There are also
7 certain quantitative measurements of
8 compactness that have been used to assist
9 courts in assessing compactness -- I believe
10 your staff director will be going over some of
11 those, and explaining those, those are also
12 available in the redistricting software --
13 that can provide a numerical figure that
14 represents how compact a certain district is.

15 Now, the geographical -- excuse me, the
16 geometrical measurements of compactness each
17 have their own flaws, some of them attempt to
18 measure how close a district resembles a
19 circle. Well, a district that is a perfect
20 square would not necessarily score very high
21 on the compactness measure of how close it --
22 how much it looks like a circle, just as one
23 example.

24 But they can be a tool, they're tool
25 that was used by the Court during the last

1 redistricting cycle, it has traditionally been
2 used by courts across the country in
3 evaluating compactness. And it's something
4 that the redistricting software has the
5 ability to measure as one consideration of
6 compactness. I describe here the Reock Method
7 and the Convex Hull Methods as two of the ones
8 that were commonly used.

9 Geographic and minority protection
10 factors also influence the compactness of a
11 district. The Florida Constitution does not
12 require the legislature to adopt the
13 redistricting plan that achieves the highest
14 mathematical compactness scores.

15 I mentioned that geographic boundaries
16 can be a valid consideration for the
17 legislature, and obviously minority protection
18 is a valid consideration -- is a superseding
19 requirement under the Florida Constitution.
20 But non-compact and quote, bizarrely shaped
21 districts will require close examination by
22 the courts.

23 The Court referred to corridors
24 connecting isolated populations or appendages
25 from districts as something that will have to

1 be justified by some other constitutional
2 requirement.

3 Another Tier 2 standard, districts
4 shall where feasible utilize existing
5 political and geographical boundaries.
6 Political boundaries primarily refers to
7 county and municipal boundaries.

8 County boundaries tend to be fixed,
9 every now and then counties -- the legislature
10 will adjust the boundary between counties for
11 one reason or another. But county boundaries
12 tend to be more permanent than municipal
13 boundaries, which change through annexations
14 and deannexations over the course of an
15 election cycle.

16 There are -- there are municipalities
17 in Florida that are non-contiguous, that's a
18 single municipality where the territory does
19 not connect one part to another. Those are
20 political boundaries that can be taken into
21 account. Geographical boundaries, the Court
22 said, our boundaries that are easily
23 ascertainable and commonly understood.

24 So, as examples these would be primary
25 and secondary roads, rivers, large bodies of

1 water, railways and so forth.

2 Not every split of a political or
3 geographical boundary violates the Florida
4 Constitution. The constitutional language
5 actually explicitly recognizes flexibility in
6 the legislature for -- by providing for the
7 use of boundaries where feasible. Just by
8 virtue of pure population demographics, there
9 are some counties that are not large enough to
10 have a Senate District all to themselves,
11 there are some counties that you could not put
12 a couple of Senate Districts in.

13 So, there will be some -- inevitably
14 some splitting of political or geographical
15 boundaries, but where feasible the
16 constitution requires the legislature to use
17 those boundaries.

18 And Mr. Chair, that is the end of this
19 portion of my presentation.

20 CHAIR RODRIGUES: Do we have any
21 questions? Seeing none.

22 SENATOR BRACY: Yes, I have a --

23 CHAIR RODRIGUES: Oh.

24 SENATOR BRACY: -- I have a question --

25 CHAIR RODRIGUES: Senator Bracey,

1 you're recognized.

2 SENATOR BRACY: Thank you. I wanted to
3 go back to this Tier 1 standards, and having
4 to -- having it to apply to equal opportunity
5 and racial or language minorities. Is there a
6 certain percentage that we have to meet to
7 adhere to this standard? Let's say if it's an
8 African American community, like would 75
9 percent be enough to adhere to this standard,
10 or would just a simple majority -- I mean how
11 do you determine if we're meeting that
12 standard or not?

13 CHAIR RODRIGUES: You're recognized.

14 MR. NORBY: Senator, there is no one
15 particular number that applies in all
16 circumstances. The focus of the inquiry is to
17 determine where there are districts that
18 provided an effective opportunity to elect in
19 the benchmark plan, and then to ensure that in
20 any plans adopted by the legislature during
21 this process that there is not a diminishment
22 in the actual or effective ability to elect
23 within that district.

24 So for example, a district that -- in
25 some of the case law out of -- out of Alabama

1 or Mississippi, for example, where there are
2 districts that may be 7-- 70 percent of voting
3 age population of African American population,
4 the courts have said in in that context that
5 is not necessarily a diminishment to reduce
6 that percentage from 70 percent to 60 percent.

7 It's driven not only by the racial
8 demographics of the district, but by other
9 factors such as voter registration rates, turn
10 out rates, in some part of the state,
11 citizenship rates affect the ability to elect
12 a certain minority populations, political
13 party registration rates can affect the
14 ability to elect certain populations.

15 One of the factors that the courts
16 looked at in the last cycle was whether
17 particular racial groups would have the
18 ability to control the result in one political
19 party's primary election, or the other
20 political party's primary election, and then
21 how that would perform in the general
22 election.

23 So, the -- that's a long answer, and I
24 think to the short question, which is that
25 there's no specific percentage, it requires an

1 analysis of many, many factors.

2 SENATOR BRACY: Thank you.

3 CHAIR RODRIGUES: Senator Stewart,
4 you're recognized.

5 SENATOR STEWART: Thank you. Is there
6 any rule, or any past experience on dividing
7 neighborhoods or using a street as a division
8 between districts where one side of the street
9 will be in one district and their neighbor
10 across the street would be in another? Is
11 there any direction regarding that?

12 CHAIR RODRIGUES: You're recognized?

13 MR. NORBY: Senator, the criteria that
14 would apply in that circumstance would be the
15 use of political or geographical boundaries to
16 the -- to the extent feasible.

17 So, to the extent that it's feasible
18 then, when balancing all of these other
19 factors, minority voting protections, equality
20 population, to the extent it's possible to
21 draw those lines along state highways, or
22 railways, or rivers or other things that don't
23 divide someone from one side of the street to
24 the other side of the street, that's a
25 relevant consideration.

1 Particularly on Congressional
2 Districts, where the president requires exact
3 equality of populations, it is sometimes
4 necessary just to make sure that there is an
5 exactly equal population to divide other sorts
6 of streets. But those sort of things should
7 be avoided to the extent it's possible.

8 CHAIR RODRIGUES: Senator Bracey,
9 you're recognized.

10 SENATOR BRACY: Thank you, I just have
11 one more question regarding adhering to this
12 minority district. If you -- if you pack too
13 many minorities in one district, could the
14 argument be made that they're trying to help a
15 one political party in the outside districts
16 to that minority district. I mean has that
17 case ever been made in court to that -- to
18 that example I just gave?

19 CHAIR RODRIGUES: You're recognized.

20 MR. NORBY: Yes, Senator, the legal
21 term for that is exactly what you said,
22 packing of a district, intentionally assigning
23 voters to a district on the basis of race in a
24 way that would not be justified like that and
25 under certain -- some circumstances, that

1 could violate Section 2 of the Voting Rights
2 Act.

3 SENATOR BRACY: Okay.

4 CHAIR RODRIGUES: Seeing no further
5 questions, thank you for your informative
6 presentation today. It was much appreciated.

7 MR. NORBY: Thank you, Chair.

8 CHAIR RODRIGUES: We're going to move
9 to Tab 3, the 2022 redistricting application
10 demonstration. Staff Director Ferrin, you're
11 recognized.

12 MR. FERRIN: Thank you. Mr. Chairman,
13 give me one moment here. Okay, there we go.
14 Sorry about that, I just had an issue with the
15 connection to the overhead system.

16 So, we will walk through the actual map
17 drawing application and give the members a
18 chance to ask questions about this, and see
19 how this process works. I would like to just
20 point out, and we have talked about this
21 already, that this is a -- the Florida House
22 and Florida Senate agreed to jointly use the
23 same redistricting application this cycle. As
24 opposed to last cycle and prior ones, where we
25 may have used different applications.

1 And we chose Esri, which is a -- they
2 offer an online, web-based GIS mapping program
3 for use and redistricting. Florida is one
4 of -- just one of many state and local
5 governments that uses their products for this
6 type of service. And Esri is in fact a
7 national industry leader in GIS applications
8 and technology.

9 We are, as has been mentioned,
10 providing access to this application at no
11 cost to the public, they can use it for free.
12 They do have to sign up for credentials and
13 log into the account, but the account is
14 being -- you know, web, cloud-based reserves
15 their plans there securely for their access.
16 And so, there are some credentials that are
17 required as we were discussing earlier.

18 So, when a user logs into the
19 application, the first thing they're going to
20 see is a prompt for -- to select a template
21 plan, and these template plans have been pre-
22 created for use in redistricting here in
23 Florida. We have three -- well, we have one
24 for Congressional, one for House, and one for
25 Senate, but there's actually two of each. So,

1 there is the benchmark plans that are located
2 here and labeled as such. See if that works
3 out. I'm sorry, they're prompted to select a
4 template for either Congressional, House, or
5 Senate districts each type has two versions,
6 one is blank preformatted for use in drawing a
7 plan from scratch, the second is the benchmark
8 plan.

9 We have the benchmark plans loaded into
10 the application so that users can use them for
11 comparison purposes to the drafts that they're
12 working on, or to even start from a benchmark
13 plan, if they so choose, they could start
14 there and make adjustments for equal
15 population from there.

16 So, in doing so -- and we will just
17 open up the -- we'll do the congressional one.
18 So, if we were logged in as a user, we would
19 pop in, see that template, this is going to
20 open the benchmark template. And so, from
21 here users will notice that this is saved as a
22 read only plan, so in order to save this plan,
23 they will have to come in and click the save
24 as, and they can give it their own name.

25 And this is because they're working

1 currently off of the generic template plan, so
2 they're basically making a copy of that, and
3 adding their own changes to it. Once saved,
4 users can come in here to the open plan dialog
5 box, and you will -- they will see that they
6 have a list of their plans, which this is a
7 demonstration account there's no plans.

8 And so, -- and then the shared plans
9 which includes the same templates that they
10 just choose from. So, all users will have
11 access to these at all times, and their saved
12 plans will be stored here.

13 You can also open up a local plan. So,
14 as I was discussing, the artifacts that are
15 available on the website, we had that .plan
16 file, that is a local plan. And so, a user
17 can download one of those from the website and
18 open it in their own account. They can also
19 save their own plan, and we will go ahead and
20 talk about that.

21 So, in addition to being able to save
22 it in the account they can save it down
23 locally, and store that plan in the .plan
24 format on their -- on their machine. Plans
25 can also be imported and exported. So, the

1 import as I was discussing earlier uses that
2 fixed text format, which is the block
3 assignment file.

4 And so, that will open up a browser
5 window and allow users to pop in there, and
6 select the location of the text file, that's
7 the universally formatted file. They can also
8 export that to either an image, a KML like we
9 discussed for Google Earth, again the fixed X
10 format, or a shapefile for consumption and
11 other GIS applications.

12 We have -- also have the options for
13 printing here as well, so users can print the
14 plans. But most of what's going to happen in
15 the map drawing application is going to be on
16 this create tab.

17 And so, this is where users will be
18 able to zoom in and around the map, they can
19 pan simply by clicking and dragging the map,
20 they can zoom in using the mouse wheel, which
21 as they zoom in you will notice all these
22 other lines that started appearing on the map.

23 Those are going to be track lines, and
24 as you zoom in you will see block group lines,
25 and then as you zoom in further you will see

1 the block lines. And so, that's adjusted
2 automatically as the user zooms in and out.

3 Going through the tools here over on
4 the left. So, these are the selection and
5 assignment tools right here, they allow you to
6 select geography using different methods. So,
7 this is a picking tool, so if we wanted to
8 assign just this block -- and I'm currently
9 here as unassigned, but this is where you
10 would change the district number that you're
11 working with here in this dropdown.

12 So, we could unassign this block by
13 just simply clicking on it, and that would
14 change it to unassigned. If you wanted to
15 undo that, you could use the undo button right
16 here, and that will go away. The other
17 selection methods are by rectangle, where you
18 can select a group of blocks all at once, by
19 Polygon -- so if you are trying to follow a
20 roadway perhaps, you might try to draw the
21 Polygon up the road, double click and it will
22 assign all the blocks that are touching the
23 Polygon -- and then the last type of selection
24 tool here is the line selection.

25 And so, this just allows the user to

1 click a straight line and assign blocks that
2 way after double clicking. And so, you will
3 notice that didn't pick up the ones in the
4 middle, just the ones on the edge. We also
5 have a two-stage assignment tool, and so this
6 allows users to kind of preview the geography
7 that they may assign.

8 And so you see how that sort of
9 selected the block, but didn't automatically
10 assign it? But we can come down to the
11 proposed tab down here and see that if we were
12 to assign that to the unassigned group we
13 would be moving 225 people out of District 3
14 into the unassigned territory.

15 If you want to abandon those proposed
16 assignments, you click the red X here and that
17 will undo it. If you wanted to execute that
18 assignment you would click this little lasso
19 tool here, and that executes it. And if you
20 wanted to zoom to the current selection in
21 your two-stage selection, you can click the
22 magnifying glass here and that will pan to
23 that selection.

24 The binoculars next to it are used for
25 finding unassigned geography. So if you are

1 compiling a district map and you think you're
2 done and want to find areas that are
3 unassigned, you can click that and it will --
4 if there are little slivers in road medians,
5 or other places between districts that may
6 have kind of gone unassigned as you were
7 working through the state, it will pan to
8 those directly.

9 It will list those here, and as you
10 assign them you can click refresh, and it will
11 -- it will take care -- you know, it will
12 refresh the unassigned list, and the next one
13 will appear, and you go on, and so on and so
14 forth. The other tools for moving around the
15 map, we have talked about -- I mentioned the
16 pan tool -- whoops.

17 So, as you're using -- you can use this
18 hand to pan around the map, you can use the
19 zoom tools. If you're not using a mouse
20 wheel, you can draw that box and that will
21 zoom in and out for you. The arrows next to
22 it manage the extents. And extent in this
23 context is your last kind of level of
24 geography view, so it will bounce back and
25 forth to whatever you were last looking, at or

1 go forward to the next one. The tools next to
2 it have to do with the level of assignment and
3 the -- their visibility.

4 And so, as I mentioned, as I was
5 zooming in and out, the different geometry was
6 showing, you can automatically -- you can
7 leave your selection level on automatic and it
8 will work with whatever is currently visible
9 on the map, or you can specifically select one
10 of these geometry layers. So, if we selected
11 county and clicked anywhere in here in
12 Alachua, this would propose that we unassign
13 Alachua County.

14 So, this can be used for any of the
15 levels of census geometry or left on
16 automatic. These sliders here will kind of
17 automatically display based on your zoom
18 level. So, if you want to see blocks from a
19 very zoomed out level, you can adjust this
20 slider and it will show you blocks. If you
21 want to see counties at that level, you can
22 adjust it and it will remove the other lines
23 and show you counties.

24 The other tools that are selectable
25 here are the base maps and themes. So, base

1 map the default is to the street map in the
2 background, but if you wanted to use satellite
3 imagery, you could do so. Just simply come in
4 there and change the base map, and you will
5 see satellite imagery as the -- for the areas
6 that you're drawing in.

7 The themes have to do with color-coded
8 overlays, and so if you were looking to -- if
9 you were working on drawing an African
10 American district, you would come down here
11 and select either the standard or alternative
12 VAP, and the alternative is the aggregated for
13 all Hispanic and all African American. The
14 standard breaks it out into the different VAP
15 categories.

16 And so, you can select alternative,
17 tell it you want to use a percent, and it will
18 color code the levels of geometry that are
19 available on your screen here with the
20 densities. And these are adjustable for
21 users, they can change the colors, you can
22 change the transparency, you can label them
23 with different characteristics. There's a lot
24 of options there for users.

25 So, that's going to cover most of the

1 create tools, I want to go through some of the
2 other items here. I did (inaudible) go
3 through all the file tab, the learn tab does
4 have links to the quick start guide, help
5 manual, and website on it.

6 So, if users are in here and they get
7 stuck, they can come find that information or
8 go to the website and contact us there. The
9 view settings have a lot to do with what's
10 being shown on the map. A user can come in
11 here and adjust the number of districts that
12 they're drawing. I should have gone up and
13 not down, I apologize.

14 So, if we were given a 30th
15 congressional seat by some chance, we would --
16 you could come in here and adjust the number
17 of districts, and the ideal population would
18 adjust automatically. The other settings here
19 have to do with visibility, so whether or not
20 your districts are showing up in color. You
21 can change or unchange that. The lines or
22 fill is an option, as well as names.

23 So, the numbers that are shown on them,
24 they can be displayed they -- the shorter
25 version without the word district can be

1 shown, and you can also show the population.

2 So, other tools are -- here are
3 available are deviation colorings. So, this
4 will -- if you want to adjust your deviation
5 to be a lower number, this will show you
6 whether or not the districts are -- which ones
7 are over or under populated, this is very
8 similar to the tool that we have on our
9 website, just incorporated into the
10 application.

11 And then we have some other tools here
12 for joining and modifying districts, joining
13 allows you to merge districts together
14 quickly, so if you wanted to merge Districts 1
15 and 2, you could come in here and do that
16 simply by selecting District 1 and District 2,
17 and hitting that button. And now we have
18 combined District 1 and 2 into District 1.
19 And we will -- that is not undoable, just for
20 the record.

21 And then, so some other -- let's see
22 here, that was the view tab. The -- I didn't
23 really talk about this and I probably should
24 have, already, apologize. But the specific
25 demographic fields that are listed in here,

1 the ones we have kind of gone over already, we
2 have the total field for the total population
3 of the district, the target, and the target
4 deviation.

5 So, this is -- excuse me, this is the
6 target deviation, so this shows you how far
7 off you are from the ideal population. And
8 this is -- this target, dev P, expresses that
9 as a percentage. The other fields here for
10 SRWVAP -- and these are all defined in the
11 help manual, this is single race white voting
12 age population in raw numbers, and then
13 expressed as percentage.

14 We have the same for non-Hispanic
15 black, for Hispanic black, for Hispanic not
16 black. We have other VAP which includes all
17 the other unmentioned combinations for
18 demographics, and then our BVAP is our black
19 voting age population, and HVAP is Hispanic
20 voting a voting age population, and those are
21 both expressed as raw numbers and percentages.

22 Also here on the review tab, just going
23 back to that, we have buttons here for the
24 compactness test. And we can -- this will run
25 in a pop-up window here and provide the

1 compactness scores for the districts as they
2 are drawn in the plan. And one of the things
3 that is in the meeting materials is the -- we
4 put together a little take away for the
5 senators -- for the members and posted this on
6 the website -- this is, I think, in the other
7 meeting materials documents -- on the
8 compactness metrics, and how they're used, and
9 how they're calculated.

10 This is the -- this document, if it's -
11 - if you have got it available, we should have
12 provided all the members of copy of it. But
13 the -- this is where we talk about how these
14 scores are calculated and sort of the rubber
15 band image that we have discussed in regarding
16 Convex Hull scores and the circular Reock
17 dispersion score, as well as the Polsby-Popper
18 score.

19 And as was mentioned, these all tests
20 for different things, so Convex Hull is a
21 score that tests for concavities or
22 indentations in district boundaries, and uses
23 the ratio of the area of the district to the
24 minimum convex Polygon that can enclose the
25 districts geometry, essentially the rubber

1 band. The Polsby-Popper score test for jagged
2 or squiggly district boundaries, and
3 calculates the ratio of the area of the
4 district to the area of a circle whose
5 circumference is equal to the perimeter of a
6 district.

7 And so, if you have a lot of perimeter
8 you're going to very large circle that could
9 encompass the district, and that ratio is
10 going to be low. The Reock score is --
11 basically tests for the district similarity to
12 a circle.

13 And as you heard counsel discuss,
14 circles are difficult to draw in all
15 circumstances due to Florida's geography, and
16 the fact that circles don't -- also don't
17 stack very well. Nonetheless, it's a relevant
18 score for compactness measurements, and is
19 used in in concert with the other scores, and
20 a visual interocular review as a way to
21 identify potentially outlier districts in
22 terms of compactness.

23 We have also provided on the last page
24 of this handout just a kind of table of some
25 common shapes for illustration purposes, and

1 some of their mathematical compactness scores.
2 And so you can kind of look through the list
3 here and see you know how a circle would score
4 on all of them, how a coil, or a crescent, or
5 a triangle, squares, we provide all these
6 different examples just as reference points so
7 that we can understand how they all work.

8 So, for example, a coil would get a
9 reasonably well Reock score, in Convex Hull,
10 score but do very poorly on Polsby-Popper
11 because it's essentially got a very long
12 perimeter that's wrapped around itself.

13 So, jumping back into the application
14 real quick, so the compactness test is
15 available as an independent button, as well as
16 in this review -- reports drop down here. So,
17 we talked a little bit earlier about the VAP
18 summary report that that can be generated
19 using this tool.

20 When a user comes in here to select
21 this, they have several different options, one
22 they can name it and title it at whatever they
23 would like to, so they can enter the name of
24 their plan there. They can format it as
25 either a PDF, excel, or HTML document, they

1 can e-mail it to themselves or -- and they can
2 select all the different fields that are
3 available in that report.

4 It defaults to the ones that we have
5 listed in the VAP summary reports on our
6 website, but this is also how users will
7 access the data for functional analysis. So,
8 you see here these last three categories are
9 registered voters, voter turnout, and election
10 results, and each one of these can be dropped
11 down and there's a number of fields here.

12 All of these fields are going to be
13 listed in the handout that says functional
14 analysis. They're described in the help
15 documentation in general terms, but we went
16 ahead and listed them out here. but each one
17 of these is going to be selectable by the user
18 to include in their own functional analysis
19 and determine how the districts are going to
20 perform accordingly.

21 So, we have the voter turn -- the voter
22 registration, we have the voter turnout, and
23 then we have the election results. So, for
24 the registered voters, that's available for
25 general elections the turnout is available for

1 both primary and general elections. So, the
2 way these are coded, you see here it says
3 GE20VT, that means that's voter turnout for
4 the general election in 2020.

5 And this goes all the way back from
6 2022 to 2012. And so, we have primary and
7 general turnout available, this is all broken
8 down by race and party, as would be done for a
9 functional analysis. That's what this data is
10 here for.

11 And then lastly, we have the statewide
12 election results from for the last ten years
13 where the statewide elections. So we go from
14 the 2020 presidential election, we have
15 cabinet contests, U.S. Senate contests,
16 gubernatorial contests -- and I think
17 that's -- I think I'm covering them all there,
18 and as well as the primaries broken down by
19 party.

20 So, here would be an example of the
21 2014 CFO contest in the general, and then here
22 it is in the -- that may be a bad example --
23 the primary is coded very similarly but with P
24 at the beginning. So, you have the primary
25 for attorney general here within the

1 democratic ticket.

2 And so, that's how that data is
3 accessed via the reports, other reports that
4 are available include we have the bill text,
5 but that's probably not something that's going
6 to get used by many users. That actually
7 generates text that can be converted into to
8 bill language that was displayed earlier.

9 The compactness report is here as well
10 so if a user wants to export the compactness
11 report or pull it up in a different format,
12 they can do that here. It's going to generate
13 the same set of numbers. And then the means
14 and bounds types of reports that are available
15 currently, one of the things that's available
16 in the application is a boundary analysis.
17 And we do have another set within the handout
18 materials for this.

19 The boundary analysis is something that
20 was brought into existence after passage of
21 the amendments in 2010 to try to measure the
22 compliance with that criteria, and to try to
23 define political and geographic boundaries.
24 And we have refined that since then.

25 The way it was worked in in 2012 we

1 have improved upon that, and so for this cycle
2 it's going to calculate the coincidence with
3 each type of geographical feature which
4 includes primary and secondary roads,
5 railroads, significant water bodies which are
6 contiguous water bodies that are greater than
7 10 acres. So at Bay or river that is a
8 Polygon and not a line.

9 So, not a -- not a stream, or a creek,
10 or a ditch, but a river or some other body
11 that's contiguous and can be followed for an
12 area that's up to 10 -- that's over 10 acres.
13 And then the municipal and -- or city and
14 county boundaries.

15 And so these reports will generate the
16 coincidence of that for each type of those
17 categories, and then it also is going to
18 generate the coincidence, or a -- or the
19 amount of distance that a district boundary
20 does not follow one of those types of
21 specified geography.

22 And so in that way this tool can be
23 used to identify outlier districts that do not
24 follow political or geographic boundaries, and
25 it can also be used to measure the consistent

1 use of a particular political or geographic
2 boundary type within a district or plan.

3 And it's -- it takes a few minutes to
4 run, but it's running here and so, we will
5 just -- I will just keep going through the
6 remaining materials while that's running so we
7 can -- everybody can take a look. But there
8 is an example of that report available in the
9 materials as well.

10 The other thing worth mentioning, and
11 we have kind of touched on this today a little
12 bit, is the municipal boundaries. Oh, hey I
13 forgot to mention that you have to turn off
14 pop-up blockers, so.

15 But the municipal boundaries handout
16 talks a little bit about the differing -- the
17 changing nature of municipal boundaries in
18 Florida. So, we did some calculation based
19 off of information that was reported to the
20 Census Bureau.

21 And that suggested that Florida has had
22 over 3,500 annexations since the 2010 between
23 the 2010 census geography cutoff date, and the
24 2020 census geography cutoff date. So, that's
25 between January 1st, 2010, and January 1st,

1 2020.

2 And we looked at that and did some
3 calculations on the geometry and other
4 geographical features of these cities, and
5 noticed that a number of Florida's cities are
6 -- as has been discussed -- not very compact,
7 and also have discontinuities and holes. And
8 so, we kind of looked at that in relation to
9 population size and geographic size, and
10 noticed that as cities get larger they tend to
11 have more of those type of features whether
12 they be holes, or discontinuities, or
13 compactness scores.

14 It's an item of note, just as we're
15 having the discussion about the use of
16 municipal boundaries and how those change so
17 frequently, that it's likely that our
18 municipal boundaries that we have embedded in
19 the 2020 Census data as of January 1, 2020,
20 may have already changed from a practical
21 standpoint.

22 And so, we have just included for
23 reference some of these information about the
24 number of boundary changes that have happened
25 in these municipalities over the last decade.

1 And I think there's 200 cities that have
2 changed their boundaries out of our 412. And
3 information as well about discontinuities
4 within cities and the count of the holes or
5 enclaves within cities. And this is all just
6 for note as we're having the discussion
7 related to this.

8 So, getting back to the software,
9 having gone through the reports, I want to
10 make mention of the compare tool. So, this --
11 as you're in the review tab, this open plan
12 button will allow users to open up a plan
13 that's existing within their account, or one
14 of the benchmark plans, or the benchmark -- or
15 the blank templates, and they can open that
16 plan and compare it against the plan that
17 they're working on.

18 This will facilitate comparison
19 between -- and you can do this for any of your
20 draft plans or the existing plans -- it's
21 going to -- the way the system handles this is
22 it creates cross marks or hatches across the
23 areas that are different.

24 And so, in this particular case we were
25 comparing the benchmark Congressional map to

1 the Senate benchmark map, and we could see
2 that the District 1 is showing as being the
3 same in this area because we're comparing kind
4 of apples to oranges here.

5 But it's an example of how this could
6 work, it's going to work a little bit better
7 if you're looking at two Senate plans side by
8 side that are -- you're checking for
9 similarities. These can be -- you can use
10 this tool to turn on or off the compare plan
11 which is the one you just loaded up, or the
12 active plan which is the one you're working
13 on.

14 So, you can kind of toggle those to
15 view the visibility of them and check whether
16 or not you want to see those differences,
17 which is going to make those disappear --
18 those cross marks disappear and you will just
19 be left with the outlines of the districts.
20 And you can also zoom to the differences in
21 the comparisons, and most -- probably most
22 importantly you can merge the differences.

23 And the way this works is it allows the
24 user to designate whether they want the
25 differing areas to become unassigned, to jump

1 to kind of take on the form of your active
2 plan, or the one that you're working on, or
3 the comparison one with -- the one that you
4 just loaded up. And so, that's -- how that
5 tool works.

6 The next thing to mention is the submit
7 tab. The submit tab is where a user -- well
8 actually, I apologize, let me back up and talk
9 about integrity reports -- integrity checks
10 real quick.

11 So, prior to submitting a plan, users
12 should run these integrity checks and these
13 are going to check for things like dual --
14 duly assigned territory population summary,
15 making sure that your population is in
16 balance, that all districts have been
17 assigned, that you're within your maximum
18 deviation for the districts, and your overall
19 range for the plan.

20 The null assignment checks for
21 unassigned territory. And then the
22 connectivity check checks for little slivers
23 that may be discontinuous. And so all of
24 these are going to be used to help ensure that
25 the plan meets the basic, constitutional,

1 right criteria of having the right number of
2 districts, the correct population assignment
3 is contiguous, and doesn't have any unassigned
4 territory.

5 So, after running that kind of type of
6 test, users can come submit the plan. And if
7 you click to submit -- this is still a read
8 only draft, so I don't -- I can't actually
9 walk through the submit process, but it's
10 going to prompt you for a few fields, such as
11 what is -- you know it's going to load preload
12 the plan name, allow -- ask for a username and
13 e-mail address, and then also offer the author
14 and opportunity to enter in some other
15 information about what their objectives were
16 in drawing the plan.

17 Once we receive when you submit that
18 plan, it's going to send us a -- we will get a
19 message that the plan has been submitted and
20 we will respond to the author at their
21 designated e-mail address with the
22 redistricting suggestion form that we would
23 ask them to fill out and return to us, so that
24 we can then post their plan on the web.

25 SENATOR BRACY: I have a question.

1 CHAIR RODRIGUES: (Inaudible).

2 SENATOR BRACY: And this question may
3 be for you, Chairman, but how are we going to
4 go about the business of our work in creating
5 maps? I understand this is for the public,
6 but what would be our process?

7 CHAIR RODRIGUES: At the next committee
8 hearing we're going to take the data that we
9 have gotten today from our counsel, regarding
10 what the requirements are from the Florida
11 Supreme Court in the last round of
12 redistricting, and we're going to put forth
13 the standards that will be used for the
14 drawing of maps.

15 That is what we will provide staff in
16 the charge, here are the standards we wish you
17 to draw maps around. And that's how staff
18 will move forward, based upon the input we
19 have given them. As members, we're free to go
20 into the site ourselves and begin working on
21 drawing maps, if that's what we choose to do,
22 as any senator in the body can do.

23 SENATOR BRACY: Follow up. So, the
24 staff will create the maps, will there be --
25 will there be a couple iterations of maps by

1 staff, and are we able to amend those as a
2 committee?

3 CHAIR RODRIGUES: Okay, so this will be
4 next week will be a full committee meeting,
5 where we together as a committee put together
6 the charge to the staff. Following that, the
7 subcommittees will meet. So, the staff will
8 put together proposals -- plural -- for each
9 of the subcommittees for them to consider.

10 The select subcommittees will review
11 those proposals, provide input to staff on
12 areas where they believe the proposals can be
13 improved, and the maps will get better as they
14 go through, as they take the input from the
15 members and go through the subcommittee
16 meetings.

17 The subcommittees in their third
18 meeting will then make a recommendation of
19 maps -- and I'm going to say I believe it will
20 be plural -- that they're recommending come up
21 to the full committee. Because they're select
22 committees, it will be recommendation and
23 there won't be a vote, it will be consensus.
24 Those maps will come to us.

25 When those maps come to us, we then

1 have the ability -- like any other piece of
2 legislation to debate it, consider it, and
3 amend it. And then, if we decide either of
4 the maps -- plural, I'm not sure what that
5 number is going to be, that will depend upon
6 the subcommittees -- are acceptable as they
7 are, we could in theory vote one of those maps
8 out.

9 If we decide none of those maps are
10 acceptable, then we can direct staff to areas
11 where we believe those maps may be improved.
12 And then we will go through a similar process,
13 potentially, that subcommittees went through,
14 where there's a different iteration of the
15 map, and it improves as it goes.

16 SENATOR BRACY: And then, once we have
17 our final maps, and we have the entire Senate
18 body vote on the maps, what is the process of
19 working with the House? Do we have a process
20 like we do with the budget, where we
21 (inaudible).

22 CHAIR RODRIGUES: The process would be
23 map that comes out of the committee --
24 supported by a majority of the committee would
25 then go to the floor of the Senate for

1 consideration. I believe the process would be
2 similar to what we do with the budget, we will
3 vote maps off of the Senate floor, if our maps
4 match perfectly with the maps that the House
5 has done, then, you know, we could be done.

6 If those maps do not match, then I sus-
7 - like the budgets never match, then I suspect
8 there will be a conference. And then we will
9 confer with the House and produce maps that
10 will then come back to the body.

11 SENATOR BRACY: Thank you.

12 CHAIR RODRIGUES: Sure. Senator
13 Thompson -- I'm sorry, Senator Gibson and then
14 I'll go to Senator Rousson. Senator Gibson,
15 you're recognized. Accidentally.

16 SENATOR GIBSON: (Inaudible). Thank
17 you, Mr. Chair. I have three questions, I
18 think. So, the first one I want to ask, since
19 we were on the data -- well, it's all data, on
20 the descriptions of population where you have
21 black voter -- what's it called? BVAP, other
22 VAP, did we use -- and I asked this earlier,
23 the census had different descriptors in terms
24 of ethnicity, we talked about when we first
25 started to race, or -- if you go back to that

1 screen, if it's not too much trouble?

2 Where the numbers that -- I mean, the
3 demographic descriptions -- which we're really
4 acronyms -- are, to see if they, kind of, line
5 up so people actually understand what they
6 mean. Not only what they mean, but what the
7 neighborhood, or the community looks like, or
8 the district would look like.

9 And I think on the map too -- and also
10 while, we're going back when an individual is
11 using the site to put together their map, and
12 they're looking at the demographics of a
13 current district maybe as the benchmark for
14 drawing the new one, is there any indication
15 of the change in the demographics in that
16 particular district since it was established
17 in -- when we did it in 2012, 13, 14, 15, 16?

18 CHAIR RODRIGUES: Do we have the
19 ability to see that?

20 MR. FERRIN: Thank you, Mr. Chairman.
21 I think if I understand your question, you're
22 asking if while you're drafting the plan you
23 can visualize changes in the district from one
24 census to the next, is that correct?

25 SENATOR GIBSON: The demographics in

1 the district and if those match. Is that the
2 one?

3 MR. FERRIN: So, --

4 SENATOR GIBSON: The census
5 descriptions, like two race, other, how does
6 that categorize on the -- when individuals go
7 into to draw their districts?

8 CHAIR RODRIGUES: You're recognized.

9 SENATOR GIBSON: If that makes sense.

10 MR. FERRIN: Let me try to answer the
11 categorization by race --

12 SENATOR GIBSON: Okay.

13 MR. FERRIN: -- first so SRWVAP is
14 single race, non-Hispanic, white voting age
15 population, the NHBVAP is non-Hispanic black
16 voting age population.

17 SENATOR GIBSON: Um-hum.

18 MR. FERRIN: HBVAP is Hispanic black
19 voting age population. In order to get to the
20 BVAP, which is all black voting age
21 population, you can add the NHB and the HBVAP.
22 So, you're adding not-- Hispanic is treated as
23 a different question than race in the census
24 data, so you can be black and Hispanic, or
25 black and non-Hispanic.

1 And in our circumstances, we treat all
2 multiracial responses, if they include African
3 American or black, we count them as such. And
4 that's per DOJ guidance.

5 SENATOR GIBSON: Um-hum.

6 MR. FERRIN: So, if an individual was
7 African American and Asian, we would still
8 count them -- and non-Hispanic, they would be
9 counted in this non-Hispanic black voting age
10 population, provided they were over 18. And
11 so, we -- the way this this all works, and so
12 the other VAP category catches the other ones.
13 So, if a -- an individual is Asian and Native
14 American, --

15 SENATOR GIBSON: Um-hum.

16 MR. FERRIN: -- and not African
17 American and not Hispanic, they would fall
18 into the other VAP category for our purposes.
19 And when you add these up, you can add up
20 single race white, non-Hispanic black,
21 Hispanic black, Hispanic not black, and other
22 and you will get the total. And that's a big
23 part of the way -- we why we break it down,
24 because you can count --

25 SENATOR GIBSON: Um-hum.

1 MR. FERRIN: -- there's a lot of
2 different ways to categorize and pull data,
3 but we want to make sure that it adds up to
4 100 percent.

5 SENATOR GIBSON: Um-hum.

6 MR. FERRIN: And that the sub to-- the
7 subgroups equal the total.

8 SENATOR GIBSON: And so it --

9 CHAIR RODRIGUES: You're recognized.

10 SENATOR GIBSON: So, I guess it just --
11 it doesn't really matter what the district
12 looked back before, because you're not really
13 tracking that, you just want to see what it
14 looks like now? But I thought that was the
15 benchmark part?

16 CHAIR RODRIGUES: You're recognized.

17 MR. FERRIN: So, the -- we're because
18 we're only drawing on 2020 data, that's sort
19 of what matters. We can review the benchmark
20 plans, but we're reviewing them with the 2020
21 population figures. Reviewing them with the
22 2010 population figures is not going to yield
23 an apples-to-apples comparison, because of
24 Florida's uneven and distribution of
25 population growth.

1 And so if we were to look at --
2 specifically at the 2010 numbers and try to
3 compare them to the 2020, there may have been
4 a lot of population shifts within that
5 district that would throw that off. And
6 that's why we try to -- we standardize it all
7 on 2020 data. So, we would be looking at the
8 benchmark district configurations with the
9 2020 Census data applied.

10 SENATOR GIBSON: Okay. One last follow
11 up?

12 CHAIR RODRIGUES: You're recognized.

13 SENATOR GIBSON: Thank you Mr. Chair.
14 I wanted to go back to the map -- the maps and
15 the submission of maps by the public, after
16 they fill out the form, and I guess we
17 received the map when they fill out the form
18 first? And then, if a map is to be considered
19 that is submitted by the public, does a
20 senator have to file that map? Or do they --
21 they don't have, to but the only way that map
22 could be considered is if it were filed by a
23 senator, or what?

24 CHAIR RODRIGUES: That's correct.

25 SENATOR GIBSON: Okay.

1 CHAIR RODRIGUES: And the reason we
2 have done that is if you look at the
3 technology that's available, the ability to
4 draw district maps has largely been automated.
5 It's theoretically possible that we could be
6 flooded with thousands of maps.

7 SENATOR GIBSON: Um-hum.

8 CHAIR RODRIGUES: And so, for two
9 reasons, one to ensure that we don't have a
10 shadow operation there needs to be a sponsor,
11 which is a member of the body who has met with
12 the person who has submitted the map,
13 determined that there's no ill intent, and
14 understands the methodology that they have
15 chosen to draw the map, and can then present
16 that to us for consideration.

17 But the second is, we don't want our
18 staff overwhelmed with thousands of
19 submissions and not even looking at what the
20 senators are preparing, or what we have
21 directed them to prepare with the criteria
22 that we will give the charge to next week.

23 So, by treating this like every other
24 piece of legislation, which is nothing gets in
25 a bill until a member of the public gets a

1 member of the body to sponsor it, we feel like
2 we're being consistent and we're preserving
3 the most precious element that exists at this
4 point, which is time for committee staff to
5 work on that which the body, the senators,
6 want them to be working on.

7 SENATOR GIBSON: Thank you, Mr. Chair.
8 And that's more clarity so, you know, I'm
9 interested in making sure, and I know we all
10 are that the public fully understands this
11 process, and that they also understand a
12 submission is one thing, but how it gets to
13 the -- to the committee is it's absolutely
14 something else.

15 CHAIR RODRIGUES: Indeed.

16 SENATOR GIBSON: Thank you.

17 CHAIR RODRIGUES: Senator Rouson, you
18 had a question?

19 SENATOR ROUSON: Yes, and it concerns
20 the public comment. Has there been any more
21 thought or consideration to how the public
22 will comment and interact with us as committee
23 members, other than submitting a map on their
24 own?

25 CHAIR RODRIGUES: The question of

1 whether we will do the virtual hearings,
2 because I know you have asked that in the
3 past, is still under consideration. I
4 anticipate we will have a final answer on that
5 soon, if not this week then at the next
6 committee week.

7 In the interim, until that decision is
8 made one way or the other, we still have the
9 ability for the public to comment like they do
10 with any other committee which is hearing
11 committee and submit public testimony.

12 And we have gone I think even further
13 with the website by updating the comment
14 section to accommodate anyone who cannot make
15 it to a committee hearing, but wishes to get
16 their comment on the record which will be
17 reviewed by us as members as well. But to the
18 question of the virtual hearings, that still
19 under consideration at this point.

20 CHAIR RODRIGUES: Any other questions?
21 Seeing none. We will move at this time to the
22 next tab on the agenda, which is public
23 comment. We have one public comment card
24 that's been submitted if anyone wishes to
25 comment please prepare a card and get it to a

1 member of the sergeant's office. Cecile Scoon
2 with the League of Women Voters. Welcome
3 back.

4 MS. SCOON: Thank you. Thank you for
5 this opportunity. My name is Cecile Scoon,
6 I'm president of the League of Women Voters of
7 Florida, and really listened intently and was
8 taking notes at everything that was said and
9 presented that is very, very helpful. And I
10 want to thank counsel, we really gave a primer
11 on about 3 topics all in one.

12 So, as a practicing lawyer myself, I
13 was really impressed. I also want to thank
14 the committee for listening to the people, and
15 listening to the League and others in our Fair
16 Districts Coalition, we had asked for some
17 changes with regards to the Adobe, and people
18 not having printers at home, and we feel
19 heard.

20 And there were some changes made, and
21 we want to continue that ongoing conversation
22 with you as you're, you know, struggling to
23 capture so many balancing acts of Tier 1, Tier
24 2, State, Federal it's just -- it's a lot, you
25 know, it's really -- it's really a lot. But

1 that is really important for us to advocate
2 for the citizenry.

3 I also wanted to say that we strongly
4 believe in the hearing process. Why? Because
5 so many people are not going to be able to
6 drive, and take off work, and stay in
7 Tallahassee and do that from across this
8 massive, beautiful state that we have.

9 And so that interaction of being able
10 to actually talk to you virtually is next to
11 being actually being physically present. And
12 that's really, really important to hear your
13 response, or if there's a question, you might
14 question as you did last time.

15 You have that opportunity that is
16 nonexistent with putting a comment in a box.
17 And you also want to encourage people to
18 believe in the system, and to feel like
19 they're heard. And there's nothing like
20 having a conversation to actually give that
21 impression.

22 I had a couple of questions with
23 regards to so much that we heard today, that
24 Es-- the E-S-R-I application which allows for
25 the functional analysis, when was that added

1 to the website?

2 CHAIR RODRIGUES: October the 8th.

3 MS. SCOON: Okay. And when was it made
4 accessible to the public?

5 CHAIR RODRIGUES: October the 8th.

6 MS. SCOON: All right.

7 CHAIR RODRIGUES: And just for the
8 record, when we rolled the website out, we did
9 not have that voter data at that time. So,
10 when we received the voter data we immediately
11 put it on the website.

12 MS. SCOON: Okay.

13 CHAIR RODRIGUES: And it's important
14 for me to say that because there was an op-ed
15 out there, that many people have seen, that
16 alleged that we were hiding data from the
17 public. We were not, we did not have
18 possession of the data at the time the website
19 went up. When we received the data, we put it
20 on the website.

21 MS. SCOON: And when did the data get
22 received then, I guess?

23 CHAIR RODRIGUES: October the 8th we
24 received it and we put it out. The website
25 went up September 22nd, with the data we had

1 available. And then when we received the
2 voter data, we put it on the website.

3 MS. SCOON: Thank you, that's helpful.
4 You were mentioning articles, and of course
5 we're all trying to keep abreast of the many
6 things that are out there so we can educate
7 ourselves.

8 And you were quoted in an article the
9 Florida Phoenix, and they expressed that it
10 was your belief that because of the change in
11 the Shelby case, of taking away preclearance,
12 I guess, that there was not a need for a
13 traveling show on the redistricting. Is that
14 your belief?

15 CHAIR RODRIGUES: They actually did not
16 recount the conversation correctly, that came
17 out of the press guy (inaudible) at the first
18 committee meeting. And what I said was, as a
19 result of the Shelby case, there's no longer a
20 requirement that we have the public hearing
21 traveling roadshow.

22 That was directly tied to the Shelby
23 decision, where we had to go out and take
24 public input. Specifically, if you go back
25 and look at what we received in public input

1 during those tours of the last two
2 redistricting cycles, it was primarily the
3 public letting the legislature know these are
4 the communities of interest that we want you
5 to keep together. So, what I said was it's no
6 longer required.

7 Now what I raised was the question, now
8 that Fair District has passed and the Court
9 made clear in the 2012 litigation that the
10 Fair Districts Coalition brought forward that
11 the legislature can't consider communities of
12 interest, because it is not in the objective
13 standards spelled out in the Fair Districts
14 Amendment that does beg the question of
15 whether we need to have a traveling roadshow
16 to receive that information, if we can't use
17 it once we have it.

18 MS. SCOON: Would you agree with me
19 that the communities of interest also include
20 racial and language minorities?

21 CHAIR RODRIGUES: I don't believe
22 that's traditionally how it's been defined,
23 but if you would like to set up a meeting with
24 me, I would be happy to sit down and have a
25 conversation with you. But this is public

1 comment, so rather than us continue with the
2 back and forth, please continue with your
3 comments.

4 MS. SCOON: Okay.

5 CHAIR RODRIGUES: Thank you.

6 MS. SCOON: Thank you, I will take you
7 up on that offer. I appreciate that. Let's
8 see, there was some discussion on the
9 geocoding that's going to be available, I
10 think, that was mentioned so that citizens
11 could check to see, you know, where they are
12 where their family might be with any districts
13 or maps that they may be drawing, did I hear
14 that correctly?

15 CHAIR RODRIGUES: Ma'am, we're not
16 going to continue with Q&A. You can make your
17 comments, if you have questions, you and I can
18 sit down directly --

19 MS. SCOON: Okay.

20 CHAIR RODRIGUES: -- and have a
21 conversation.

22 MS. SCOON: I will convert that into a
23 comment then. The concern was that, frankly,
24 I believe I heard that citizens could use it
25 to check their -- where they were in the

1 district.

2 And that same ability to check where
3 you are in a district that you're -- being
4 drawn, there's a concern that representatives,
5 or senators, or persons might also look to see
6 and that may influence their decision making
7 if they're looking to see also. So, the
8 concern is the use of the geocoding and that's
9 open for everybody to use.

10 And I want to thank you again for the
11 very broad review, and certainly the legal
12 review was very helpful. Thank you and we
13 will follow up with a meeting between us.
14 Thank you very much.

15 CHAIR RODRIGUES: I look forward to it.
16 Okay, seeing no other public comment cards
17 that concludes public comment. We're at the
18 portion of the meeting where we can do final
19 comments and thoughts. I have couple of
20 things that I want to address before I move to
21 the committee members.

22 The first is Senator Rouson, I
23 appreciate the questions you had earlier
24 regarding the op-ed that was out there. We
25 were able to clarify a number of the

1 misrepresentations that were in that op-ed.
2 Some of the other misrepresentations that were
3 later clarified by the presentations from
4 Staff Director Ferrin was the op-ed said that
5 data could not be downloaded from our website
6 and then uploaded into another third party
7 application, and conversely data from a third
8 party application could not be uploaded into
9 our system as we learned when both of those
10 systems were demonstrated. That is
11 inaccurate, we can allow for the downloading
12 of data and for the uploading of data. And so
13 we have that ability.

14 Another inaccuracy that needs to be
15 addressed was thankfully brought up by our
16 speaker from the League Women Voters that we
17 were able to address, the allegation that we
18 were hiding data. We were not hiding data.
19 And just to make sure that I'm completely
20 clear with the answer I gave you, the 10-8 was
21 when the data have been completely integrated
22 into the software.

23 As soon as that data was integrated, it
24 was uploaded. But prior to that, it had not
25 been integrated into the software. And so, I

1 want to make sure I'm completely clear on
2 that. But as soon as we had that, we made it
3 available.

4 There was another allegation in that
5 op-ed that we were asserting legislative
6 privilege and telling FSU with our contract
7 with them not to fulfill public records
8 request, that is inaccurate. Public records
9 request can be fulfilled, what is required is
10 that FSU must notify us when a public records
11 request has been received.

12 And the reason for that is, we are the
13 custodians of the record, and the mere request
14 of a public record, is in of itself a public
15 record that would have to be maintained by us
16 as well.

17 And so, we never asserted legislative
18 privilege, we never told FSU to not fulfill
19 any public records request, we just made it
20 clear that should they receive those public
21 records requests the legislature must be
22 notified for us to fulfill our
23 responsibilities under the Government Sunshine
24 Statutes.

25 And so, I think that covers the

1 misrepresentations that were out there that we
2 need to have clarified on the record. And at
3 this point, I will turn to other members if
4 there are any comments or other business that
5 needs to be brought forward. Seeing none.
6 Chair Broxson moves that we adjourn. Is there
7 any objection? Seeing none, show the motion,
8 adopted. We are adjourned. Thank you.

9 (End of Video Recording.)

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CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings, and that the transcript is a true record, to the best of my ability.

DATED this 15th day of March, 2023.



WENDY SAWYER, CDLT

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EXHIBIT 19

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TRANSCRIPTION OF AUDIO FILE
 GOVERNOR'S PRESS CONFERENCE
 THE FLORIDA CHANNEL
 March 29, 2022

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

1 GOVERNOR DESANTIS: A quorum is present,
2 Mr. President.

3 GOVERNOR DESANTIS: Good morning. I have
4 two announcements. The first one I'm making in
5 conjunction with Attorney General Ashley Moody. If you
6 look at what's going around the country in Florida,
7 we've been very clear that we want people to be able to
8 make their own decisions. We don't believe in COVID
9 theater, and you do see lingering elements of that.

10 Although even some of the most
11 restrictive states are starting to repeal vaccine
12 passports and some of these mandates, you still have
13 this federal rule that was just extended, forcing people
14 to wear masks on airplanes. And it's not something
15 that's grounded in any science.

16 Because if you have somebody sitting in
17 the window seat and they're nibbling on peanuts for two
18 and a half hours, they can have their mask down. You
19 have the person in the middle seat that is not eating.
20 If they just wanted to read a magazine without their
21 mask, then somehow that would be a big problem. And
22 it's turned the airlines into having to police this.
23 It's created a lot of unruly passenger situations
24 because it's so frustrating for people. And so this is
25 something that I've been opposed to for a long time.

1 Unfortunately, there's not really been
2 successful legal challenges to this. And I think most
3 people thought that this was going to go to the way of
4 the buffalo. But you have an extension, then you have
5 Fauci coming out saying they may need to impose
6 additional restrictions in the future, and we need to
7 let people live their life. Obviously, in Florida, what
8 we have control over, we do that. But in this federal
9 mandate for air travel, I think is as good as we've done
10 on domestic tourism, and we're the number one state
11 people seem to want to come to, I think more people
12 would want to fly if they did not have to have that for
13 two hours or two and a half hours.

14 And so I'm going to let Attorney General
15 Moody come up and then I'll make my second announcement.
16 But she's leading the effort to bring a legal challenge
17 to this because I think it's important, in and of
18 itself, but there's also an important legal principle at
19 stake. So I support her efforts in this. It's amazing
20 that this has gone on as long as it has, and I'm going
21 to let her come up and talk about it. Go ahead.

22 MS. MOODY: Well, good morning, and thank
23 you for being here for this important announcement.
24 This morning, the State of Florida, joined by 20 other
25 states, has filed an action against the Biden

1 Administration and multiple parties within to challenge
2 the mandatory mask mandate within transportation hubs
3 and on airplanes.

4 This rule, this order is completely
5 outside the bounds of the scope of federal power, as we
6 have argued successfully in numerous other cases. The
7 CDC and the federal government and the Biden
8 Administration never had the power to issue this order
9 originally. And now, we are seeing that almost 75
10 percent of these unruly, sometimes violent incidents are
11 based on this unlawful mask mandate.

12 And I know that if you travel at all,
13 everywhere you go, people are frustrated and taking it
14 out on the employees that are charged with enforcing
15 this rule that they have to wear a mask when it is an
16 unfounded rule and order. And many people don't realize
17 that this unlawful order carries with it not just civil
18 penalties, but criminal penalties. Although, in the
19 same order in which they mandated folks unfounded or
20 unnecessarily wear masks throughout the United States
21 and transportation hubs -- and by the way, that includes
22 taxis and Ubers and ferries and all of these other
23 transportation methods, not just planes -- they also
24 included with it a criminal penalty. So you can imagine
25 if you are a flight attendant or someone who works

1 within an airport or on a ferry or an Uber driver, you
2 are now charged with enforcing this unreasonable
3 requirement.

4 And what is not surprising is that,
5 within the same mandate that's unlawful, they say, we're
6 going to issue a civil and criminal penalties, but don't
7 worry, we probably won't even enforce the criminal
8 penalties, which is M.O. for this administration
9 throughout the nation, which causes so much chaos and
10 confusion when they don't even enforce their own laws.

11 This must be lifted. We have a lot of
12 faith in the Court that they will agree with our legal
13 analysis. I think the governor would agree that we
14 would hope and still demand that this administration
15 take their tough on travel stance to the border. It
16 seems that the protection of the American people takes a
17 back seat to this radical scheme.

18 And so this is meant to push back on, yet
19 again, another unlawful power grab by the Biden
20 Administration. The governor and I are so proud to lead
21 states across this nation, 21 in total, to ensure that
22 this administration simply stays within their scope of
23 power and follows the law. Thank you so much.

24 GOVERNOR DESANTIS: And, if you remember,
25 we won against the CDC in the Middle District of Florida

1 with how they handled the cruise ships. They would have
2 never moved if we had not brought that suit. And so
3 Attorney General deserves a lot of credit for that.

4 We had a judge rule for Norwegian on a
5 bizarre analysis of law saying First Amendment grounds
6 meant we couldn't bar vaccine passports. That's on
7 appeal. I can't imagine that that would stick as law.
8 That was a really bizarre ruling.

9 But we were able to win on the big cruise
10 ship case. We were also able to win on the OSHA mandate
11 case. And then because we've provided substantive
12 protections for Florida employees, we've been able to
13 save the jobs against a lot of other vax mandates. So
14 we're very much proud of that.

15 And we're also getting traction in this
16 immigration case that we're doing against catch and
17 release and some of Biden's policies. And so I think
18 the state has done some effective litigating on behalf
19 of Floridians to push back against an overreach from the
20 Biden administration. I think Attorney General has done
21 a great job of leading the way on that regard.

22 I'm also here to announce that prior to
23 coming into this press conference, I officially vetoed
24 the congressional redistricting map, as I said that I
25 would. And so we have a veto message that has attached

1 this stellar memo by our general counsel, Ryan Newman,
2 who lays out what he has been saying from the very
3 beginning as to why the approach that the legislature
4 took was defective in their, I guess, understandable
5 zeal to try to comply with what they believe the Florida
6 Constitution was required. They forgot to make sure
7 what they were doing complied with the 14th Amendment of
8 the U.S. Constitution. And so I think that this is a
9 very cogent analysis of what we see as the problems.

10 Later this afternoon, I will be issuing a
11 proclamation to do a special legislative session. That
12 is going to be in the middle of April. We're working on
13 the precise dates with the legislative leaders, but I
14 would count on sometime after Easter, we will be able to
15 come back in and be able to get this across the finish
16 line. So I want to thank our GC for doing this, and
17 that veto is official.

18 And with that, we're happy to take
19 questions about any of these legislative calls.

20 FEMALE REPORTER: -- legislative calls
21 for the special session in mid April, will data privacy
22 --

23 GOVERNOR DESANTIS: So here's what I
24 would say. I would love to have property insurance.
25 I'd love to have data privacy. I would love to have

1 constitutional carry. There's a lot of great things,
2 but we just went through a legislative session where
3 they failed to deliver on some of those priorities. And
4 so what I will do is I will ask the legislative leaders,
5 is there something that you can get across the finish
6 line? And I will encourage them to do that, because I
7 think that there's a lot of key things that we could do.
8 So that is a possibility.

9 The initial call will just be for the
10 congressional maps, but it is absolutely possible that
11 when we actually convene, when they actually convene for
12 this special session, that you could see additional
13 issues raised in it.

14 MALE REPORTER: Do you think that where
15 the legislature left the property insurance reform bill
16 from the session unfinished, do you think that there's
17 room for common ground for a special session, or do you
18 think that issue has to be handled next year?

19 GOVERNOR DESANTIS: It won't go all the
20 way to next year. I think at the latest, it will be
21 when Speaker Renner takes over. I think right after the
22 election, they will punch it through, I think. So
23 that's the latest it will go. I'd like to do it before
24 then because I think it will help try to realign
25 incentives in the market.

1 You know, everything is going up.
2 There's a general inflation that's affecting everything.
3 But as you heard Altmaier talk about how Florida had 8
4 percent of the claims nationwide and over 75 percent of
5 the litigation. Clearly, there's some dysfunction in
6 this. SB 76 did do some good things, but that was a
7 compromise, and I don't think it did quite enough. We
8 have had a couple of carriers come in, which is great,
9 but I think if we did more, we'd be able to do it.

10 Now, the Senate was working on it. We
11 were very supportive of that, but basically that ran
12 into a brick wall in the House. And so if the House is
13 willing to entertain it, then they should absolutely do
14 it.

15 I am pretty confident, though, in my
16 conversations with both Senator Passidomo and Speaker
17 Designate Renner, that this will absolutely become a
18 reality, and it will not wait until the actual session
19 in 2023. It will be done this year.

20 MALE REPORTER: How displeased were you
21 with the FDLE commissioner's performance, and did it
22 involve immigration enforcement?

23 GOVERNOR DESANTIS: No. Look, I think
24 he's faithfully served the state for decades, and we
25 really much appreciate it. He's been in that position

1 for over four years, four or five years. So that's a
2 long run, and I think now we're in a situation where we
3 have an opportunity to focus on some other issues. But
4 I think it was just kind of a natural course of thing,
5 and I think he served the state well, and I wish him
6 well.

7 MALE REPORTER: I assume you have spoken
8 with legislative leaders, and they're willing to come
9 back to a special session?

10 GOVERNOR DESANTIS: Yes, they are.

11 MALE REPORTER: So you are not expecting
12 this to directly go to the Courts?

13 GOVERNOR DESANTIS: No, exactly. So,
14 yeah, so as I think you know, many of you know, there
15 have been both in state court and federal court, there
16 have been malapportionment cases that have been filed.
17 And that's basically, if you don't have a congressional
18 map, our state gained population, we clearly need 28
19 districts, and so people would potentially have a claim
20 there. Those Courts were starting to move on that. I
21 thought it was premature, given that this hadn't even
22 been presented to me. But clearly now with the veto and
23 then later today with the announcement of a special
24 session, I would imagine that those proceedings would be
25 stayed because clearly this is the legislature and then

1 in this case, the governor's prerogative, since I have
2 to put my signature on it to be able to do this.

3 So you're not going to have it drawn by a
4 court. I think we all agree that we have to work
5 through this, and we understand kind of if the
6 legislature's map, let's say the Senate's map had gone
7 in, that would have been challenged on some of the
8 grounds that we've articulated in this memo. If they go
9 in a direction that we were advocating, it will be
10 challenged on the other side. We understand that, and
11 so that will happen. But it is absolutely, I think, the
12 responsibility of the legislature to produce a map that
13 can actually be signed into law.

14 MALE REPORTER: Forgive me for only just
15 being able to scan it very quickly, sir, I do like to
16 read things before I ask you questions. But I would
17 like to ask you about it looks like you're talking about
18 non diminishment and how you feel that maybe the non
19 diminishment standard that they've used is violative of
20 the U.S. Constitution and federal law.

21 But in how you want them to approach it,
22 are you taking the position that you want -- you think
23 that ultimately there needs to be litigation that would
24 maybe knock out just that portion? Or do you think all
25 the fair districts needs to go and should be tossed

1 aside?

2 GOVERNOR DESANTIS: Well, look, I think
3 our goal in this was just to have a constitutional map.
4 We were not trying to necessarily plot a type of
5 litigation strategy. I think if you did a map along the
6 lines that we had proposed, that will be challenged and
7 there'll be plaintiffs that will say that that big
8 district in North Florida, the District 5, that that's a
9 diminishment and that must be put in. And they're going
10 to ask courts, most likely state courts, up to the
11 Florida Supreme Court, to put that district back in, and
12 they will cite that provision of Florida constitution.

13 We will obviously say it's
14 unconstitutional to draw a district like that where race
15 is the only factor. And so that will be a decision.
16 That probably is enough to resolve the map.

17 However, if it got to the point where you
18 said that this is what the Florida constitution
19 requires, 100 percent, and the non diminishment has not
20 been fully vetted or fleshed out because we've only had
21 one redistricting cycle, we basically said non
22 diminishment means you can't diminish a VRA protected
23 majority minority district like that's the maximum it
24 could be and satisfy the federal constitution. If they
25 believe that, well, then obviously this would not be

1 implicated and they could uphold the map. If they
2 didn't believe it, if they did the legislator's analysis
3 where even a 30 percent couldn't be diminished, well
4 then I think then you run into where the redistricting
5 amendments become problematic.

6 And I do think just as a constitutional
7 matter, the diminishment only applied under Section 5.
8 It doesn't even apply anymore, but at the time it only
9 applied under covered jurisdictions. There was
10 pervasive evidence in the middle part of 20th Century of
11 basically not allowing very many people to vote based on
12 race. And so you had very tough medicine, but there was
13 a showing as to why using race in that regard was
14 something that was appropriate.

15 The redistricting amendments in Florida
16 just said the entire state with no showing that it would
17 be appropriate to use race in that fashion. I think
18 that that raises huge constitutional concerns. I also
19 think there's an internal inconsistency in Florida's
20 redistricting amendments in the Tier 1, because on the
21 one hand, it says you can't use criteria that would
22 favor an incumbent or a political party. But on the
23 other hand, you say that you have to allow, under
24 Section 2, the minority candidate to elect the candidate
25 of their choice. The problem is, when they do that

1 functional analysis, what is the functional analysis
2 leading to? It is leading to a partisan analysis.
3 Because the analysis is, can the district elect an
4 African American Democrat? So you have to consider
5 partisanship to be able to satisfy that. So I think
6 that there's an internal inconsistency there.

7 So to sum up, does it mean that the fair
8 districts will necessarily have to be challenged? No,
9 because they can interpret that non diminishment
10 provision, saying it doesn't apply, short of a majority
11 minority district. And then I don't think it would
12 raise that. If they say non diminishment applies to any
13 district based on whatever, even 30 percent, 35 percent,
14 then I think that puts that in peril in terms of how
15 that would do under the 14th Amendment.

16 MALE REPORTER: -- before the special
17 session takes place?

18 GOVERNOR DESANTIS: I don't know. I mean
19 it just depends. This is a big budget, as you guys
20 know. We go through -- I'm going through all the bills.
21 I've gone through a number of them, but I got a lot more
22 legislation to go through. We're going through -- I
23 haven't even had a full budget briefing. We do this
24 over a long period of time. We go over the different
25 projects. So I just don't know when that's going to be

1 done.

2 My sense would be it's going to take us
3 several weeks to go through the budget situation. So I
4 would not anticipate it being done by then, per se, but
5 it's not really related to that. It's just a matter of
6 it takes time to go through and vet these things.

7 I think most of you know, the House came
8 in with a budget, so my budget was 99.7 billion. But in
9 fairness to the legislature, they increased the Medicaid
10 by hundreds of millions of dollars. They increased the
11 work program by a lot. So just constant, it would have
12 been over 100 billion even with my budget. So the House
13 did 105 billion; the Senate did 108 billion. They go to
14 conference and they come out with \$112 billion. I don't
15 know how that works, but that's just the reality.

16 So it just means we're going to have to
17 scrutinize this. I mean, I think if you look at what's
18 going on with our receipts, I think we had, what, \$450
19 million above estimate for February. So they literally
20 are doing this estimate in January for February. We're
21 already almost a half a billion over. I think March is
22 going to be very strong. I haven't gotten those updates
23 yet. So we're going to have more surplus general
24 revenue than we even forecasted. And this is one of the
25 biggest surpluses.

1 At the same time, I want to protect that
2 because we don't know what's going to happen. If you
3 heard Watch the Cabinet meeting. They had Ben Watkins
4 talk about interest rates are going up, that could
5 potentially be a drag on the economy. You could end up
6 with Biden, before he's out of office, with some type of
7 a recession. So I want to make sure we have a cushion
8 to be able to deal with that.

9 So it just requires us to go through a
10 lot of things. Sometimes it's actually easier for the
11 legislature to do the budget when it's a little tighter.
12 Because I think what they're able to say is, look, we're
13 just not -- can't afford it. This year, they couldn't
14 tell anybody that their projects couldn't be afforded
15 because honestly, we could afford it if we wanted to.
16 It's just a matter about how much money do you want to
17 make sure that we're building for future events and
18 future surpluses?

19 Also, I just want to say one thing in
20 relation to one of the things I saw yesterday. We
21 signed the Parents Rights In Education Bill. It's
22 interesting when, like, a Disney owned ABC would put
23 that out on Tweet, they'd say, Governor DeSantis signs
24 bill to prohibit instruction in sexual identity and
25 gender identity in some grades. Some grades? Why would

1 they say some grades instead of K through 3? It's just
2 amazing if you're trying to inform the -- so you saw a
3 lot of this. But then for Disney to come out and put a
4 statement and say that the bill should have never passed
5 and that they are going to actively work to repeal it, I
6 think, one, was fundamentally dishonest, but two, I
7 think that crossed the line.

8 This state is governed by the interests
9 of the people of the state of Florida. It is not based
10 on the demands of California corporate executives. They
11 do not run this state. They do not control this state.
12 I also thought it was interesting. I talked to the
13 Speaker of the House yesterday afternoon, and he said
14 Disney never called him while they were putting this
15 through the House. They didn't seem to have a problem
16 with it when it was going through. If this was such an
17 affront, why weren't they speaking up at the outset?
18 And yet they won't. And then for them to say they're
19 going to actively work to repeal substantive protections
20 for parents, as a company that is supposedly marketing
21 its services to parents with young children, I think
22 they crossed the line.

23 And, you know, people ask me kind of
24 about their posture on the bill. I said, you know what,
25 if we would have put in the bill that you were not

1 allowed to have curriculum that discussed the oppression
2 of the Uyghurs in China, Disney would have endorsed that
3 in a second. And that's the hypocrisy of this. And
4 we're going to make sure we're fighting back when people
5 are threatening our parents and threatening our kids.

6 MALE REPORTER: Is the legislature going
7 to agree with your interpretation of the fair districts?

8 GOVERNOR DESANTIS: What's that?

9 MALE REPORTER: Is the legislature going
10 to agree with your interpretation of --

11 GOVERNOR DESANTIS: So here's what I
12 think. I think they agree on this. I think what they
13 said is, initially, we just have to follow the case law
14 from last decade, which I'm not sure, quite frankly, is
15 going to end up being good law if this goes up to the
16 current court. And we're going to follow the text of
17 the state constitution. And they really didn't do the
18 analysis about the 14th Amendment.

19 And I think their view is, well, it's in
20 our state constitution, of course, that's a compelling
21 state interest. That has not ever been held to be the
22 case and that's not. So I think now they do understand
23 that this is something that is a very, very live issue.
24 I mean, you can just see the U.S. Supreme Court just
25 kicked back the Wisconsin legislative districts. Why?

1 Because there was racial gerrymandering. The Supreme
2 Court took the Alabama case. They put a stay on the
3 decision of the three judge panel. They took the
4 Alabama case. They would not have taken that case under
5 that posture unless they were going to make sure that
6 they're going to limit the role that race plays in
7 congressional redistricting. I think that's almost
8 assuredly.

9 So I think that they understand kind of
10 some of the judicial evolutions that have happened over
11 the last few months. And quite frankly, I mean, I think
12 this analysis is something that's been very powerful. I
13 think most people, certainly most conservative lawyers
14 who look at these issues agree with this analysis. And
15 obviously the leadership and the legislature, they're
16 going to be more in line with what a lot of the
17 conservative lawyers think. So I think we understand.

18 But we also understand that what they did
19 in the map that I just vetoed, they did a primary and
20 secondary map. I understood what the Senate did to keep
21 that long snake district, which was a pure racial
22 gerrymander. It was not a VRA protected seat. But I
23 understand that because they basically said, look, the
24 state constitution says you cannot diminish. If we
25 don't draw it like that and weave in and out of

1 communities to focus on maximizing the number of people
2 by race, then we will diminish. And so they were
3 reading that very literally. They followed kind of what
4 the court had said last decade. So I totally understand
5 that.

6 I have no clue how the House then did a
7 massive diminishment, but then still did a race based
8 district where they were trying to get it performed in a
9 certain way that I just don't understand. So I
10 understand what the Senate did. I think that runs afoul
11 of the 14th Amendment. I don't understand the primary
12 map that I vetoed, how they could have ended up in that
13 situation. So we're going to work through these issues.
14 I think at the end of the day, there's a lot that was
15 going on in session and then now they'll be able to come
16 back and really focus on this. There may be some other
17 issues to deal with, and hopefully there are, but
18 certainly I think they're going to have an ability to do
19 this and do this.

20 MALE REPORTER: : Wellsuit the governor
21 said, I'm sorry, there's former FDA chiefs and other
22 folks are saying that the math mandate for airplanes and
23 whatnot is not going to last till the end of the month.
24 That flight was trying to figure everything out. What
25 why is this lawsuit necessary for.

1 GOVERNOR DESANTIS: Going to well, I'll
2 I'll let I'll let Ashley come in and speak to that.
3 But, I mean, look, they said 15 days to slow the spread.
4 Okay? So at the end of the day, there's a legal
5 principle at stake here. There's a constitutional
6 principle at stake here. And you had FALCHI he had been
7 basically on hiatus for a while, and now he's reemerged
8 saying you can't rule out more restrictions at some
9 point in the future, even though these restrictions have
10 been ineffective. So even if they let it lapse, I
11 definitely think as we get into next fall and winter,
12 there COVID be an attempt to reimpose it. But I'll let
13 Ashley speak to that.

14 MS. MOODY: Sure. And this is a common
15 misunderstanding. The original CDC order, which was
16 unlawful from the beginning, it totally goes outside the
17 scope of federal power. It gave no one notice and
18 comment. It imposes some sanctions. But the TSA has a
19 separate penalty structure. And so even though you have
20 the original order, you have this TSA order that imposes
21 a penalty structure. And that's what they keep re
22 upping and keep extending. But the original order is
23 still in place. It still also has a penalty to it. And
24 so, regardless of whether they extend this TSA order
25 again, which Biden has routinely said, I know I don't

1 have authority to do something, and then does it anyway,
2 I don't know why, even when it makes no sense, I don't
3 think anyone should assume that they're not going to
4 extend it again in April, because that has been the
5 history of this administration. But even if they
6 didn't, we would still have the underlying unlawful CDC
7 order. I fly commercial aircraft.

8 MALE REPORTER: On a commercial aircraft.

9 GOVERNOR DESANTIS: I've obviously done
10 that a lot in my life. And I can tell you that it's not
11 necessarily always the most pleasant experience when
12 you're dealing with commercial air travel, but to impose
13 that and look, it's less about I mean, I think less
14 about me. Like, if I'm traveling with my family, like
15 my kids, five, four and two, I don't even know what it
16 would be like to try to do, because we've never put a
17 mask on them. But I know a lot of these families and
18 these kids, every time as a parent, you would bring kids
19 on an airplane, you always don't know, like, how are
20 they going to react? How are they going to behave? And
21 to have that thrown into the mix, I know it's been very
22 frustrating for an awful lot of parents.

23 MS. MOODY: And I can tell you routinely
24 in my travels, watching mothers, exasperated fathers
25 trying to control their young children. It has caused

1 so much confusion, so much chaos, so much pressure on
2 the employees. And as you know, the airlines themselves
3 have demanded that the administration take a look at
4 that and consider what they're forcing on them to do.
5 Passengers become am, frustrated. I can't tell you how
6 many times I've seen people get frustrated and angry and
7 speak out against these flight attendants that are just
8 trying to keep a serene, safe environment. So for many
9 reasons, this is the right time to rescind this order.

10 GOVERNOR DESANTIS: All right, thanks.

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15 (End of recording.)

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C E R T I F I C A T I O N

I, DIANE OTTO, do hereby certify that I have carefully transcribed from and compared the foregoing pages with the original digital audio recording from said proceeding and that this transcript is true and correct to the best of my ability.

Dated this day March 8, 2023.



(Electronically signed)
DIANE OTTO, CET, CER 1353

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EXHIBIT 20

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

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TRANSCRIPTION OF AUDIO FILE
Senate Committee on Reapportionment
The Florida Channel
September 20, 2021

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

1 (Beginning of Video Recording.)

2 CHAIR RODRIGUES: Senate Committee on

3 Reapportionment will now come to the order.

4 Dana, please call the roll.

5 MS. IVEY: Chair Rodrigues.

6 CHAIR RODRIGUES: Here.

7 MS. IVEY: Vice Chair Broxson.

8 MR. BROXSON: Here.

9 MS. IVEY: Senator Bean.

10 MR. BEAN: Here.

11 MS. IVEY: Senator Bracy.

12 MR. BRACY: Here.

13 MS. IVEY: Senator Bradley.

14 MS. BRADLEY: Here.

15 MS. IVEY: Senator Burgess.

16 MR. BURGESS: Here.

17 MS. IVEY: Senator Gibson.

18 MS. GIBSON: Here.

19 MS. IVEY: Senator Harrell.

20 MS. HARRELL: Here.

21 MS. IVEY: Senator Rodriguez.

22 MS. RODRIQUEZ: Here.

23 MS. IVEY: Senator Rouson.

24 MR. ROUSON: Here.

25 MS. IVEY: Senator Stargel.

1 MS. STARGEL: Here.

2 MS. IVEY: Senator Stewart.

3 MS. STEWART: Here.

4 MS. IVEY: The quorum is present, Mr.
5 Chair.

6 CHAIR RODRIGUES: Thank you. And let
7 the record show that Senator Bracy is excused
8 from today's meeting. Before we begin, please
9 silence your cellphones and all electronic
10 devices so that those don't go off during the
11 meeting.

12 And let me begin by saying, this is the
13 first time the senate committee has met with
14 an audience since the conclusion of the 2020
15 session. And I, for one, am happy to see you
16 back. Welcome back to the Florida State
17 Senate. With that, I'll start with --

18 (Applause)

19 CHAIR RODRIGUES: Thank you, President.

20 Start with the observation that COVID-
21 19 precautions, where applicable, are being
22 taken. Anyone wishing to testify before the
23 committee must fill out an appearance card and
24 hand it to a member of the sergeant's office.
25 Should you waive your speaking time, your

1 position will be read into the record.

2 Since this is our first meeting, I'd
3 like to start with the first agenda item and
4 introduce our committee staff. Then I'd like
5 to go to the members of our committee for them
6 to introduce themselves and say a few words,
7 if they would like.

8 So with our staff, I'll start with
9 staff director, who is sitting on my left,
10 your right, Jay Ferrin. And then on my right,
11 your left, is Jason Rojas, who is our special
12 counsel to our committee. Danna Ivey -- wave,
13 Dana -- is our committee administrative
14 assistant.

15 Yin Li (phonetic) -- wave, Yin -- and
16 Justin Ichromueller (phonetic) are our policy
17 analysts. And Megan Magnole is our committee
18 legislative research assistant. And that is
19 our staff. We are blessed that Jay and Jason
20 have some experience in redistricting, and so
21 we're going to learn from their experience,
22 and their wisdom will help guide us on this
23 process.

24 Now let's move over to our members and
25 have our members introduce themselves. I'd

1 like to start with President Bean at the end
2 and work our way down the row, if we could do
3 so.

4 MR. BEAN: Mr. Chairman, thank you so
5 much. I was trying not to make eye contact
6 with you so you would start on the other end,
7 but we did, and so I am pleased to start by
8 introducing myself. It's Aaron Bean. I
9 represent Jacksonville. It's good to see you
10 all, and it's good to see you in audience. It
11 is an historic day, and we are excited to have
12 you back and looking forward to working with
13 you in the chair -- the Chair and the
14 committee, Mr. Chairman.

15 MR. ROUSON: Good afternoon. Thank
16 you, Mr. Chairman, for this opportunity. I'm
17 Darryl Rouson, representing District 19,
18 portions of Hillsborough and Pinellas
19 Counties. Very proud to be here, very happy
20 to be here and be a part of this committee and
21 the whole reapportionment/redistricting
22 process.

23 Some of you know I served on
24 redistricting in 2010 when we traveled the
25 state to make sure that we got input of

1 citizens, residents, and voters. I look
2 forward to working with the staff to develop
3 constitutional maps that are fair to
4 everybody. Thank you.

5 MS. STEWART: Good afternoon. I'm
6 Senator Linda Stewart. I'm from Orlando,
7 Orange County, and I am pleased to have been
8 chosen to serve on this very notable
9 committee. I know that we all are going to
10 strive to make it a fair and open process.
11 And I know everyone here is interested in
12 making sure that happens.

13 I did, too, also serve on a
14 redistricting committee when I was in the
15 County Commission. It's a very tough job.
16 It's not something that is particularly easy.
17 But you can in the end come to a resolution
18 that everybody could be pleased with, and I'm
19 hoping that will happen with this committee.
20 So thanks -- thank you very much.

21 Thank you, Mr. Chair, and good
22 afternoon to everyone and all of my Senate
23 colleagues. It's exciting to see you back for
24 committees. And this is not my first -- how
25 should I say -- redistricting, and so I'm

1 excited to be a part of this committee again
2 this year and certainly glad to see that Jay
3 is our leading staff. I burned the carpet ten
4 years ago going back and forth to his office.
5 So I'm looking forward to -- hopefully, I
6 won't have to do it as much.

7 Looking forward, of course, to our
8 constitutional duty, certainly, on behalf of
9 the citizens of the State of Florida in terms
10 of reapportionment and using that data which
11 has phenomenally increased our population and
12 certainly gives us the opportunity.

13 And I expect that we will do the right
14 thing on behalf of the people of State of
15 Florida and their representation. And I'm
16 ready to rock and roll. Thank you, Mr. Chair.

17 MR. BROXSON: Mr. Chair, Doug Broxson
18 in District 1. And frankly, when I heard you
19 were appointed to be chair, my heart jumped
20 because I think all the members on both sides
21 of the aisle saw your performance over the
22 last couple years, how fair and deliberate and
23 how you invest in every issue. And I think
24 you positioned yourself to deliver very
25 deliberate constitutional maps.

1 I would have to say, being from
2 District 1 that my district was part of the
3 first redistricting in which there were two
4 counties, St. Johns and Escambia, so we've got
5 a little bit more work to do than then, but
6 I'm looking forward to your leadership, sir,
7 and serving under you is an honor.

8 CHAIR RODRIGUES: Thank you. I'm Ray
9 Rodrigues. I represent District 27 in the
10 Florida State Senate, which is Lee County in
11 southwest Florida. I'm excited for this
12 opportunity.

13 Thank you very much, Mr. Chair, and
14 happy -- happy Monday, everybody. It's good
15 to be back in the capital and see all your
16 smiling faces. Nobody better could have been
17 picked to lead this once-in-a-decade process,
18 Chairman Rodrigues, and very excited to have
19 the honor and the massive responsibility to be
20 able to endeavor on this with you. Thank you.

21 MS. RODRIGUEZ: Good afternoon, Mr.
22 Chairman, and thank you for having me on this
23 committee. My name is Ana Marie Rodriguez,
24 and I'm the state senator for District 39,
25 which includes portions of West Miami-Dade

1 County and all of Monroe County, so it is the
2 southern-most district in the State of Florida
3 and in the United States, and it's an honor to
4 be here on this committee. Thank you.

5 MS. HARRELL: Thank you very much, Mr.
6 Chairman. I'm Senator Gayle Harrell. I
7 represent District 25, which is Martin, St.
8 Lucie, and parts of Palm Beach County. And I
9 am so delighted to be on this
10 redistricting/reapportionment committee. This
11 is my third time around redistricting. Maybe
12 Senator Bean and I share that, whether you
13 were here in 2010, I don't remember.

14 But we -- this is the third time
15 around. I am excited to be a part of this
16 amazing committee and the wonderful people on
17 it.

18 This will be a very fair, open process.
19 I have every confidence that we will come up
20 with constitutional maps that meet every
21 requirement we have under Fair Districts, and
22 I have full confidence in the committee and
23 our wonderful staff. And I look forward to
24 working with you, Mr. Chairman, and our
25 various vice chairs and subcommittee chairs to

1 make this the best ever. Thank you.

2 MS. BRADLEY: Thank you, Mr. Chairman.
3 My name is Jennifer Bradley. I am the state
4 senator for District 5, which is -- includes
5 11 rural counties across north Florida calling
6 Clay County home. It is a tremendous honor to
7 be a part of this committee. It is, as
8 Senator Burgess said, it's a once-in-a-decade
9 process, and it's constitutionally required,
10 and it's a weighty responsibility that we take
11 on. And it's one that we take very, very
12 seriously. And I just couldn't think of a
13 better group to be thoughtful and to be led by
14 just very capable staff. And I look forward
15 to a great process with great dialogue and
16 input, so look forward to it. Thank you.

17 MS. STARGEL: Good afternoon. I'm
18 Kelli Stargel. I represent District 22, which
19 is North Polk/South Lake County. Also had the
20 honor of serving on the redistricting
21 committee back in 2010. Looking forward to
22 the process this time, looking forward to your
23 leadership, Chairman, and -- and so let's get
24 to work.

25 CHAIR RODRIGUES: Thank you, members,

1 and since they were too humble to say so, I
2 will say this: Senator Bradley will be
3 chairing our Select Subcommittee on
4 Congressional Reapportionment, and Senator
5 Burgess will be chairing our Select
6 Subcommittee on Legislative Reapportionment.
7 And I look forward to working with both of
8 you. And I am very excited for the makeup of
9 this committee.

10 I think the President has done a
11 tremendous job of ensuring that the entire
12 state has representation. If you look, we've
13 got representation from northwest Florida,
14 northeast Florida, southeast Florida,
15 southwest Florida, I-4 Corridor, and the
16 heartland of Florida.

17 We've got urban districts represented;
18 we've got rural districts represented. I
19 really feel like if you take the cross section
20 of Florida, the President's done a good job of
21 putting together a committee that represents
22 citizens in every one of those sections.

23 So the job in front of us is going to
24 be a tremendous one, and before we begin, I'd
25 like to just take a moment and talk about the

1 task that we are going to be embarking on. As
2 senators appointed to this committee, we have
3 the responsibility of guiding our chamber
4 through the process of fulfilling our
5 constitutional obligation to redraw
6 legislative and congressional district
7 boundaries.

8 The last time the legislature embarked
9 on this task, it was the first time since the
10 adoption of the amendments governing the
11 standards for redrawing of legislative and
12 congressional districts, which have since been
13 codified in Article III, Sections 20 and 21 of
14 the Florida Constitution.

15 Those that came before us did not have
16 the benefit of how the Florida Supreme Court
17 would interpret those standards or a true
18 understanding of the role the judiciary would
19 play. Some hard lessons were learned through
20 that previous cycle, and I believe we will
21 learn from those lessons.

22 The Florida Supreme Court's
23 interpretation of the then brand-new
24 amendments fundamentally altered the way we do
25 redistricting here in the State of Florida.

1 The Court relied on geometric compactness,
2 consistent use of political and geographic
3 boundaries, equal population, and functional
4 analysis of minority districts to serve as
5 objective indicators of intent when reviewing
6 a plan or district. The Court summarily
7 rejected the use of subjective principles,
8 such as communities of interest, partisan
9 favoritism, partisan proportionality, and
10 incumbent protection.

11 The Court, also, expanded the role of
12 the judiciary in the redistricting process.
13 The Court limited legislative privilege to
14 allow for the deposition of sitting
15 legislators and compelled evidence and
16 testimony from nonparty political consultants
17 not directly involved in the legislative
18 decision-making process.

19 Ultimately, after considering both
20 direct and circumstantial evidence obtained
21 through discovery and depositions of
22 legislators, staff, and nonparty political
23 consultants, the State Supreme Court of
24 Florida ruled that the legislatures, senate,
25 and congressional plans had been drawn with

1 improper intent.

2 The concurred with a trial court's
3 finding, and I'm quoting from the trial court
4 in the Apportionment 7 decision when it wrote,
5 "Political consultants or operatives did, in
6 fact, conspire to manipulate and influence the
7 redistricting process. They accomplished this
8 by writing scripts and organizing groups of
9 people to attend public hearings to advocate
10 for adoption of certain component or
11 characteristics in the maps and by submitting
12 maps, impartial maps, through the public
13 process. They made a mockery of the
14 legislature's proclaimed transparent and open
15 process of redistricting by doing all of this
16 in the shadow of that process."

17 After finding the plans to have been
18 drawn with unconstitutional and improper
19 intent, the Court flipped the burden of proof.
20 Legislative deference was lost, and the
21 presumption of constitutionality of the
22 legislature's redistricting plans was gone.

23 Fortunately, we now have the insight
24 into both the judiciary's expanded scope of
25 review and how courts have interpreted and

1 applied the constitutional standards related
2 to redistricting.

3 I intend for this committee to conduct
4 the process in a manner that is consistent
5 with case law that developed during the last
6 decade is beyond reproach and free from any
7 hint of constitutional -- excuse me -- free
8 from any hint of unconstitutional intent. I
9 agree with the Florida Supreme Court when it
10 said, "Legislative apportionment is primarily
11 a matter for legislative consideration and
12 determination."

13 The Court has indicated that it will
14 defer to the legislature's decision to draw a
15 district in a certain way, so long as that
16 decision does not violate the constitutional
17 requirements, and it is my intention to
18 strictly adhere to the constitutional
19 requirements so that our legislative
20 discretion is preserved.

21 When we've talked about the issues of
22 communication and record retention, it is
23 important moving forward that all senators
24 should be aware that in prior redistricting
25 cycles, significant litigation has followed

1 passage of new maps. Sitting legislators may
2 be compelled to produced records or to be
3 subject to questioning under oath about
4 conversations with colleagues, about
5 conversations with legislative staff, or with
6 outside parties who may attempt to persuade
7 the legislature to pass maps or disfavor --
8 that favor or disfavor a political party or an
9 incumbent.

10 Senators should take care to insulate
11 themselves from interests that may
12 intentionally or unintentionally attempt to
13 inappropriately influence the redistricting
14 process. Senators should continue to adhere
15 to the Records Retention Policy as directed by
16 Article I, Section 24 of the Florida
17 Constitution, Section 11.0431 of the Florida
18 Statutes, and Senate Rule 1.48.

19 Senators and staff should, also, be
20 mindful that correspondence, emails, texts,
21 and other electronic communications related to
22 the enactment of new districts, whether sent
23 or received, on official senate accounts or
24 devices or personal email accounts or devices,
25 may be a permanent or archival value, and

1 those records should be preserved accordingly.

2 If you have questions about record
3 retention, I encourage you to contact our
4 Senator General Counsel for guidance.

5 As we move forward, we're going to look
6 at what the approach to this process will be.
7 While remaining to committed to having an
8 open, transparent, and interactive process, we
9 are taking steps to safeguard against the kind
10 of shadow process that occurred in the last
11 cycle. We will protect our process against
12 the astroturfing that occurred in the past
13 where partisan, political operatives from both
14 parties wrote scripts and recruited speakers
15 to advocate for certain plans or district
16 configurations to create a false impression of
17 a wide-spread grassroots movement.

18 Anyone testifying before our committee
19 or select subcommittees must disclose certain
20 information. In addition to stating whether
21 or not they are a registered lobbyist,
22 speakers must disclosed whether or not they
23 received compensation or anything of value --
24 travels, meals, lodgings, et cetera -- as part
25 of or exchange for their testimony. This

1 policy is being adopted senate-wide in the
2 form of revised appearance cards.

3 To prevent secretive submissions by
4 partisan operatives, we are requiring publicly
5 submitted written comments, suggestions, and
6 maps with a signed form. This form must
7 contain the identity of the submitter.
8 Submitters must state whether or not they have
9 received any compensation or anything of value
10 from any groups or organizations that have an
11 interest in redistricting as part of or in
12 exchange for their comments, suggestions, or
13 map.

14 Submitter must list every person,
15 group, or organization they have collaborated
16 with on their comment, suggestion, or map.
17 And finally, submitters must acknowledge that
18 their communications and submissions may be
19 included, reviewed, and examined in all steps
20 of the legislative process until and even
21 after new district maps are enacted into law.

22 Additionally, our staff will not review
23 or consider publicly submitted comments,
24 suggestions, or maps for inclusion in their
25 work product unless and until a senator asks

1 them to do so in writing. Publicly submitted
2 maps will be available on the joint website
3 the Senate is doing with the House,
4 www.floridaredistricting.gov, for members to
5 review.

6 Any member who requests staff to review
7 and consider such a submission should be
8 prepared to appear before a committee or its
9 select subcommittees and explain their
10 intentions for doing so. This is consistent
11 with all other aspects of our legislative
12 process and is akin to advocating for
13 inclusion of a policy in a proposed committee
14 bill.

15 My encouragement to each of you as
16 committee members is to make yourself
17 accessible to the public who wishes to have
18 their maps considered so that you meet with
19 them, listen to them, and give them that
20 access.

21 Are there any questions before we
22 proceed to the presentations on our agenda?
23 Senator Gibson, you're recognized.

24 MS. GIBSON: Thank you, Mr. Chair.
25 During the last redistricting cycle, there was

1 a particular email address that we used to
2 send any emails or -- that we received related
3 to redistricting. There was this one
4 depository for forwarding those emails. Is
5 that -- will that be the case this time, or --
6 can you clarify how such emails get sent?
7 Clarify, please. Sorry.

8 CHAIR RODRIGUES: And thank you for the
9 question. That is a good question. What we
10 have had staff do is prepare a response that
11 can be given to those who contact us directly
12 on the subject of redistricting. The response
13 will direct the contactor to the
14 www.floridaredistricting.gov website and ask
15 them to place their idea onto that website.

16 That website will serve as the official
17 repository of all our redistricting data.
18 What I have done as an individual senator is
19 created a redistricting file, and each person
20 who contacts me gets that response, and then
21 their email goes into my redistricting file so
22 that it is archived and available in the
23 future.

24 MS. GIBSON: Thank you.

25 CHAIR RODRIGUES: Sure.

1 MS. GIBSON: May I have a follow-up for
2 clarity, please?

3 CHAIR RODRIGUES: Yeah.

4 MS. GIBSON: Thank you. And I
5 didn't -- I forgot to say my district when I
6 first introduced myself. I want to make sure
7 everyone knows Duval is in the house. Senator
8 Bean has a portion of Jacksonville, and I have
9 the other.

10 On the -- I talked about burning the
11 carpet in the last cycle, but it was for
12 amendments that I wanted to make with staff,
13 and so in your -- in your explanation, that is
14 still a legal process as a part of this
15 committee for any -- any senator, actually,
16 this committee or not, correct?

17 CHAIR RODRIGUES: That is correct.

18 MS. GIBSON: All right. Thank you very
19 much.

20 CHAIR RODRIGUES: Senator Stewart,
21 you're recognize for a question.

22 MS. STEWART: For clarification, so a
23 grassroots organization comes to me and asks
24 would I submit a map on their behalf, is that
25 form something that would have to be filled

1 out as -- and come with the map that I -- they
2 ask me to submit?

3 CHAIR RODRIGUES: The grassroots
4 organization would need to submit that map
5 through the Florida Redistricting.gov website,
6 and then they would need to ask you to be the
7 sponsor of it.

8 And so they would need to complete
9 whatever is required to submit it on the
10 website, and there's -- as you go onto the
11 website, there are cues that will guide you
12 through the process. And once they've
13 completed that, then they can meet with you
14 and lobby you to champion their map, in which
15 case you can move forward, bring that map
16 forward, and say, I wish to sponsor this as
17 either a part of the process or as an
18 amendment, whatever the case may be.

19 Senator Rouson, you look like you may
20 have a question.

21 MR. ROUSON: Yes, thank you, Mr. Chair.
22 You indicated in your introductory remarks
23 that this would be an open and interactive
24 process. Could you expound upon interactive?
25 I expect that means the public will be able to

1 participate both through comments, testimony,
2 and submission of maps. But is there any
3 other opportunity for public participation?

4 CHAIR RODRIGUES: The examples that
5 you've given are what has been contemplated
6 and agreed upon so far between the Florida
7 Senate and the Florida House.

8 So to begin with, we've agreed -- and
9 what's different in this cycle than in the
10 previous cycle is that the Senate and the
11 House are using the same vendor; we're using
12 the same software. As a result of that, we
13 can do a joint website to receive all of the
14 public submissions.

15 We will have committee meetings, which
16 will -- as all committee meetings are -- be
17 publicly noticed and have the opportunity for
18 public comment. So the public will have that
19 opportunity. And of course, the public can
20 reach out to any of us as individual senators
21 to meet with us and ask us to champion their
22 ideas that they have submitted through the
23 website.

24 MR. ROUSON: And -- thank you, Mr.
25 Chair for that explanation. Is there any

1 guidance on how to handle media inquiries or
2 citizen inquiries of individual senators?

3 CHAIR RODRIGUES: The only guidance
4 that I've seen put together so far is the
5 guidance that directs them to put their ideas
6 into the interactive website. If we need
7 additional guidance, I'm sure we can work with
8 staff to come up with it.

9 MR. ROUSON: And do you anticipate
10 that -- you know, last time when we did this,
11 we took this show on the road, to borrow a
12 term, and people were able to come to their
13 local arena or venue to testify. Is there any
14 thought to virtual appearances by members of
15 the public?

16 CHAIR RODRIGUES: Both of those
17 concepts are still under consideration at this
18 time.

19 Do we have any questions on this side?
20 Seeing none, we'll move on to Agenda Item 2,
21 Tab 2. We'll actually go ahead and do Tabs 2,
22 3, and 4. And I'm going to recognize our
23 staff director, Mr. Ferrin, for presentations
24 on our committee's jurisdiction, redistricting
25 terminology, timeline, and on the census and

1 census data. Mr. Ferrin, you're recognized.

2 MR. FERRIN: Thank you, Mr. Chairman,
3 and good afternoon, members. Happy to be here
4 or back here.

5 I wanted to -- we wanted to start out
6 today with a general overview of the committee
7 process, committee jurisdiction. Get -- make
8 sure everyone's familiar with a lot of the
9 terminology we'll use throughout this process.
10 I know a lot of you have been involved in it
11 in different capacities in the past, but this
12 is probably a good opportunity for a refresher
13 and review of the basic subject matter.

14 So today's presentations are a high-
15 level orientation of what redistricting is and
16 why we do it. I anticipate that in subsequent
17 meetings we'll have opportunities to delve a
18 little further into more detail on the legal
19 environment, the way that we measure the
20 criteria that we'll be using and talking about
21 today, and the methodology that we'll use to
22 draw districts.

23 So to begin with the committee's
24 jurisdiction, the Senate Committee on
25 Reapportionment creates redistricting plans

1 for the Florida -- for Florida's congressional
2 and state legislative districts to account for
3 population shifts revealed by data from the
4 2020 census. As you know, we do this every
5 ten years, as directed by the Florida
6 Constitution, which states that the
7 legislature, at its regular session in the
8 second year following each decennial census,
9 shall apportion the state in accordance with
10 the constitution of the state and of the
11 United States.

12 This cycle of our regular session will
13 begin on January 11th, 2022, and as the census
14 data that was released in a Legacy format on
15 August 12th and formally delivered on
16 September 16th revealed, Florida grew by about
17 2.7 million people and gained one additional
18 seat in Congress. For various reasons that
19 we'll discuss later today, this data was
20 delivered more than four months after the
21 April 1st, 2021, deadline prescribed in
22 federal law.

23 The data that was released in August
24 was the same data that was delivered last
25 week. The difference between a Legacy format

1 data and the formal release that we got last
2 week is that the Legacy data is coded in a
3 series of tables. They're unformatted,
4 without clear field labels, and so they have
5 to be processed in order to be useful. The
6 formal data release is a much more pre-
7 formatted and user-friendly format that's
8 currently available on data.census.gov and is
9 being added to our redistricting software.

10 We can jump to the constitutional
11 authority for redistricting. The legislature
12 and its committees drive the authority to
13 redraw congressional districts from the
14 elections clause of the United States
15 Constitution. It directs state legislatures
16 to regulate the times, places, and manner of
17 conducting elections for Congress.

18 We derive our authority to redraw state
19 legislative districts from Article III,
20 Section 16 of the Florida Constitution, which
21 directs the legislature to adopt a
22 redistricting plan for state legislative
23 districts in the second year after each
24 census. In this case, that would be 2022.

25 As I previously mentioned, the regular

1 session will begin on January 11th. In
2 redistricting years, the regular session has
3 always started in January rather than March,
4 and this is to afford the greatest amount of
5 time possible for adoption and implementation
6 of redistricting plans.

7 One of the questions that usually pops
8 up at some point during this process is, what
9 is the difference between reapportionment and
10 redistricting. They're frequently used
11 interchangeably, and for all intents and
12 purposes mean the drawing of new district
13 boundaries for the purposes of representation.
14 The term redistricting refers to the process
15 by which boundaries of electoral districts are
16 redrawn to adjust for uneven population growth
17 revealed by the latest decennial census.
18 State legislatures, county commissions, and
19 city commissions redistrict.

20 Reapportionment is the process of
21 assigning seats in a legislative body amongst
22 preexisting political subdivisions such as
23 states or counties. Following each census,
24 the 435 seats in the United States House of
25 Representatives are apportioned to each state

1 based on state population. Each state gets at
2 least one seat, but the larger the state
3 population, the more congressional
4 representation the state will receive.

5 As I mentioned, based on the 2020
6 census, Florida received an additional seat to
7 bring the total number to 28, and that's in
8 the U.S. House. We have two United States
9 Senate representatives, as well.

10 The term reapportionment gets used in
11 Florida because it's used to assign -- because
12 Florida used to assign districts based on
13 county boundaries. Article III, Section 16 of
14 the Florida Constitution, also, refers to the
15 process of redrawing State House and State
16 Senate districts as legislative apportionment.

17 So aside from the constitutional
18 requirements to redraw boundaries every ten
19 years, why do we do this? The primary reason
20 is to comply with the equal population
21 requirements of the United States and Florida
22 Constitutions. The equal population standard
23 for the congressional districts is based on
24 Article I, Section 2 of the United States
25 Constitution, as interpreted by the U.S.

1 Supreme Court in *Wesberry v. Sanders* in 1964.

2 The Court stated that representatives
3 be chosen by the people of the several states
4 means that, as nearly as is practicable, one
5 person's vote in a congressional election is
6 to be worth as much as another's. This has
7 come to be known as the one-person, one-vote
8 principle and compels us to draw congressional
9 districts that have a population variance of
10 plus or minus one person.

11 The equal population standard for state
12 legislative districts is based on the 14th
13 Amendment's equal protection clause, as
14 interpreted by the United States Supreme Court
15 in *Reynolds v. Sims* in 1964.

16 The Court stated that because there is
17 a significantly larger number of seats in
18 state legislative bodies to be distributed
19 within a state than congressional seats, it
20 may be feasible to use the political
21 subdivision lines while still affording
22 adequate representation to all parts of the
23 state.

24 The Court, also, stated that
25 mathematical nicety is not a constitutional

1 requisite but nevertheless, states that the
2 overriding objective must be substantial
3 equality of the population amongst the various
4 districts. This has been interpreted and
5 applied to mean that districts should have no
6 more than a 10 percent difference in their
7 population.

8 Florida's Constitution also contains
9 provisions regarding equal population in
10 Article III, Section 20 and 21, which states
11 in Subsection B, the district shall be as
12 nearly equal in population as is practicable.

13 The equal population criteria contained
14 in the United States Constitution is contained
15 in Article I, Section 2, and in the Fourteenth
16 Amendment, but other redistricting criteria
17 exists in the Florida Constitution, the
18 Federal Voting Rights Act, and in Florida
19 statutes.

20 Protections against diminishment or
21 reduction in the ability of racial or language
22 minorities to elect representatives of their
23 choice are in the Florida Constitution and in
24 the Federal Voting Rights Act.

25 Prohibitions on drawing a plan or

1 district with intent to favor or just favor a
2 political party or incumbent are in the
3 Florida Constitution. Requirements for
4 districts to be contiguous are in -- contained
5 in the Florida Constitution.

6 Requests for districts to be compact
7 are in the Florida Constitution, and
8 requirement for district boundaries to, where
9 feasible, utilize existing political and
10 geographic features are in the Florida
11 Constitution.

12 The requirement to use data from the
13 most recent decennial census is contained in
14 Section 11.031 of Florida Statutes and in
15 Article X, Section 8 of the Florida
16 Constitution.

17 The minority voting right -- excuse me.
18 The minority protections of the Voting Rights
19 Act are applied in the redistricting context.
20 The Voting Rights Act prohibits any state or
21 political subdivision from enacting a map that
22 results in the denial or abridgment of any
23 U.S. citizen's right to vote on account of
24 race, color, or status as a member of a racial
25 or language minority group. And it prohibits

1 purposeful discrimination and protects against
2 retrogression or backsliding in the ability of
3 racial minorities to elect representatives of
4 their choice.

5 The Voting Rights Act contains a couple
6 of pertinent sections. Section 2 compels the
7 drawing of a majority/minority district -- or
8 excuse me -- compels the drawing of a district
9 that performs for racial and language minority
10 where what are known as the Gingles Conditions
11 are met. These conditions come from *Thornburg*
12 *v. Gingles*, a 1986 case out of North Carolina.

13 They require us to draw a performing
14 minority district where, one, a minority
15 population is geographically compact, and it's
16 sufficiently numerous to be a majority in a
17 single district; two, the minority population
18 is politically cohesive; three, the majority
19 votes sufficiently as a block to enable it to
20 usually defeat the minority-preferred
21 candidate; and four, under all of the
22 circumstances, minority population has less
23 opportunity than others to participate in the
24 political process and elect representatives of
25 its choice.

1 The other pertinent section is Section
2 5, and Section 5 differs somewhat from Section
3 2 in that it doesn't necessarily compel the
4 creation of minority -- minority districts.
5 Rather, it prohibits purposeful discrimination
6 and protects against retrogression or
7 backsliding in the existing ability of racial
8 and language minorities to elect
9 representatives of their choice. It contains
10 a coverage formula that was applied to
11 determine if there was a history of
12 discrimination against racial or language
13 minorities in a particular jurisdiction.

14 In Florida, Hardee, Henry,
15 Hillsborough, and Monroe Counties were
16 coverage jurisdictions until the coverage
17 formula was invalidated by the United States
18 Supreme Court in 2013 in a case called Shelby
19 County v. Holder. It's worth noting that the
20 Shelby decision means that the pre-clearance
21 process established by the Voting Rights Act
22 is no longer in effect, but it does not affect
23 the validity of the diminishment standard in
24 the Florida Constitution.

25 The Florida Constitution contains

1 several other provisions related to
2 redistricting. Article III, Section 16 is our
3 guidance to the -- the general rationale for
4 dividing House and Senate districts. It
5 requires the state to be divided in 30 or --
6 30 to 40 contiguous and consequently-numbered
7 senatorial districts and into between 80 and
8 120 contiguous and consequently-numbered house
9 districts. A district is considered to be
10 contiguous if all of its territories in actual
11 contact and are uninterrupted by the territory
12 of another district. The courts have ruled
13 that contact at a corner or a right-angle is
14 insufficient, but territory may cross bodies
15 of water.

16 Consequently-numbered districts have
17 been interpreted to mean that districts cannot
18 skip numbers. We cannot, for example, number
19 all the Senate Districts with odd numbers. It
20 does not mean that District 1 has to share a
21 boundary with District 2 and District 2 has to
22 share a boundary with District 3 and so on and
23 so forth. And one other note on this is
24 provision in the constitution is that -- that
25 it technically does allow the state

1 legislative districts to overlap, either
2 partially or entirely. However, this has not
3 been done since the state switched to single-
4 member districts.

5 Moving on to Article III, Sections 20
6 and 21. These were added to the constitution
7 by the voters in 2010. Article III, Section
8 20, which deals with congressional, and
9 Section 21, which deals with legislative
10 provisions, prohibit line drawing that
11 intentionally favors or disfavors a political
12 party or incumbent. The sections, also,
13 afford protection to racial and language
14 minorities and provide additional standards
15 for the drawing of plans and districts.

16 Subsection A states that no
17 apportionment plan or district shall be drawn
18 with the intent to favor or disfavor a
19 political part of incumbent. Districts shall
20 not be drawn with the intent or a result of
21 denying or abridging the equal opportunity of
22 racial or language minorities to participate
23 in a pollical process or to diminish their
24 ability to elect representatives of their
25 choice. And then finally, districts shall

1 be -- of -- consist of contiguous territory.

2 Subsection B states that unless
3 compliance with the standards of the
4 section -- subsection conflict with the
5 standards in Subsection A or with federal law,
6 districts shall be nearly equal in population
7 that is practicable. Districts shall be
8 compact, and districts shall, where feasible,
9 utilize existing political geographic
10 boundaries.

11 Subsection C clarifies that the order
12 in which the standards within Subsections A
13 and B are set forth shall not be read to
14 establish any priority of one standard over
15 the other within that subsection.

16 The criteria that we just went over has
17 been broken out into two tiers by the Florida
18 Supreme Court in Apportionment 1. Tier one
19 consists of the provisions contained in
20 Subsection A relating to diminishment and
21 intent to favor/disfavor a political party or
22 incumbent, as well as the contiguity
23 provision.

24 Tier two apply, unless these -- unless
25 they conflict with tier one or federal law,

1 and these are dealing with the equal
2 population, district compactness, and
3 utilization of political and geographic
4 boundaries. And as I've already noted, as
5 long as they don't -- they cannot be read to
6 establish any one priority over another within
7 that tier.

8 We can take a breather or move on to
9 terminology.

10 CHAIR RODRIGUES: Do we have any -- do
11 the members have any questions? Yes, let's go
12 ahead and do questions before we move on.
13 Senator Gibson, you're recognized for a
14 question.

15 MS. GIBSON: Thank you, Mr. Chair. On
16 the districts shall be compact in tier two, I
17 know previously we used Reock scores, I think,
18 and Convex Hull scores ad nauseum, those
19 words. And so since it's not -- there's no
20 real definition in the materials that we have
21 that speaks to compactness, is there some
22 anticipation that -- or why did we use Convex
23 Hull and Reock scores?

24 And then, if you could talk about the
25 appropriateness of following that same method

1 in this cycle. Thank you, Mr. Chair.

2 CHAIR RODRIGUES: You're recognized.

3 MR. FERRIN: Thank you, Mr. Chairman
4 and Senator Gibson. We -- you're correct. We
5 used a score called a Reock score, a Convex
6 Hull score, and then a Polsby-Popper score.
7 And those three scores are all on a -- they're
8 scored on a range of zero to one, so it's a
9 proportional measurement. They measure
10 different things.

11 Generally speaking, a Reock is going to
12 measure how much a district resembles a
13 circle. A Convex Hull is a test for,
14 basically, indentations. So a star would
15 score very poorly on a Convex Hull, but a
16 square or a rectangle would score highly. And
17 then Polsby-Popper is a perimeter ratio so
18 that -- that kind of tests for jagged edges,
19 so to speak. And so the smoother the edges of
20 a district, the higher the score would be
21 there.

22 Those are the three that I would
23 anticipate using in addition to, as the
24 Supreme Court stated, the Intraocular Test,
25 which is just a visual review for compactness.

1 I believe that you will see those three
2 available in the software very soon.

3 CHAIR RODRIGUES: Any further
4 questions? Okay. Let's move on to the next
5 tab.

6 MR. FERRIN: Thank you, Mr. Chairman.
7 So the terminology, a lot of this I've already
8 kind of mentioned, and some of you may be
9 familiar with. We've talked about equal
10 population and the requirements in the U.S.
11 Constitution for equally-weighted votes.

12 The equal population, as I've
13 mentioned, for congressional districts is plus
14 or minus one person. It's generally higher in
15 terms of legislative districts. The courts
16 have allowed in the past in different
17 circumstances up to a 10 percent overall
18 range. The legislature here in Florida has
19 typically drawn Senate and House districts
20 with deviations of less than 1 or 2 percent.

21 The ideal population is the total state
22 population divided by the number of districts,
23 and so that's our target population as we're
24 drawing districts in terms of what we're
25 trying to get to. Ideal populations based on

1 the 2020 census are as follows:

2 For congressional, it's 769,221. For
3 Florida Senate districts, it's going to be
4 538,455. And for the House, it'll be 4 -- or
5 excuse me -- 179,485.

6 Voting age population refers to the
7 number of --

8 MR. BEAN: Mr. Chairman, I'm sorry to
9 interrupt. Can you give those numbers one
10 more time? I was writing them down. I
11 missed -- missed them. Starting with the
12 congressional.

13 MR. FERRIN: Thank you, Mr. Chairman
14 and Senator Bean. So congressional is 7-6-9-
15 2-2-1. The Senate districts will be 5-3-8-4-
16 5-5. The House districts will be 1-7-9-4-8-5,
17 and I believe I've got a slide later on that's
18 going to have those numbers on it and compare
19 them to the old numbers.

20 And so back to the voting age
21 population, that's the number of people in a
22 district or a plan that are -- excuse me -- in
23 a district that are over 18 years of age and
24 represents the potential electorate in a
25 district.

1 And then population deviation is the
2 difference between the ideal population and
3 the population of a district or plan. It's
4 calculated for individual districts and the
5 redistricting plan as a whole. We often
6 express this as a percentage, and that's
7 calculated by dividing the deviation of a
8 district by the ideal population.

9 At the district level, population
10 deviation is measured as the amount of a
11 district's total population minus its ideal
12 population, and that can be positive or
13 negative. At the plan level, population
14 deviation is the numeric range between the
15 smallest total population and the largest
16 total population of a district.

17 This slide contains some redistricting
18 terms related to map drawing and the criteria
19 found in the Florida Constitution. A
20 benchmark plan is the last legally-enforceable
21 redistricting plan enforcer effect. A
22 proposed redistricting plan is compared to a
23 benchmark plan to analyze its compliance with
24 protections for racial and language minorities
25 under federal and state law. In Florida, the

1 benchmark plans will be named and referred to
2 as follows:

3 For the congressional plan, you'll see
4 that as FLCD 2016 for 2016 in its date of
5 adoption. FLHD 2012 would be the House
6 benchmark, and FLSD 2016 would be the Senate
7 benchmark. And those are your current
8 districts today.

9 Retrogression occurs when a
10 redistricting plan reduces the opportunity of
11 a racial or language minority to participate
12 in the political process or elect
13 representatives of their choice when compared
14 to the benchmark plan. Retrogression can
15 apply to a whole redistricting plan or to an
16 individual district.

17 Diminishment is similar in that it
18 occurs when a redistricting plan eliminates a
19 majority minority district or potentially
20 weakens a historically-performing minority
21 district where doing so would actually reduce
22 the ability of racial or language minority
23 groups to elect candidates of their choice, as
24 compared to the benchmark plan.

25 Geographic boundaries. For geographic

1 boundaries, we use easily ascertainable and
2 commonly understood features, such as rivers,
3 railways, and primary and secondary roads.
4 Primary and secondary roads are actually
5 defined by the United States Census Bureau in
6 their -- their date -- geographical dataset.
7 They include interstates, U.S. highways, and
8 state highways. County roads are not included
9 in that as -- as some of the roads in those
10 categories can range from a six-lane highway
11 to a dirt road.

12 And then finally, political boundaries
13 in the redistricting context has been defined
14 by the courts as county or incorporated
15 municipality boundaries, so your cities, town,
16 villages, et cetera. We have 412 of those
17 here in Florida for this cycle.

18 This slide here has an image for the
19 geographical hierarchy that's used by the
20 census. So the smallest feature that we'll
21 use is the census block. Blocks are formed by
22 streets, roads, bodies of water, and other
23 physical features and legal boundaries that
24 are shown on U.S. Census Bureau maps.

25 Census block groups are clusters of

1 census blocks within a census tract. Tracts
2 are small, relatively-permanent statical
3 subdivisions of a county and are delineated by
4 the local participants as part of the U.S.
5 Census Bureau's Participants Statistical Areas
6 Program.

7 Counties are the primary legal
8 subdivisions of the state and are used for
9 reporting census -- decennial census data. So
10 each of those nests within each other.

11 Here we have some definitions and terms
12 related to the different kinds of districts
13 that can be drawn for racial or language
14 minority opportunities. The -- these are kind
15 of listed in the order of significance. So a
16 majority minority district is a district in
17 which racial or language minority groups
18 comprise a majority, which is 50 percent plus
19 1 or more of the voting age population of the
20 district.

21 An effective minority district is a
22 district that contains sufficient voting age
23 population to provide the minority community
24 with an opportunity to elect a candidate of
25 choice but falls short of a majority.

1 A crossover district is a district in
2 which a racial or language minority group is
3 not a numerical majority but is potentially
4 large enough to elect its preferred candidate
5 by persuading enough majority voters to cross
6 over to support the minorities' preferred
7 candidate.

8 A coalition district is a district in
9 which more than one racial or language
10 minority group working together can form a
11 majority to elect their candidates of choice.

12 And then lastly is an influence
13 district, which is a district in which the
14 racial or language minority community,
15 although not sufficiently large enough to
16 elect a candidate of its choice, is able to
17 influence the outcome of an election and elect
18 a candidate who will be responsive to the
19 interests and concerns of the minority
20 community.

21 That would conclude that portion of the
22 presentation, sir, Mr. Chairman.

23 CHAIR RODRIGUES: Do we have any
24 questions on this tab?

25 Seeing none, let's move on to Tab 4,

1 Census -- Census Data Explanation.

2 MALE VOICE: (Inaudible).

3 CHAIR RODRIGUES: Oh, I'm sorry. I
4 missed the timeline. Let's go back and
5 complete the timeline.

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

7 So the beginning of this -- this
8 process starts with April 1st, 2020, which is
9 the census day. And the census responses,
10 although they're collected over a period of
11 time, are used -- are tied to April 1st. So
12 if you're filling out a response later on in
13 the summer, the question that the Census
14 Bureau is asking you as a respondent is where
15 were you residing on April 1st, 2020.

16 April 26th was the day that the Census
17 Bureau released the state-wide population
18 totals for apportioning the seats in the
19 United States House of Representatives. That
20 was originally scheduled under the kind of
21 normal cycle to have been December 31st, 2020.

22 On August 12th, 2021, the Census Bureau
23 published tabular population demographic and
24 housing data for all 50 states. That was the
25 delivery and availability of the Legacy format

1 census data. That should have been available
2 on April 1st, 2021.

3 Last week, on September 16th, we
4 received the formal delivery of the formatted,
5 P.L. 94-171 redistricting data, which is the
6 same data that was delivered as -- in the
7 Legacy format. That was delivered to the
8 states last week. That date should have,
9 also, been April 1st.

10 Typically, in a cycle, that data is
11 released together. It was broken up this
12 cycle. Due to the delays, the Census Bureau
13 opted to get the Legacy format data out there
14 as soon as possible and then continue working
15 to deliver the formatted data by the end of
16 September.

17 And then lastly there, you see in --
18 later this month or within the month, we plan
19 on launching the joint website and the free
20 publicly-available map-drawing application.

21 Here we have a list of the interim
22 committee weeks and the prospective dates for
23 interim committee meetings. So our next week
24 that we would be available to meet would be
25 October 11th, followed by October 18th to

1 22nd, November 1st through 5th, November 15th
2 through 19th, and November 29th through
3 December 3rd. Because we're kind of going
4 full-blast here and operating at full speed, I
5 would expect at this time, unless told
6 differently, that we would plan on meeting
7 each of those weeks.

8 This slide has some of the important
9 session and post-session dates on it. So we
10 will -- as I mentioned, we'll convene on
11 January 11th, 2022, for regular session. The
12 60th day of that session would be March 11th,
13 2022.

14 June 13th to 17th is qualifying for
15 state and federal offices. The mailing of the
16 overseas ballots, which is the first sort of
17 ballot delivery and -- and everything would
18 have to be finalized, not only in advance of
19 qualifying, but the date for supervisors to
20 mail the first ballots overseas is July 9th,
21 2022.

22 August 23rd is the primary election.
23 The supervisors will, also, have to send out
24 ballots on September 24th for the general
25 election, and then we have the general

1 election date of November 8th, 2022.

2 Part of the timeline process is
3 governed by Article III, Section 16 of the
4 Florida Constitution, which includes the
5 provisions for the automatic facial review of
6 the state legislative redistricting plans.
7 Article III, Section 16 states that within 15
8 days after the passage of the joint resolution
9 of apportionment, the attorney general shall
10 petition the Supreme Court of the state for a
11 declaratory judgment determining the validity
12 of the apportionment.

13 The Supreme Court shall permit
14 adversary interests to present their views and
15 within 30 days from the filing of the petition
16 shall enter its judgment. A judgment of the
17 Supreme Court of the state determining that
18 the apportionment to be -- is -- to -- excuse
19 me -- determining the apportionment to be
20 valid, shall be binding upon all the citizens
21 of the state.

22 Should the Supreme Court determine that
23 the apportionment made by the legislature is
24 invalid, the governor by proclamation shall
25 reconvene the legislature within five days

1 thereafter in extraordinary apportionment
2 session, during which the legislature shall
3 adopt a joint resolution of apportionment
4 conforming to the judgment of the Florida
5 Supreme Court.

6 Within 15 days after the adjournment of
7 an extraordinary apportionment session, the
8 attorney general is again required to file a
9 petition to the Supreme Court setting forth
10 the apportionment resolution adopted by the
11 legislature.

12 If none was adopted during the
13 extraordinary apportionment session, the
14 attorney general is required to report that
15 fact to the court. Otherwise, consideration
16 of the validity of the joint resolution shall
17 be -- had -- as provided in -- for in cases of
18 such joint resolution being adopted at a
19 regular or special apportionment session.

20 And then lastly, if the legislature
21 fails to adopt a resolution of apportionment
22 or if the Supreme Court finds the
23 apportionment to be invalid again, the court
24 has 60 days after receiving the petition from
25 the attorney general to file with the

1 secretary of state an order making the
2 apportionment.

3 The next slide that we have here is a
4 bit of a flow chart that shows the path for
5 the state legislative redistricting plans that
6 we just walked through. The color coding here
7 indicates which paths were followed for which
8 decade. This will be available on the website
9 when we launch it, and so I won't walk through
10 the particulars of the past history. I think
11 we may have an opportunity to do that at
12 subsequent meetings, as well.

13 CHAIR RODRIGUES: Do we have any
14 questions on the timeline?

15 Seeing none, now we can move forward to
16 the Census/Census Data Explanation.

17 MR. FERRIN: Thank you, Mr. Chairman.

18 Established by the U.S. Constitution,
19 the census has been conducted every ten years
20 since 1790 to determine the number of people
21 living in the United States. Article I,
22 Section 2 of the U.S. Constitution requires
23 this to be an actual enumeration of all people
24 in the United States. Actual enumeration
25 means a physical count, and the Constitution

1 has been determined to not allow for the use
2 of sampling in lieu of an actual count.

3 For redistricting, Florida is one of 21
4 states that explicitly requires the use of
5 census data for redistricting. As I mentioned
6 in Article X, Section 8, states that -- each
7 decennial census of the state taken by the
8 United States shall be an official census of
9 the state. The fourth statute -- the
10 statutory provision in Florida, also,
11 designates the most recently federally
12 conducted federal census as the official
13 census for redistricting.

14 I've already touched a little bit on
15 the hierarchy that's used by the census, but
16 it's worth noting that the geography comes
17 from a different source than the actual
18 demographic and population data. The
19 geographic data that we use for redistricting
20 comes in the form of TIGER/Line shape files
21 that are released by the Census Bureau.

22 And these are extracts of selected
23 geographic information from the United States
24 Census Bureau's database. It includes polygon
25 boundaries with geographic areas and features,

1 linear features, including roads and
2 hydrography, and point features, such as
3 landmarks.

4 The state does not contain any
5 sensitive or -- information or data on
6 population or demographics. That's linked to
7 later from censuses and other surveys through
8 a standard geographic identifier that we refer
9 to as the geo ID. And one other note is that
10 Census Bureau is constantly updating this. We
11 use the 2020 version that was released earlier
12 this year.

13 We can talk a little bit about the race
14 and ethnicity categories in the census data,
15 so since 1980, the Census Bureau has asked
16 each person counted to identify their race and
17 whether or not they are of Hispanic or Latino
18 origin. An individual's response to the race
19 and ethnicity questions are based on self-
20 identification. The United States Office of
21 Management and Budget established these
22 standards in 1997, and they are as follows:

23 For racial categories, it's American
24 Indian or Native Alaskan. And these are
25 person having origins in any of the original

1 peoples of North and South America, including
2 Centra America, and who maintains -- excuse
3 me -- maintains tribal affiliation or
4 community attachment.

5 Asian means a person having origins in
6 any of the original peoples of the Far East,
7 Southeast Asia or the Indian Subcontinent,
8 including for example Cambodia, China, India,
9 Japan, Korea, Malaysia, Pakistan, and the
10 Philippine Islands.

11 Black or African American means a
12 person having origins in any of the Black
13 racial groups of Africa.

14 Native or Hawaiian or Pacific Islander
15 is a person having origins of any of the
16 original people of Hawaii, Guam, Samoa, or
17 other Pacific Islands.

18 And then White is a person having
19 origins in any of the original peoples of
20 Europe, the Middle East, or North Africa.

21 The ethnicity question on the Census
22 Bureau or census forms asks whether or not a
23 respondent is of Hispanic or Latino origin or
24 if they are not Hispanic or Latino. Hispanic
25 or Latino has traditionally meant a person of

1 Cuban, Mexican, Puerto Rican, South America --
2 South or Central American, or other Spanish
3 culture origin, regardless of race.

4 So it's important to note that the
5 categories of race include the national origin
6 and sociocultural groups. People can chose to
7 report more than one race to indicate their
8 racial mixture, and in fact, race alone can
9 result in up to 63 different combinations.
10 And people who identify their origin as
11 Hispanic, Latino, and Spanish may be of any
12 race.

13 Talk briefly about group quarters. So
14 in 2020, the census continued -- Census Bureau
15 continued to count prisoners, college
16 students, and people in other resident
17 situations, such as nursing homes, at the
18 group location where they lived and slept most
19 of the time. This is the way it's been done
20 in the past, and by far, the majority of
21 states use population and residence data
22 reported in the census as is.

23 A handful of states have changed their
24 procedures for allocating incarcerated --
25 incarcerated persons for redistricting

1 purposes. And these states, whenever it's
2 possible, they reallocate prisoners from the
3 prison location to their residence prior to
4 incarceration. To date, eight states, which
5 includes California, Colorado, Delaware,
6 Maryland, Nevada, New Jersey, New York,
7 Virginia, and Washington, have passed laws
8 about how incarcerated persons are counted and
9 allocated during the redistricting process.

10 Personal -- protecting privacy within
11 census data. So since 2000, the Bureau has
12 used a practice called data swapping between
13 census blocks as its main disclosure avoidance
14 technique. And for an example of data
15 swapping, we can consider a census block with
16 just 20 people in it, including one Filipino
17 American without any disclosure of
18 (inaudible), it might be possible to figure
19 out the identity of that individual.

20 With the data swapping applied, that
21 person's data might be swapped with that of an
22 Anglo-American from a nearby census block
23 where other Filipino Americans reside. The
24 details for that person would be aggregated
25 with the others, and therefore, it would be

1 not be identifiable. Yet the total population
2 would remain accurate.

3 Since recent developments and the
4 advent of big data and technical advancement
5 make it theoretically possible to take the
6 many data products that the Census Bureau
7 produces and cross-reference them with each
8 other or with outside data sources to the
9 point that (inaudible) could be compromised,
10 the Census Bureau chose to review their
11 disclosure avoidance techniques and reconsider
12 other methods. In 2018, they selected
13 differential privacy for use during the 2020
14 census.

15 With differential privacy, the total
16 population in each state is as enumerated.
17 But all other levels of geography -- so tract,
18 counties, census block group -- have some
19 variance from the raw data. And the Census
20 Bureau refers to this as noise. And noise
21 would not be injected into the state
22 population, but the smaller units it can be
23 expected.

24 And it's important to note here that
25 when reaggregated, that level of noise is --

1 is -- goes away and results in a usable and
2 accurate count.

3 I mentioned the TIGER geometry that we
4 use in the geographical data. It's worth
5 noting that during the 2020 legislative
6 session, Florida -- the legislature passed two
7 bills that made changes to its political
8 subdivisions. Senate Bill 616 adjusted the
9 boundary lines of Indian River County and St.
10 Lucie County. That bill was signed into law
11 by Governor DeSantis on June 9th, 2020. And
12 Committee Substitute for House Bill 1215
13 abolished the City of Weeki Wachee, which was
14 one square mile and a population of nine.
15 That, also, took effect -- was signed and took
16 effect on June 9th, 2020.

17 Because we used the January 1, 2020,
18 data from the Census Bureau rather than the
19 census day -- or in addition to the fact that
20 these became law after census day, these
21 changes are not reflected in our geographical
22 population and demographic data, so we'll
23 still have the City of Weeki Wachee in our
24 dataset.

25 I've mentioned this a little bit before

1 already related to the census delays, and this
2 slide is taken from a presentation that the
3 Census Bureau delivered to us back in, I
4 believe it was, May. But these are some of
5 the factors that the Bureau has cited for the
6 delay and the reasons the data was delivered
7 late.

8 This includes COVID-19, four tropical
9 systems that made landfall, wildfires on the
10 West Coast, civil unrest, and legal
11 challenges. And most of those occurred during
12 the door-to-door follow-up -- nonresponse
13 follow-up count portion of the census, which
14 did disrupt the collection and then,
15 subsequently, the processing of the data.

16 And we can go -- we can break there or
17 go right into same additional data points.

18 CHAIR RODRIGUES: Do we have questions
19 on what's been presented? Senator Gibson,
20 you're recognized for a question.

21 MS. GIBSON: Thank you, Mr. Chair.
22 Going back to the race and ethnicity in the
23 census data, I thought there were questions of
24 race that were not represented in the handout.
25 For example, I think there were individual --

1 do you know if these are all the categories
2 that were questions on the census, by any
3 chance? And if not, if we can make sure that
4 we have that for the next time because I
5 thought there were -- there was some biracial
6 or other questions, even an "other" that was
7 reported when it came to race and ethnicity.

8 And I'm asking that in light of -- as
9 we begin to look at districts and minority
10 districts and how those -- how those
11 categories of race play into any potential
12 diminishment or -- if you understand what I'm
13 saying.

14 CHAIR RODRIGUES: You're recognized.

15 MR. FERRIN: Thank you, Mr. Chairman
16 and Senator Gibson. That's, actually, an
17 excellent point. I did neglect to mention
18 that there is a field for other race. It's
19 available on the -- where respondents can
20 write in whatever they want, and the Census
21 Bureau will tabulate them that way.

22 But it's important to remember that for
23 redistricting purposes, we can -- we can
24 cross-tabulate. So -- so if a person can mark
25 multiple races -- and in fact, they can select

1 all of them. And when they do that, we, in
2 the redistricting dataset that we compile and
3 use in our software, we will count every
4 person that has indicated that race as part of
5 that group.

6 So for example, with African -- Black
7 or African American population, we count
8 anyone who responded that they were any
9 combination of race that included Black or
10 African American, and we also include whether
11 or not they were Hispanic. And so all that's
12 accounted for, and when we do the functional
13 analysis and we review that, we're looking at
14 the categories of anyone who would have
15 responded that they were that race in any
16 combination. Hopefully, that answers your
17 question.

18 MS. GIBSON: So a -- sorry, Mr. --

19 CHAIR RODRIGUES: Go ahead. You're
20 recognized.

21 MS. GIBSON: A combination leans
22 towards a particular race, so if -- if someone
23 put that they were African American and White
24 or African American and Hispanic, what's the
25 dominant race that we're counting them as --

1 CHAIR RODRIGUES: You're recognized.

2 MS. GIBSON: -- because, obviously,
3 they're not counting themselves that way.

4 MR. FERRIN: Thank you, Mr. Chairman.
5 So we follow the OMB guidance, which I didn't
6 go into in great detail, but provides that for
7 the purposes of analyzing against,
8 essentially, discriminatory behavior and
9 Department of Justice review for things like
10 redistricting plans, we are supposed to count
11 all available population.

12 So -- so essentially, if you marked
13 that you were a -- a Black or African American
14 and White, you would be counted in the Black
15 population because you would, theoretically,
16 have standing to bring a discriminatory claim
17 in that circumstance.

18 CHAIR RODRIGUES: Senator Rouson,
19 you're recognized for a question.

20 MR. ROUSON: Thank you very much, Mr.
21 Chairman. And I think you mentioned it, but I
22 just want to be clear, and I want the public
23 to be clear. On group quarters, Florida
24 continues to count prisoners and college
25 students at the location where they were on

1 April 1st of 2020, as opposed to their home or
2 before they were incarcerated?

3 CHAIR RODRIGUES: You're recognized.

4 MR. FERRIN: Thank you, Mr. Chairman
5 and Senator Rouson. The Census Bureau counts
6 them there. We do not edit the census data
7 and reassign them to another geographic
8 location.

9 CHAIR RODRIGUES: Any further
10 questions? Senator Bradley, you're
11 recognized.

12 MS. BRADLEY: Thank you, Mr. Chairman.
13 In the previous slide, you outlined what the
14 census delays. And I just wondered if you
15 could give a sense of the overall
16 participation rate, even with those delays, of
17 the 2020 census, maybe compared to prior years
18 or whether it was a -- what the participation
19 rate was in 2020.

20 CHAIR RODRIGUES: You're recognized.

21 MR. FERRIN: Thank you, Mr. Chairman
22 and Senator Bradley. This -- Florida had a
23 99.9 percent enumeration rate, so -- so the
24 Census Bureau calculates the total number of
25 households that they have on record, and 99.9

1 percent of those households responded to the
2 census in 2020. I don't know the 2010 number
3 off the top of my head.

4 MS. BRADLEY: (Inaudible).

5 MR. FERRIN: But I know the 2021 was
6 99.9.

7 CHAIR RODRIGUES: Any further
8 questions?

9 Seeing none, let's move on to Census
10 Data.

11 MR. FERRIN: Thank you, Mr. Chairman.
12 And so to speak a little bit about some of the
13 trends that we've seen in the census data, one
14 of the underlying themes is the shift in -- or
15 continued trend towards population
16 congregation in metropolitan areas.

17 So the population of the U.S. metro
18 areas grew by 9 percent from 2010 to 2020,
19 resulting in 86. -- 80 -- excuse me -- 86
20 percent of the population living in the United
21 States metro areas, as compared to 85 in 2010.

22 Around 52 percent of the counties in
23 the United States saw their 2020 census
24 populations decrease from the 2010 census.
25 The largest county remains Los Angeles County.

1 The largest city remains New York. But across
2 the United States, 312 of the 384 metro areas
3 gained population. Only a few lost. But one
4 of the fastest growing ones in the United
5 States was, actually, The Villages. It grew
6 39 percent from about 93,000 people to 130,000
7 or so.

8 Here we have some of the Florida-
9 specific facts. So we did surpass New York,
10 become the third-largest state officially. As
11 we just discussed, 99.9 percent of the housing
12 units were counted in the 2020 census. Our
13 total growth was 2,736,877 people from 2010 to
14 2020, and that's almost 15 percent. As I
15 mentioned earlier, The Villages was the
16 fastest-growing metro area in the country and
17 also in the State of Florida.

18 Talking about the self-response rate,
19 which was for the first time this year
20 available online -- so in the past, self-
21 response meant that you received your Census
22 Bureau questionnaire in the mail, you filled
23 it out and responded. It didn't require a
24 door-to-door visit or a nonresponse follow-up.
25 We did improve that a little bit this -- this

1 cycle and went from 63 percent to 63.8.

2 Additionally, Jacksonville remains the
3 largest incorporated place in Florida, and
4 it's got 9 million -- or excuse me -- 949,611
5 people. And Jacksonville, as many of you
6 know, is also -- coincide with the county
7 boundaries of Duval.

8 Osceola County had the largest county
9 growth rate at 45 percent and growing by about
10 120,000 people. Not surprisingly, then,
11 Florida State Senate District 15 had a similar
12 growth rate, 51 percent, growing 241,000
13 people, which is nearly half of what a senate
14 district used to be.

15 And in the same general area, Florida
16 House District 44 grew 51 percent, and that's
17 by about 80,000, and I believe an ideal
18 district last cycle was somewhere in the
19 neighborhood of 150,000. Congressional
20 District 9, similarly, grew by about a third.
21 So 259,000 people from 2010 to 2020.

22 One of the other things that's been
23 noted in the -- the census data across the
24 country has been that we've had some shifts in
25 how people identify themselves racially.

1 So that being said, the White
2 population still remains the largest race or
3 ethnicity group in the United States, over 204
4 million people identifying as White alone.
5 Another 35 million bring the total to 235.4
6 million reported being either White alone or
7 in combination with another group. But
8 specifically, the White alone population
9 decreased, and what that means is that we're
10 seeing a trend in which more people are
11 identifying as being White in combination with
12 some other race.

13 Likewise, the multiracial or two or
14 more race population changed. The multiracial
15 population was measured at 9 million people
16 across the country in 2010, and that's now at
17 33.8 million people, which is a 276 percent
18 increase. In Florida, I believe, it exceeded
19 that.

20 The in-combination multiracial
21 populations for all race groups accounted for
22 most of the overall changes within each racial
23 categories, so it wasn't necessarily people
24 identifying as a single race African American
25 or single race Asian; it was people combining

1 them across different races.

2 And then the next largest races --
3 racial populations were Asian alone or in
4 combination. They're up to 24 million
5 nationwide, and they exceed the American
6 Indian and Alaskan Native alone or in
7 combination group, followed by the Native
8 Hawaiian and other Pacific Islander Group.

9 Not surprisingly, as I'm sure many
10 people expected, the Hispanic or Latino
11 population, which includes people of any race,
12 was 61 -- 62.1 million in 2020. This is a
13 growth of 23 percent. The population that has
14 identify itself of not being Hispanic or
15 Latino origin grew 4.3 percent since 2010.

16 A lot of this data is currently visible
17 and available via the Census website. They've
18 provided some demographic map viewers, as well
19 as access to the tabular data and now the
20 interactive tables that you can select which
21 types of information you would like to see in
22 which geographical level. That, also,
23 includes current state legislative and
24 congressional districts. That's all available
25 on data.census.gov. And that would conclude

1 this portion. We can pause or keep going, Mr.
2 Chairman.

3 CHAIR RODRIGUES: Do we have any
4 questions on this portion?

5 Seeing no questions, let's continue on.

6 MR. FERRIN: Thank you, Mr. Chairman.
7 So the last thing we have for you today is
8 some maps to look at. So these -- these
9 display the over/under populations for the
10 different districts we have here in Florida,
11 so these are the current congressional
12 district boundaries.

13 Here you can see where we have listed
14 the 2010 population versus the state, as well
15 as the difference, the ideal population of the
16 old congressional districts, which was
17 696,000, and the new one, 769,000. So almost
18 a 73,000-person change there, as well as the
19 number of districts that we have.

20 One of the things to kind of note about
21 this map is that because we are gaining a
22 congressional district, the color coding there
23 is going to look a little different. It's --
24 it's -- these districts are going to trend --
25 show to be slightly more over-populated than

1 they should, if we would to divide and color
2 them by 28 districts -- or excuse me -- 27
3 instead of 28.

4 Here we have the same map and same data
5 points for the State Senate districts, so you
6 can see here that a lot of the districts in
7 North Florida or currently underpopulated, as
8 are the districts in South Florida, as well as
9 some in the Tampa Bay area. Most of the
10 growth in the state, as is displayed by this,
11 occurred along the I-4 Corridor and up along
12 the First Coast in St. Johns and Flagler
13 Counties. Other districts that are
14 overpopulated include in Lee County, District
15 27, but the -- the one that's far and away the
16 most is District 15.

17 Lastly, we have the same kind of slide
18 for the Florida House and their current
19 districts, so looking at this at a more
20 granular level, smaller districts, is going to
21 display some of the population trends in a
22 little more detail. So you can see here,
23 really, the underpopulation and the
24 significance of it in the Big Bend area. You
25 can see the dark blue colors show the

1 overpopulation, particularly in Central
2 Florida and along the I-4 Corridor, and then
3 you can see the bright red and shading and
4 colors down there in South Florida, as well.

5 All of these will be visible on our
6 website, when it launches in an interactive
7 manner that will allow users to click around
8 and get some more data on the specific
9 districts, including the population numbers
10 from 2010, 2020, and the percent differences,
11 as well. And that would include the
12 presentations, Mr. Chairman.

13 CHAIR RODRIGUES: Do we have any
14 questions on the map showing the under and
15 over populations of our various chambers?
16 Okay. Senator Rouson, you are recognized.

17 MR. ROUSON: Thank you very much. This
18 may go back to an earlier slide, but the
19 boundaries were adjusted in St. -- in St.
20 Lucie and Martin Counties. Did that
21 significantly add or shed population because
22 of the boundary adjustment?

23 CHAIR RODRIGUES: You're recognized.

24 MR. FERRIN: Thank you, Mr. Chairman.
25 Let me -- the answer is no. The boundary

1 shift between Indian River County and St.
2 Lucie County was one parcel that was six-
3 tenths of an acre that went from St. Lucie to
4 Indian River, and then Indian River -- excuse
5 me, five and a half acres of land were
6 transferred from Indian River to St. Lucie
7 County.

8 The land -- it's my understanding and
9 recollection was -- those five and a half
10 acres were vacant. There was one house that
11 had a piece of property. Their parcel was
12 divided by the counties, and so they took the
13 one parcel that had a house on it, moved it
14 all to one county, and the other one took some
15 vacant land in exchange, and it was -- should
16 have had little to no -- I mean, the residents
17 of that one house, but other than that, no
18 changes in population would have -- would have
19 occurred.

20 MR. ROUSON: Thank you.

21 CHAIR RODRIGUES: Any other questions?

22 Seeing none, that includes Tab 4.

23 We'll now move on to Tab 5, which is public
24 comment. We'll start with Jonathan Webber
25 with Florida Conservation Voters. Jonathan,

1 you're recognized.

2 MR. WEBBER: Thank you, Chair. Good
3 morning -- afternoon. My name is Jonathan
4 Webber. I'm the deputy director of Florida
5 Conservation Voters. It's wonderful to be
6 back in the same room with all of you and
7 seeing your faces. We have a lot of important
8 work to do ahead of us, although I will say I
9 will miss the basketball buzzer, which did
10 happen in the civic center in the beginning
11 there. I'll miss that.

12 Fair political districts are the most
13 important aspect of our democratic republic.
14 The integrity -- integrity of our entire
15 system is in those little lines on the map,
16 which are now completely in your hands.

17 Eleven years ago, 63 percent of Florida
18 voters approved the two amendments related to
19 the redistricting process. Thank you so much
20 for reviewing them. These amendments are now
21 part of the state constitution, and like you,
22 I will be referring to these words in the
23 constitution regularly as we engage over the
24 coming weeks and months.

25 But the words in the constitution are

1 only part of the story, and I strongly and
2 respectfully encourage you -- encourage the
3 following:

4 So please ensure that all map drafts
5 become visible in real time and that all
6 actual work of map-making is livestreamed with
7 audio and video. Preserve all communications
8 about redistricting and make them available as
9 public records.

10 Make all mapping data available in the
11 public -- to the public in a common, usable
12 format.

13 Solicit extensive input from the
14 public.

15 Seek out and work to understand
16 opposing perspectives and points of view.

17 Provide ample notice of all proceedings
18 and public comment opportunities.

19 Find ways to get the people of Florida
20 involved in a meaningful way, even if they do
21 not have the means to travel to Tallahassee,
22 which includes virtual verbal input
23 opportunities. Input and committee meetings
24 is not just enough, especially when Floridians
25 who want to comment on multiple maps sometimes

1 cannot make it to multiple meetings.

2 And ensure language accessibility for
3 our rich and diverse population. Translation
4 services is a must.

5 And I know that each and every one of
6 you is taking this process seriously, and I
7 want you to know that so are the people of
8 Florida. I'll close by saying the
9 redistricting process demands your best. It
10 demands our best. Future generations are
11 watching, and current generations are counting
12 on you. Thank you all so much. Best of luck.

13 CHAIR RODRIGUES: Thank you for your
14 comments. Next we have Rich Templin with the
15 Florida AFL-CIO. Mr. Templin, you're
16 recognized.

17 MR. TEMPLIN: Thank you, Mr. Chairman.
18 What an awesome new space you guys have to
19 work in. This is my first time being in it,
20 so pretty cool.

21 I represent the Florida AFL-CIO. The
22 Florida AFL-CIO, we represent 1.3 million
23 union members, their families, and retirees in
24 every area of the state. We have ten central
25 labor councils in every single geographic

1 region of Florida, and we have members in all
2 67 counties. And like Leader Gibson, I was
3 here ten years ago, participated in the
4 process, and I can tell you that our members
5 get very engaged in this. It's something that
6 they care a lot about. I actually think that
7 they enjoy it as much as it was interactive in
8 the past and I know will be again in the
9 future.

10 So I'm really just here to avail my
11 organization to you because in so much as
12 getting the word out about how the public can
13 participate and how the public can watch the
14 process and to get to the goals that you all
15 have set for transparency and clarity, we're
16 going to be doing that.

17 And we're going to be taking all of the
18 rules and procedures that you establish and
19 working within those to engage as much of our
20 members as possible, and so we really look
21 forward to watching this process move forward.

22 It was very encouraging what we heard
23 today, Mr. Chairman. Thank you. And we're --
24 we're here, and our members want to be a part
25 of the process. We're a very bipartisan

1 group, and so we just want to be here to help.
2 Thank you very much.

3 CHAIR RODRIGUES: Thank you. Next we
4 have Cecile Scoon with the Florida League of
5 Women Voters. She is the new president. Is
6 she in the room? Thank you. You're
7 recognized.

8 MS. SCOON: Thank you so much for this
9 opportunity. My name is Cecile Scoon, and as
10 stated, I'm the new president of the League of
11 Women Voters of Florida, and I'm coming here
12 as a citizen, I'm coming here as the
13 president, as a member of the league, and as
14 a -- or the league is a member of the Fair
15 Districts Coalition that was, also -- many of
16 these organizations were involved in the
17 redistricting in 2010 and everything that
18 transpired.

19 It's been really very good feeling to
20 hear the recounting of the actual history and
21 the problems that, you know, our state ran
22 into and the waste of time and energy and
23 upset in the, you know, creation of distrust
24 with the people when people in the past
25 represented to promise to follow the law and

1 then they didn't. They kind of, you know,
2 went around the back door and did all those
3 things.

4 So one of the things that we came up
5 with to try to win back the trust of the
6 people is to ask for representatives and
7 senators to sign a pledge.

8 And the pledge is found on the Fair
9 Districts website, which is
10 fairdistrictscoalition.org, and essentially,
11 it's a -- it's a paragraph, and it's basically
12 just reiterating everything -- many of the
13 things that you already said to being
14 transparent, following the law, you know,
15 adhering to the rules of fairness and
16 everybody getting their equal say, no harm to
17 minority, language, or racial groups, no
18 political gerrymandering, and things of that
19 nature.

20 So it's basically just saying, would
21 you pledge to follow the law that the citizens
22 voted on over 63 percent in the Citizens'
23 Initiative that led to the Fair District
24 Amendments.

25 So I would ask you all, since we're all

1 here and we're starting anew, to consider
2 signing that pledge and look it over, and if
3 there are any questions, please let us know.
4 So we're very excited about this opportunity.
5 We're looking forward to the continued
6 interaction and for public input.

7 We would ask that the public input be
8 interactionable, in other words the public
9 would have a question or statement and then
10 you would hear it in real time and then
11 respond. I know there are many avenues
12 available with digital and email and all the
13 other things, but it really lights a fire in
14 the citizens' heart to feel excited that they
15 spoke to their representative, they were heard
16 by the elected officials, and that there was a
17 response of some kind to their -- to a
18 question. So we really, really ask you for
19 that.

20 And the other thing I'd like to say is,
21 on the issue of -- I think Senator Rouson had
22 the question about how was the different
23 committees to interact with the media, and I'm
24 not sure I heard a specific answer to that
25 because we just want to know how we're going

1 to hear from you. Are you going to be
2 accessible to the media, also? Or you know,
3 how is that going to work out? Thank you.

4 CHAIR RODRIGUES: I just have one
5 question before you go.

6 MS. SCOON: Yes.

7 CHAIR RODRIGUES: The language in the
8 Fair Districts pledge -- is the language in
9 the Fair Districts pledge the exact language
10 that is in the Fair Districts Amendment that
11 was adopted into the constitution?

12 MS. SCOON: I don't think it's exact.
13 I've got it right here. It's like a paragraph
14 and a half. Would you like me to read it?

15 CHAIR RODRIGUES: No, ma'am.

16 MS. SCOON: Okay.

17 CHAIR RODRIGUES: I'm just going to
18 share with you my particular position --

19 MS. SCOON: Sure.

20 CHAIR RODRIGUES: -- which is, if the
21 language is not exact, I can't pledge to it.
22 When I took my oath of office, I pledged to
23 uphold the Constitution of the State of
24 Florida, which includes the language that was
25 adopted by the voters in that Fair Districts

1 Amendment. So if you're asking me to pledge
2 to do something that is outside of that
3 amendment, you're putting me in a position
4 where I would be violating my oath of office,
5 and I just can't do that.

6 MS. SCOON: Yes, I -- I --

7 CHAIR RODRIGUES: But I appreciate your
8 participation.

9 MS. SCOON: yes.

10 CHAIR RODRIGUES: And I appreciate your
11 enthusiasm.

12 MS. SCOON: Thank you. I understand
13 your analysis. I don't think it's outside.
14 It's not -- it doesn't mirror the exact words,
15 but I think -- it's certainly well within the
16 intent, but I -- I respect what you're saying.
17 Thank you, sir.

18 CHAIR RODRIGUES: Thank you.
19 Appreciate it. Do we have any other public
20 comment?

21 Seeing none, do we have any comments
22 from the members before we conclude? Is there
23 any other business to appear before the
24 committee?

25 Seeing none, Senator Stargel moves that

1 we adjourn. Without objection, we'll show
2 that motion's been adopted. We are adjourned.

3 (End of Video Recording.)

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CERTIFICATE

I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings, and that the transcript is a true record, to the best of my ability.

DATED this 15th day of March, 2023.



WENDY SAWYER, CDLT

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EXHIBIT 21

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.

20 As Chair Sirosis 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 HUNSCHOFESKY: 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 or 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.

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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.



Julie Thompson, CET-1036

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