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Common Cause, et al. v. Cord Byrd

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

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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



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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.

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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.

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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

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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

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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.

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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

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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

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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

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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

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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.

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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

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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.

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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

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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

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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 --

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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

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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,

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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.

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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

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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

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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

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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

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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

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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

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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

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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,

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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

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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

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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

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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

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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;

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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,

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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 whole 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

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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

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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

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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

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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

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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,

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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

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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.

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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.

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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.

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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

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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.

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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

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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.

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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

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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.

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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?

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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 --

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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?

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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

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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

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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

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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

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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

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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

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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.

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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,

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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

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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,

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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,

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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.

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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

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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

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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.

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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?

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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

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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

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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?

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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

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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.

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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.

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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

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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

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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.

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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

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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.

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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 than they were in 2012.

25 VICE-CHAIR FINE: You're recognized.

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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.

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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

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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

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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

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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?

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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

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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?

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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?

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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

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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.

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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

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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.

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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.

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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 --

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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

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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

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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

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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

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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

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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

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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

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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.

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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

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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

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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.

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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.

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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.

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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

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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.

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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

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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

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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

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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

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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.

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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

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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

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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,

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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."

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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.

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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

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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

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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

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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

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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

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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

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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

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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.

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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.

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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

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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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1 CERTIFICATE OF TRANSCRIPTIONIST

2 I certify that the foregoing is a true
3 and accurate transcript of the digital recording
4 provided to me in this matter.

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

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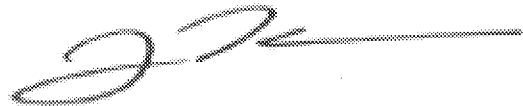
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Julie Thompson, CET-1036