

Senate Session
April 19, 2022, 5:00 P.M.

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1 [00:03:20]

2 The President: Okay senators, now we're going with the special order, we're taking up
3 Senate Bill 2C. Senator Rodrigues – Do we have to read the bill? Read the bill.

4 Clerk: Senate Bill 2C, a bill to be entitled an act establishing the congressional districts of
5 the state.

6 The President: Senator Rodrigues, you are recognized to explain your bill.

7 Ray Rodrigues: This is the congressional apportionment map.

8 The President: Are there amendments?

9 Clerk: On the desk Mr. President.

10 The President: Read the first amendment.

11 Clerk: Amendment barcode 470444 by Senator Rodrigues, between lines 3568 and 3569,
12 insert amendment.

13 The President: Senator Rodrigues, you are recognized to explain your amendment.

14 Ray Rodrigues: This amendment codifies the existing court doctrine consistent with the
15 11th Amendment to the U.S. Constitution and federal courts' hearing of challenges raising state
16 constitutional or state law claims. The amendment requires actions challenging the state's
17 congressional districts on state constitutional or state law grounds to be brought exclusively in
18 state court in Leon County. Additionally, the amendment makes it clear that a state court may
19 hear challenges raising state constitutional law, state law, federal constitutional, or federal law
20 claims, and that it does not preclude federal courts from deciding actions challenging the state's
21 congressional districts on federal constitutional or federal law grounds. That is the amendment.

22 The President: Are there questions of the sponsor on the Rodrigues amendment? Senator
23 of the 18th, Senator Cruz, you are recognized for a question. Senator Cruz wishes to yield?

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1 Janet Cruz: I do, Mr. President, I apologize. I thought we were on the bill.

2 The President: Very good, we are on the Rodrigues amendment. Are there questions? The
3 senator of the 30th, Senator Powell, you are recognized for a question.

4 Bobby Powell: Thank you Mr. President. Senator Rodrigues, what is the scope of this
5 amendment and why is it necessary for this particular bill?

6 The President: Senator Rodrigues.

7 Ray Rodrigues: The scope is what I described. It just says state challenges will be in state
8 court, federal challenges will be in federal court. If you go back to the last redistricting cycle,
9 that is how all the litigation was handled. We're just saying that what was is what will be.

10 The President: Additional questions? Senator Powell, you are recognized for a question.

11 Bobby Powell: Thank you Mr. President. So Senator Rodrigues, can you clarify for me if
12 there is a challenge to this particular map that we are going to deal with with regard to this
13 special session, what venue will it fall under? Will that fall under, first, the state courts and then
14 with the opportunity for the federal courts to then – the appeal can be through the federal courts.
15 Or will it be to the federal courts? Help me to understand?

16 The President: Rodrigues to respond.

17 Ray Rodrigues: Challenges to the state constitution would be in state court. Challenges
18 on federal issues, which would be the Voting Rights Act, could be either state court or federal
19 court.

20 The President: Senator Powell, you are recognized for a question.

21 Bobby Powell: Thank you Mr. President. Senator Rodrigues, does this amendment have
22 anything to do with the map? I heard you say to the state constitution, I'm just gathering my
23 marbles here. To have a better understanding of what we are specifically speaking of.

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1 The President: Senator Rodrigues.

2 Ray Rodrigues: I would go back and say if it said challenge to an issue in the state
3 constitution, that belongs in state court. If it is on a federal ground, which would be the Voting
4 Rights Act, then that would be either in state court or federal court.

5 The President: Senator Powell has concluded. In questions is going to be Bracy, Jones,
6 then Gibson. Senator Bracy, you are recognized for a question. And Senator Rouson.

7 Randolph Bracy: Thank you Mr. President. Why the need to clarify which court it can be
8 litigated in? I'm just trying to understand what's the purpose for having this. Because wouldn't a
9 challenge, a federal challenge automatically go to the federal court?

10 The President: Senator Rodrigues.

11 Ray Rodrigues: Thank you Mr. President. It should and we're, by specifying this, making
12 sure that that's what happens.

13 The President: Senator Bracy.

14 Randolph Bracy: Thank you Mr. President. So do you see an instance, like if we didn't
15 do this that it might not go to the appropriate court?

16 The President: Senator Rodrigues.

17 Ray Rodrigues: Thank you Mr. President. It's a possibility.

18 The President: Senator Bracy.

19 Randolph Bracy: Thank you Mr. President. And why would you think that's a
20 possibility?

21 The President: Senator Rodrigues.

22 Ray Rodrigues: Because we have it spelled that the state is not giving consent to be sued
23 in federal court over a state law.

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1 The President: Senator Bracy.

2 Randolph Bracy: So is there a precedent where we've seen it litigated in a way where a
3 federal issue is litigated in a state court? Where we need to correct it?

4 The President: Senator Rodrigues.

5 Ray Rodrigues: Thank you Mr. President. The precedent has been state issues are
6 litigated in state court, which is what we want to continue.

7 The President: Senator Bracy.

8 Randolph Bracy: Thank you Mr. President. But I'm saying, has it been done the other
9 way where we need to fix it?

10 The President: Senator Rodrigues.

11 Ray Rodrigues: Thank you Mr. President. I don't have examples to provide. But what we
12 are doing is ensuring in this as we move forward that we are very clear. That if you are
13 challenging this on a state issue, it's in state court. If you are challenging this on a federal issue,
14 you can do that in either state or federal court.

15 The President: Senator Bracy having concluded, up in questions is Jones, followed by
16 Leader Gibson and Senator Pizzo. Senator Jones of the 35th, you are recognized for questions.

17 Shevrin Jones: Thank you so much Mr. President and thank you Senator Rodrigues. I
18 want to continue what Senator Bracy was asking about the precedents that was set in the past. In
19 2015 when this went to the court or if I'm off by my year I apologize. But my question is, it was
20 already defined based off law and constitution in the direction of what courts it should go to. So I
21 want to reiterate and ask the question. Why do we need to file a bill to reiterate that?

22 The President: Senator Rodrigues.

23 Ray Rodrigues: Mr. President, I would say that's been asked and answered.

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1 The President: Senator Jones.

2 Shevrin Jones: Thank you so much Mr. President. So let me ask a different line of
3 questions. So in the amendment it says specifically that, shall be brought only in Leon County.
4 Can you speak to that?

5 The President: Senator Rodrigues.

6 Ray Rodrigues: Thank you Mr. President, yes and that has been the practice in the past.
7 So we are codifying that for this one.

8 The President: Senator Jones.

9 Shevrin Jones: Thank you Mr. President. Senator Rodrigues, are we saying only in Leon
10 County because we know that the federal judge in Leon County is Republican-appointed and will
11 probably rule in our favor?

12 The President: Senator Rodrigues.

13 Ray Rodrigues: I'm not saying that at all.

14 The President: Senator Jones.

15 Shevrin Jones: Thank you so much Mr. President. I guess my final question would be if
16 this amendment doesn't pass, what happens?

17 The President: Senator Rodrigues.

18 Ray Rodrigues: In theory, a lawsuit could be filed in either court, and if it went into a
19 venue that was inappropriate, it would lengthen the time of litigation as the state made clear we
20 weren't giving consent to be sued in federal court over state law.

21 The President: Senator Jones.

22 Shevrin Jones: Thank you Mr. President. But to my understanding, if I'm wrong then
23 please correct me, if we're about to vote on a congressional map, can you talk us through the

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1 normal process would be and how that would flow through the courts.

2 The President: Senator Rodrigues.

3 Ray Rodrigues: Thank you Mr. President. A normal process is challenges on state law
4 would go to state court. Challenges on federal law would go to federal court or state court.

5 The President: Senator Jones. Senator Jones has concluded. In questions will be Leader
6 Gibson followed by Senator Pizzo. Leader Gibson from the 6th, you are recognized for a
7 question.

8 Audrey Gibson: Thank you Mr. President. Can the – well this is an amendment though.
9 This is amendment to the maps, is that correct?

10 The President: Senator Rodrigues.

11 Ray Rodrigues: Thank you Mr. President. Yes, it's an amendment to the bill that contains
12 the map.

13 The President: Leader Gibson.

14 Audrey Gibson: That's what I meant. Thank you Mr. President, and so if there were –
15 could there be any litigation on the statute that you're – or the amendment if it were separate? I
16 don't understand.

17 The President: Senator Rodrigues.

18 Ray Rodrigues: Thank you Mr. President. If we don't have the amendment, it is possible
19 that litigation over a state issue could be filled in federal court, which would then lengthen the
20 timeline of the litigation. As the state court would then make clear, I'm sorry, the state would
21 make clear it had not given consent to be sued in federal court over a state issue.

22 The President: Leader Gibson.

23 Audrey Gibson: Thank you Mr. President. Did you say this happened before where in

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2016, I think it was, the maps went to the state court and then federal, or no?

The President: Senator Rodrigues.

Ray Rodrigues: Thank you Mr. President. I'm saying that what we are doing now would ensure that what happened in the last round of litigation is what would happen in this round.

The President: Leader Gibson.

Audrey Gibson: Thank you Mr. President. Why couldn't it just happen naturally? Why do we need a statute to force it in one direction or another?

The President: Senator Rodrigues.

Ray Rodrigues: Thank you Mr. President. We are on a tight timeline so we are looking to cut down the timeline of potential objects that could extend litigation.

The President: Leader Gibson.

Audrey Gibson: Thank you Mr. President and so the amendment is all about the timeline and speeding up the process. Rather than slowing down the due process, is that correct?

The President: Senator Rodrigues.

Ray Rodrigues: Thank you Mr. President. No, I would not say that's correct. The amendment is about ensuring the issues are going to be litigated are litigated in the correct court.

The President: Leader Gibson.

Audrey Gibson: Thank you Mr. President. But you did mention we are on a tight timeline and so we want to adopt legislation to make sure there is no interruption of the timeline?

The President: Senator Rodrigues.

Ray Rodrigues: Thank you Mr. President. I would say we want to adopt this so that we know that any litigation goes to the correct court from the beginning.

The President: Senator Gibson has concluded. We are about to go to Senator Pizzo. Are

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1 there other senators wishing to question? Senator of the 38th, Senator you are recognized for a
2 question.

3 Jason Pizzo: Thank you Mr. President. Just for verification purposes, punctuation. I see a
4 hyphen before the word notwithstanding. But that might be a scrivener's error from a copy and
5 paste from another section of another amendment? Line 8.

6 The President: Senator Rodrigues.

7 Ray Rodrigues: I do not know I will have to get with staff and get back to you on that.

8 The President: Senator Pizzo for a question.

9 Jason Pizzo: Thank you Mr. President. But you see what I'm talking about on line 8 after
10 the word districts period hyphen.

11 Ray Rodrigues: Yes.

12 Jason Pizzo: That's not your intention to have that in the amendment is it?

13 The President: Senator Rodrigues.

14 Ray Rodrigues: I don't think the hyphen serves a purpose. But let me get back to you on
15 that.

16 The President: Senator Pizzo.

17 Jason Pizzo: Thank you. Senator Rodrigues, are you familiar with the term forum
18 shopping.

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you Mr. President. No, I'm not.

21 The President: Senator Pizzo.

22 Jason Pizzo: Have you ever heard of the term forum shopping, or maybe someone from
23 staff is familiar with the term forum shopping, that drafted this bill because I know you didn't

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1 draft it with a hyphen like that.

2 The President: Senator Rodrigues.

3 Ray Rodrigues: I'm going to yield to Senator Burgess on the hyphen.

4 The President: Senator Rodrigues yields to the Senator of the 20th, Senator Burgess you
5 are recognized to respond.

6 Danny Burgess: Thank you very much Mr. President. After a quick review and
7 consulting with staff, I've seen other further examples of where it's a drafting style. It's utilized
8 throughout statute and it doesn't serve necessarily a content-based purpose.

9 The President: Senator Pizzo.

10 Jason Pizzo: Thank you Mr. President. Is Senator Burgess – and congratulations on
11 winning that golf tournament with that jacket. Is Senator Burgess also prepared to answer as it
12 relates to forum shopping?

13 The President: Senator Rodrigues you are recognized.

14 Ray Rodrigues: Thank you Mr. President. I'm not familiar with it. I can ask staff if they
15 are.

16 The President: Senator – Senator Pizzo would you wish to restate that question please?

17 Jason Pizzo: Thank you Mr. President. You were smart with your answer, last question.

18 The President: Senator Pizzo, while he's getting a response, we're going to go for just a
19 brief moment, Senator Passidomo, for what purpose?

20 Kathleen Passidomo: Thank you Mr. President. I move that the Senate extend the time of
21 adjournment until completion of today's order of business. Any takers for the time? 10:45? 11?

22 The President: Without objection, the time is extended. Without objection. Senators, let's
23 get back to questions. Senator Pizzo has the gavel for a question and Senator Pizzo from the

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1 38th, you are recognized.

2 Jason Pizzo: Thank you, my question was and if you're not an attorney, it is not
3 something that you would not know in the normal course. Familiarity with the term forum
4 shopping as it relates to whether it's a contract or piece of proposed legislation.

5 The President: Senator Burgess of the 20th you are recognized to respond.

6 Danny Burgess: Thank you Mr. President. Senator Pizzo, you know obviously we are
7 talking to where actions may or may not begin. I would submit that a likely defendant in this
8 situation would of course be us as a state in the course and scope of what we've done, which has
9 happened here within Tallahassee. So I think it is actually incredibly consistent when it comes to
10 selecting a venue that it is, in fact, in Leon County.

11 The President: Senator Pizzo.

12 Jason Pizzo: Just to follow-up, do you have some concern that the court, whether it's a
13 circuit court as one of the 20 circuits in Florida and state court, or one of the federal district
14 courts might have difficulty determining they don't have subject-matter jurisdiction over a
15 particular complaint?

16 The President: Senator Burgess.

17 Danny Burgess: Thank you Mr. President. I would say my argument would be that this is
18 where the cause of action accrued and therefore that would make this an appropriate venue as
19 opposed to a forum shop.

20 The President: Senator Pizzo.

21 Jason Pizzo: Thank you Mr. President. So if I were to file a civil rights 1983 action,
22 would the proper venue be federal court or state court even if it was a state action that I allege
23 violates my civil rights? The 1983 action would be filed in federal court or state court?

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1 The President: Senator Burgess.

2 Danny Burgess: Thank you Mr. President. And just to kind of bring it back to what we
3 are doing, I think what we are doing is codifying existing court doctrine under the 11th
4 Amendment of the Constitution.

5 The President: Senator Pizzo.

6 Jason Pizzo: So I'm just asking if someone challenges the passage of this bill because
7 they believe it violates their civil rights or the Voting Rights Act. Would the proper venue for a
8 civil rights action of state action in violation of their rights that they are alleging, would the
9 proper venue be state court or federal court?

10 The President: Senator Burgess, you are recognized.

11 Danny Burgess: Thank you Mr. President I'll just submit my previous answer for the
12 record.

13 The President: We're in questions, we're in questions. Senator Pizzo you are recognized
14 for a question.

15 Jason Pizzo: Thank you Mr. President. Let me ask it another way, just so we can get to a
16 yes or no. If I'm suing the federal government, would the proper venue be Leon County court or
17 Leon circuit court? Would that be the proper venue? It's rhetorical, the answers, no, right?
18 Anyone?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: I'll give you the rhetorical no.

21 The President: Senator Pizzo for a question.

22 Jason Pizzo: Thank you Mr. President. So it naturally follows that this amendment's
23 being filed because the state wishes to direct and place the forum for any challenge in the court

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1 of their choosing, not of what might be appropriate based on the subject matter, correct?

2 The President: Senator Rodrigues.

3 Ray Rodrigues: I would not agree with that.

4 The President: Senator Pizzo.

5 Jason Pizzo: Do you think the courts might agree with that?

6 The President: Senator Rodrigues.

7 Ray Rodrigues: I wouldn't speculate on what the courts may or may not agree with.

8 The President: Senator Pizzo.

9 Jason Pizzo: Senator Rodrigues, the last year when we tried one of these exercises and
10 what we thought the court was going to accept, what happened?

11 The President: Senator Rodrigues.

12 Ray Rodrigues: It depends on which bill.

13 The President: Senator Pizzo has concluded. Are there additional questions? Additional
14 questions? Senator of the 11th, Senator Bracy, I know that you've asked questions but I know
15 you have a burning question that wasn't answered. The Chair is going to yield to the Senator of
16 the 11th for another bite of the apple. Senator Bracy you are recognized for a question.

17 Randolph Bracy: Thank you Mr. President. I don't know if it's a burning question, but it
18 is something that arose as the dialogue was going back and forth. Do you believe that this is an
19 overreach of the Legislature's powers dictating how this can be litigated? I'll start there.

20 The President: Senator Rodrigues.

21 Ray Rodrigues: Thank you Mr. President. No, I don't think codifying existing judicial
22 doctrine is an overreach.

23 The President: Senator Bracy.

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1 Randolph Bracy: Thank you Mr. President. Have you ever – do you remember a bill that
2 we've passed out of this Legislature where we have directed the courts how they can litigate a
3 bill that we pass?

4 The President: Senator Rodrigues.

5 Ray Rodrigues: I do not but I would submit that I think that is outside the scope of the
6 amendment.

7 The President: Senator Bracy.

8 Randolph Bracy: Thank you Mr. President. How so?

9 The President: Senator Rodrigues.

10 Ray Rodrigues: I don't think the history of what's been done should impact the question
11 that's before us today.

12 The President: Senator Bracy.

13 Randolph Bracy: Okay, thank you Mr. President. Being a legislator for ten years now, it's
14 my understanding that we pass laws, how it's litigated is outside of our purview, and for us to
15 dictate how that process works I believe that we are stepping outside of our purview and our
16 legislative powers. So, I didn't know if maybe Senator Burgess can speak to it, because in my
17 understanding we're stepping outside of our powers.

18 The President: Is that a question Senator Bracy?

19 Randolph Bracy: Senator Burgess, say something please, thank you.

20 The President: Senator of the 20th, Senator Burgess, you are recognized to respond.

21 Danny Burgess: Thank you Mr. President. I'm glad I wore my bright jacket today. So
22 statutory, there's – forum selection is a statutory privilege and there is something called home
23 venue, which agencies – I'm actually reading an article on it now from the Florida Bar. Home

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1 venue is actually a forum clause that state agencies enjoy. So it really is very consistent and
2 incredibly on-point with how we handle everything else to have this forum clause within what
3 we're doing now.

4 The President: Senator Bracy.

5 Randolph Bracy: Thank you Mr. President. So you are saying state agencies have this
6 power. Can you explain a little bit more about this forum clause? I'm not familiar with it.

7 The President: Senator Rodrigues, or Senator Burgess.

8 Danny Burgess: In part, judicial review shall be sought in, thank you Mr. President, in the
9 appellate district where the agency maintains its headquarters if it's an appellate review, and I'm
10 just skimming some of the documents here. I just read this within some of the last couple of
11 minutes. But in order to have an orderly and uniform handling of state litigation and help to
12 minimize expenditure of public funds and manpower. Some of the principles behind the home
13 venue clause selection.

14 The President: Senator Bracy for a question.

15 Randolph Bracy: Thank you Mr. President. So you are saying that state agencies at this
16 time have that power. Is that in statute or is that just tradition?

17 The President: Senator Burgess.

18 Danny Burgess: Thank you Mr. President. Senator Bracy, I believe it's both identified in
19 statute, but also through caselaw over the years. Several cases have identified, a couple of
20 insurance cases, actually, seem to be pointing out to judicial economy, avoiding multiple
21 litigations of the same issues, and for limiting the possibility of conflicting litigations at the trial
22 level. Among other explanations.

23 The President: Senator Bracy has concluded. Additional questions? Additional questions?

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1 Senators we are now on debate, debate on the – we’re on the Rodrigues amendment in debate,
2 debate. Senator of the 11th, Senator Pizzo, Senator Jones, Senator Bracy in debate.

3 Randolph Bracy: Thank you, I think I alluded to my point in debate. I think we are
4 stepping outside of our legislative powers. If we’re going to pass a bill, so be it, but to go a step
5 further and try to determine how this is litigated, I think is outside our purview and I think this is
6 not needed. And I think we should vote it down, thank you.

7 The President: Thank you Senator Bracy. Senator of the 38th, Senator Pizzo, you are
8 recognized in debate.

9 Jason Pizzo: Thank you Mr. President. And while it’s typically the custom, process, or
10 procedure that entities or larger organizations with resources will go ahead and lay these
11 challenges, it may very well be the case that an individual, one of my constituents, or one of
12 yours, lays claim or challenges this. Basically, what you are saying is that individual that has a
13 challenge has to come up here and set up shop in Leon County because it’s more cost-efficient
14 for the governor’s office who’s going to challenge this to do so out of Leon County without
15 concern about access to the courts. That’s not caselaw that’s pretty well-founded, should be more
16 expensive, more costly, less efficient for anyone who brings a challenge. But basically, what you
17 are doing is usurping the entire process by saying we’re going to go ahead and select which
18 forum this will be held in. And you can do so with a meeting of the minds contractually in a
19 private contract saying this is where the venue is going to be. It happens in insurance contracts,
20 insurance policies. This is the venue. But you’re basically saying you have to come here if you
21 have a challenge and I don’t think we have the authority to do that. So this is one of those
22 preemptive anticipatory I told you so’s. Where no one has been able to answer very simple
23 questions. Like forum shopping, you learn that the first week in law school. No one’s been able

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1 to answer that. But we're going to go ahead and determine where the forum should be
2 appropriate for someone to challenge the constitutionality of something and not the woman and
3 man in the black robe. You didn't draft this, no one that drafted it can even answer that question.
4 We get half answers and here we go again. Then someone will just remark later on, it's an
5 activist court, they're ridiculous, it's the corporate media, whatever. You learn very early not to
6 do these things. That we're the legislative branch. Not the judicial branch. That the United States
7 Supreme Court has mandatory jurisdiction over some things and discretionary over others. We
8 are not the determining factor of where the judicial forum is appropriate. That's not us and we
9 are not contracting to this. And you are going ahead and contracting on behalf of citizens who
10 might actually have a grievance and telling them get your butt up to Leon County to litigate, not
11 appropriate.

12 The President: We are in debate on the Rodrigues amendment. Senator Jones followed by
13 Senator Farmer. Senator Jones of the 35th, you are recognized in debate.

14 Shevrin Jones: Thank you so much Mr. President. I want to take us to a civics lesson real
15 quick. Everything that we learned in middle school and high school when it comes to the
16 separation of power, and I'm going to read it to you so you all can be extremely clear of what we
17 are doing right now. Separation of power is the doctrine of constitutional law under which the
18 three branches of government, executive, legislative, and judicial, are kept separate. What we are
19 doing right now, here in this body, Senator Bracy has already made mention of it. Senator Pizzo
20 just eloquently, just outlined it. Is that it's wrong on the surface. Here's what we do now. You all
21 know you're going to get sued and so you want to set up the parameters for the lawsuit that's
22 coming and forcing the courts in Leon County to be the one to challenge it. Eleven years I've
23 been in this Legislature and I've never seen foolishness like this, and what we're doing these last

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1 three weeks. We are wasting our time and taxpayer money doing things like this knowing good
2 and well that this is totally against the law. And we all in this room put our hand on the Bible and
3 said that we are going to do right by the Constitution. We lied.

4 The President: We are in debate, in debate. Leader Farmer followed by Leader Gibson.
5 Leader Farmer of the 34th, you are recognized in debate.

6 Gary Farmer: Thank you Mr. President. This is, and Senator Rodrigues, I will preface this
7 debate with similar comments that I made earlier today on the Reedy Creek matter. We, as a
8 legislative body, the Florida Senate, have not submitted a map. This map came to us from the
9 governor. I can only assume that any amendments to the passage of that map are likewise being
10 driven by the governor's office. And so please know that that is the vein in which these
11 comments are made. Senator Jones, autocracies don't have separation of power. This is an
12 autocratic act once again by a petulant, punitive, punishing governor. This is not just forum
13 shopping, which would be bad enough. This is avoid Judge Walker shopping. You all know
14 Judge Walker, he just struck down SB 90 and he found, after seven different litigation matters
15 with the Florida Legislature on racially motivated intent, he essentially said do it once, maybe it
16 was a mistake. You do it seven times, we're going to infer intent. What this amendment does is it
17 puts it in state court so that Judge Walker will not be the jurist who reviews this piece of
18 legislation. And it's been federal courts that have reviewed this legislation as long as we've been
19 enacting them. Because there are federal statutes involved, the Voters Rights Act, and the Civil
20 Rights Act. The whole issue here with these maps is whether there was racially motivated intent
21 to disenfranchise. Not only do they get to avoid Judge Walker possibly to getting this case, there
22 is only, I believe three district court judges in Leon County. So the one out of the three is going
23 to get it. Judge Hinkle, I think, has a long record of upholding the law as well. So this avoids a

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1 two-thirds chance of defeat. But then it goes to the appellate level. And instead of going to the
2 11th Circuit Court of Appeals it goes to the 1st DCA, which will generally pass it through as a
3 matter of great public importance to the Supreme Court, which is now stock full of Rick Scott
4 and Ron DeSantis appointees. This is worse than forum shopping. This is outcome-determinative
5 language. This is a dereliction of duty and a violation of every principle in the Constitution that
6 we should be upholding. I carry this thing around every day because we seem to forget about it
7 with alarming frequency. This is wrong, this is a bad amendment, this smacks of unfair due
8 process, we should vote no on this amendment. Thank you.

9 The President: In debate, we're in debate on the Rodrigues amendment. Leader Gibson of
10 the 6th, you are recognized in debate.

11 Audrey Gibson: Thank you Mr. President. Really what this amendment is, I call it
12 limitation on access or certainly dictatorial instructions on access to the courts. So it's a
13 desperation move in the event that there is litigation relating to the maps that will most likely
14 pass out of this chamber today and we are better than that. If we are bold enough to pass out
15 maps that certainly reduce minority access in two districts and then also, in the one district, for
16 sure, create, in two districts rather, create political preference, party preference in those districts.
17 So let's be bold and wait for the process and let's be fair as the, what are we, the most freedom
18 state in the United States? And let's do right by the people of this state and let the process go as
19 it does. Thank you Mr. President.

20 The President: Thank you, we're in debate. The Senator of the 20th, Senator Burgess, in
21 debate.

22 Danny Burgess: Thank you Mr. President. It has long been the established common law
23 of Florida the venue and civil actions brought against the state or one of its agencies or

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1 subdivisions, absent waiver exception, properly lies in the county where the state, agency, or
2 subdivision maintains its principal headquarters. Those are not my words, that's the words of the
3 Florida Supreme Court in *Smith v. Williams* from 1948. Such a rule promotes orderly and
4 uniform handling of state litigation and helps to minimize expenditure of public funds and
5 manpower. The Florida Supreme Court in 1977. Thank you Mr. President.

6 The President: We are in debate. Additional members of debate? Leader or Senator
7 Rodrigues you are recognized to close on the Rodrigues amendment.

8 Ray Rodrigues: Thank you Mr. President. What we are doing is codifying current judicial
9 practice. With that, I'd ask for your favorable support.

10 The President: Senator Rodrigues having closed on the Rodrigues amendment, the
11 question now recurs before you, of all those in favor of the Rodrigues amendment please signify
12 by saying yea.

13 Multiple speakers: Yea.

14 The President: Opposed, say nay.

15 Multiple speakers: No.

16 The President: The motion carries and the amendment is adopted. Seeing that there being
17 more than five hands, the clerk will now open the board and senators will proceed to vote on the
18 Rodrigues amendment. The clerk will now lock the board and announce the vote.

19 Clerk: 24 yeas, 13 nays, Mr. President.

20 The President: Show the motion agreed to and the Rodrigues amendment is adopted.
21 Read the next amendment.

22 Clerk: Amendment barcode 916844 by Senator Stargel, between lines 3578 and 3579,
23 insert amendment.

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1 The President: Senator before I – for what purpose? Senator Pizzo, for what purpose do
2 you rise?

3 Jason Pizzo: Thank you Mr. President. Senator Osgood’s button I believe does not work.

4 The President: Senator Broxson moves the absence of a quorum just to test the buttons.
5 The clerk will now open the board for a quorum call. Please lock the board and announce the
6 quorum.

7 Clerk: Quorum is present, Mr. President.

8 Jason Pizzo: Thank you Mr. President.

9 The President: Very good. Let’s go to the senator of the 22nd, Senator Stargel on the
10 Stargel amendment. You are recognized on the amendment.

11 Kelli Stargel: Thank you Mr. President. This amendment provides for a severability
12 clause and an appropriation of one million to the Department of State for litigation expenses
13 related for the establishment of congressional districts.

14 The President: Senator Stargel of the 22nd has presented the Stargel amendment. Are
15 there questions on the Stargel amendment? Is there debate on the Stargel amendment? The
16 senator of the 29th, do you wish to have debate or questions? Questions, let’s go to questions.
17 Senator of the 29th, followed by the senator of the 30th. Senator Polsky, you are recognized for a
18 question.

19 Tina Polsky: Thank you Mr. President. Because this is talking about the cost of litigation
20 there have been some articles recently that shed light on how much we are spending on outside
21 counsel for the various unconstitutional bills that have been litigated recently. Can you shed light
22 on hourly rate of outside counsel or what the plans are, I guess clearly knowing that there are
23 plans that this will be fought in court.

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1 The President: Senator Stargel.

2 Kelli Stargel: Thank you Mr. President. I can't speak to the hourly rate because I do not
3 know that but I think that we already recognize on the maps that we just passed were challenged
4 and I think we heard in committee today many people thought those were great maps and they
5 were still challenged. There has also been a lawsuit against these so we know that there is going
6 to be a challenge and it's our job as the appropriators to do the appropriation and so we're
7 limiting the government to a million dollars in appropriations for the challenging of these maps.

8 The President: Senator Polsky for a question.

9 Tina Polsky: Thank you Mr. President. So, limiting to a million dollars? So that what
10 happens if he goes over and what about, like what has he been spending now in dealing with all
11 these unconstitutional bills?

12 The President: Senator Stargel.

13 Kelli Stargel: Thank you Mr. President. I would say that the bills you are seeing are
14 unconstitutional are actually in litigation so it may be proven that they are not unconstitutional so
15 there is a potential that our litigation money well spent to prove that we can enact a laws that
16 they may actually pass. With that being said, if there is need to go over I can't imagine that there
17 would, based on what other things have cost. Then we would address it at the time if that should
18 be the situation throughout the LBC or whatever we would need to do.

19 The President: Senator Polsky has concluded. Senator of the 30th, Senator Powell for a
20 question, you are recognized.

21 Bobby Powell: Thank you Mr. President. Senator Stargel, does this particular amendment
22 mean that if a portion of the map or a district is found to be incorrect through court proceedings
23 that the entirety of the map would not be thrown out? It would only deal with that specific

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1 portion?

2 The President:

3 Kelli Stargel: Thank you Mr. President. This is saying that if some of the pending
4 litigation of the congressional maps seemed to be unconstitutional that it doesn't stop the ability
5 to use these funds to further litigate what may be necessary.

6 The President: Senator Powell for a question.

7 Bobby Powell: Thank you Mr. President. Follow-up, if any provision of this act is held
8 invalid with respect to any person or circumstance or if any congressional districts established in
9 this act are held invalid, the invalidity does not affect other provisions or applications. Can you
10 explain to me the provisions or what exactly what that is getting to, Madam Chair?

11 The President: Senator Stargel.

12 Kelli Stargel: Thank you Mr. President. What this is saying is that the appropriation to
13 the Department of State for litigation expenses would be treated as severable and vowed to
14 continue to be able to be used. So this appropriation would still be able to be used for the defense
15 of the maps if a portion of the maps is deemed to be invalid.

16 The President: Senator Powell has concluded his initial – Senator Pizzo of the 38th, you
17 are recognized for a question.

18 Jason Pizzo: Thank you Mr. President. If the million dollars should be exhausted, is there
19 any consideration for use of available funds or can private entities come in and pay or carry legal
20 expenses on behalf of the state?

21 The President: Senator Stargel.

22 Kelli Stargel: Thank you Mr. President. I don't anticipate that the million dollars will be
23 exhausted. I think that that's why we picked this number. Because I think it's within the realm of

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1 what would be necessary. I don't know the exactly the process if that million is exhausted. We
2 would address it at that time. But we are the appropriators and that's how we are doing that at
3 this time.

4 The President: Senator Pizzo.

5 Jason Pizzo: Thank you Mr. President. Would it be prudent to that point to have some
6 language and I don't think anyone from the other side of the aisle would be disagreeable to this.
7 Why not have some language that says those in defense should seek to consolidate as many cases
8 as possible to most cost efficient. I mean if you're going to have the Leon County forum, venue,
9 direction, directive. You're going to put a cap on defensive legal expenses why not say that the
10 aim is basically to consolidate all of them, insofar as possible, almost like a class in the proper
11 forum?

12 The President: Senator Stargel.

13 Kelli Stargel: Thank you Mr. President. You're getting a little bit out of the realm of
14 where I have a comfort in speaking cause I don't know logistically how these court cases all
15 come together. I just know that there was a discussion that we know there's going to be litigation
16 expenses and I thought it was prudent as a part of the appropriations to give some funds of that. I
17 do know that the governor does have funds that he's used in multiple litigations. There are funds
18 available but we don't want to use what funds are available exhaustively on this so we're giving
19 an additional million just because we know they have been challenged and in order to allow him
20 the opportunity to defend these maps. As far as combining them in a class and all of that, that is –
21 I am not comfortable answering that question because I don't know the benefits or anything on
22 that.

23 The President: Senator Pizzo.

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1 Jason Pizzo: Thank you. I recall what we did to HB 1 here. That we spoke and I asked the
2 question, I think, in your committee, in the appropriations with Senator Burgess. I think again on
3 the floor and the answer I accepted, which I believe to be true, was that courts no longer really
4 require us, as a legislature, to be so specific about severability clauses because they themselves
5 will find to carve out or excise those parts that are constitutionally infirm and leave those that
6 pass muster. Why here do you think that we need now, at this hour, to have a severability, what
7 is in effect a severability clause in this bill?

8 The President: Senator Stargel.

9 Kelli Stargel: Thank you Mr. President. Because they are putting a specific amount
10 within the bill, we want to make sure that those funds can be used. So we want to make sure that
11 if the bill is deemed some way invalid, that it doesn't limit the ability to use these funds. I think
12 when you were talking it was more on the policy. One piece of policy versus another. This is
13 having that million specifically in the bill is a little different. I think that's probably why staff
14 thought it was best to have that severability clause in there.

15 The President: Senator Pizzo.

16 Jason Pizzo: And again, just asking a similar question I asked at the beginning. You are
17 capping at a million dollars that's a thousand dollars an hour for one thousand hours. It's five
18 hundred dollars for two attorneys at a thousand hours so on so forth, I think we can all do the
19 math. If that million dollars is exhausted. I mean we set aside in a special session bill five million
20 dollars that was earmarked in the vaccine passport bill. Specifically for litigation, for the
21 governor. Five million dollars for that. I don't think they ever got to that kitty, but here a million
22 dollars, which has statewide application, 22 million people. So once they reach the million
23 dollars, which is not that hard to get to it, 745 an hour, I think is one of the lawyers. What do

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1 they do then?

2 The President: Senator Stargel.

3 Kelli Stargel: Thank you Mr. President. And I would like to say I – we all have those
4 problems here. Just kidding, no – I lost my train of thought, I apologize. This is not a cap,
5 actually there is still going to be funds I think the governor is going to be able to utilize. But
6 recognizing we wanted to make sure there were funds to litigate this and we're appropriating a
7 million. I think that's the best. We are the appropriators, we wanted to set that in place. That we
8 would do that million-dollar appropriation.

9 The President: Senator Pizzo.

10 Jason Pizzo: Thank you. Is it possible that the 40 of us or 39 of us right now can get
11 together and pass a bill that we know won't cost anything because we know we won't be sued?

12 The President: Senator Stargel.

13 Kelli Stargel: Thank you Mr. President. As much as I wish we could have that
14 opportunity, we don't have the ability to determine what our constituencies choose to sue on or
15 anybody else for that matter. That is the way this process works.

16 The President: We are in questions, senators, on the Stargel amendment. Are there
17 questions? Senator of the 34th, Leader Farmer you are recognized for a question.

18 Gary Farmer: Thank you Mr. President. Just one question Senator Stargel, Chair Stargel.
19 Why did we not include an amendment like this in the maps that we did pass during regular
20 session?

21 The President: Senator Stargel.

22 Kelli Stargel: Thank you Mr. President. I don't believe at the time that we passed those
23 maps there had already been pending people saying they were going to sue.

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1 The President: We are in questions. Leader Farmer has concluded his questions, so we
2 are now in moving to debate, we are in debate on the Stargel amendment. Is there debate? Is
3 there any objection to the Stargel amendment, is there any objection? Without objection, the
4 Stargel amendment is adopted. Read the next amendment.

5 Clerk: None on the desk Mr. President.

6 The President: Are there further comments by the sponsor of the bill? Senator Rodrigues.

7 Ray Rodrigues: No, Mr. President.

8 The President: Pursuant to Rule 4.19, the bill is placed on the calendar of bills on third
9 reading. Senator Bradley, are you prepared to proceed to Senate Bill – Senator Bradley, we are
10 going to come back to you, because first we are going to have questions on the bill as amended.
11 Are there questions on the bill as amended? Very good. We're in questions on the bill as
12 amended. Leader Gibson of the 6th, followed by Senator Pizzo of the 38th. Leader Gibson, you
13 are recognized for a question on the bill as amended.

14 Audrey Gibson: One moment Mr. President. Is there anybody else who could go?

15 The President: Very good. Does any other senator, she wishes to yield. Senator of the
16 11th. Senator Bracy, you are recognized for a question.

17 Randolph Bracy: Thank you Mr. President. District 5, District 10, when you were
18 Chairman, when we were drawing the maps, when we were in session. You and staff deemed
19 those districts as minority-protected seats. Now you are presenting that they are no longer
20 minority protected seats. What has changed your viewpoint?

21 The President: Senator Rodrigues, you are recognized.

22 Ray Rodrigues: Thank you Mr. President and thank you for the question. If you go and
23 look at the information that we distributed, there is a memo from our external attorney Daniel

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1 Nordby, which is an initial review of the proposed congressional map. What I would go back to
2 is when the committee began its work, our charge was to operate within the parameter of the
3 Florida Supreme Court during the last cycle of redistricting. So that is what we did. Everything
4 that guided our decisions were handed down in the apportionment decisions during that last
5 cycle. We operated under the premise that if the Supreme Court ordered something that in and of
6 itself was constitutional. That was the map that we did. We thought that that was the most
7 conservative approach, and when you consider that during the last redistricting cycle the Florida
8 Senate lost the most in the litigation because we lost legislative privilege during that course of
9 litigation. Our charge was to operate within those parameters so that we could regain our
10 legislative privilege and pass a map that would be completely constitutional and would stand all
11 court challenges. So that was the map that we brought under those parameters.

12 Unfortunately, because this is the Legislature, we have to get both chambers to agree on
13 the bill before we can actually have a bill that we can send to the governor. The House did not
14 agree with everything we wanted to do, which is why the bill we ultimately passed was different
15 than the one we filed and originally passed off the floor. When that bill went to the governor, the
16 governor rejected it. And that's his right because as a bill, it doesn't become law until the
17 governor signs it.

18 What the governor looked at and drew attention to in his veto letter, which is also in the
19 information the committee has provided, is that in his legal analysis, District 5 did not meet the
20 protection for non-diminishment. And if you go to page 4 of that letter it says, There is no good
21 reason to believe that District 5 needed to be drawn as a minority performing district to comply
22 with Section 2 of the Voting Rights Act because the relevant minority group is not sufficiently
23 large to constitute a majority in a geographically compact area. Later on in that same paragraph it

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1 says, When a minority group is not sufficiently large to make up a minority in a reasonably
2 shaped district, Section 2 does not apply. And they cited a court case, which is *Cooper*. They
3 also cited *Thornburg v. Gingles*. So the governor looked at items well beyond just the litigation
4 that occurred in the Florida Supreme Court. The Governor looked at the litigation that occurred
5 in federal court as well. And said that based upon the legal analysis of the decisions that have
6 come out since we adopted the Fair Districts Amendment and went through the exercise of
7 drawing our district lines last time, that District 5 did not qualify for Section 2 protection of non-
8 diminishment because it was not a majority of minority voters in a geographically compact
9 district. So that was the first thing that changed on that district.

10 When it comes to District 10, the same legal premise exists there, although what we
11 learned in committee today, let me get to the right question here. What we learned in committee
12 today, according to the governor's office is that for District 10, which was the other affected
13 minority district that we protected that is not protected in this map. That it also does not
14 constitute a minority-majority district. So therefore does not enjoy the protections of Section 2 of
15 the Voting Rights Act. The other thing I would draw attention to is when we went through this
16 process, that was an area of conflict between the Senate and the House, District 10. We viewed
17 that as a district, taking the, what I would argue would be the more conservative legal approach,
18 that it should be protected and that looking at the apportionment decisions in the last cycle the
19 court would agree it should be protected, because we took the average of the elections and
20 believed that it met the criteria. The House disagreed with us, instead of taking the average over
21 a ten-year period, the House plotted it out election by election and said if you follow the trends,
22 that district has moved from minority-majority when it was created to less than a minority-
23 majority district now and is trending in that direction. Therefore, that district doesn't warrant

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1 protection under Section 2 of the Voting Rights Act. As we learned in committee today, the
2 Executive Office of the Governor adopted the House position on that map. And said that they
3 believe the House position on CD 10 was more correct than the Senate position. So the two
4 districts that have changed that in our original map we protected from diminishment were
5 Districts 5 and 10. That's what's changed from between when we did this map, and I think we
6 passed our map off the floor the first week of January and what's occurred today, the middle of
7 April.

8 The President: In questions, Senator Bracy, you are recognized for a question.

9 Randolph Bracy: Thank you Mr. President. You mentioned District 10 and it not being a
10 protected seat. But the House and the Senate passed a map that protected District 10. So even
11 though you were saying that was the position of the House, they came to the position of the
12 Senate in protecting that seat.

13 The President: Senator Rodrigues.

14 Ray Rodrigues: Thank you Mr. President and you're right. In the first map that they
15 passed, they did not. But in the negotiations between the chambers, they did come to our position
16 on the map that we ultimately passed off the floor and sent to the governor that got vetoed.

17 The President: Senator Bracy.

18 Randolph Bracy: Thank you Mr. President. So it was the House position when we left
19 session that District 10 was a protected seat and it's always been the Senate's position since
20 we've started. What has changed from your vantage point, since you're defending this map,
21 where you said and the Senate body said that this is a protected seat, now you and this Senate
22 does not believe that it is a protected seat.

23 The President: Senator Rodrigues.

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1 Ray Rodrigues: Thank you Mr. President. And that's a very good question, thank you for
2 the question. What I would say is I think what we've seen with the veto is that there is an
3 inherent conflict between our state constitution and Supreme Court decisions that have occurred
4 since the Fair Districts Amendment was adopted to our state constitution. Prior to Fair Districts
5 being adopted there were five counties in Florida that were protected by the Voting Rights Act.
6 Those five counties were Hillsborough, Hardee, Hendry, Monroe, and Collier. No redistricting
7 could be done with those counties without preclearance from the federal government. What the
8 Fair Districts Amendment did was they took that language that existed for those five protected
9 counties, put it in the constitution and applied it to all 67 counties. And said now what existed
10 here for protection of diminishment occurs statewide. Then after that, there were decisions from
11 the U.S. Supreme Court, multiple decisions. One on Section 2 and the other on Section 5. I think
12 *Shelby* was the Section 5 decision, which took away the methodology that had been used to
13 measure those counties that required preclearance, which essentially meant that there was no
14 more preclearance provision required for those counties that were previously protected under the
15 1965 Voting Rights Act. Judicial decisions came out that changed that. That didn't factor into
16 our original consideration when we did our first maps because the charge of the committee was
17 pass maps that will adhere to the Constitution and the decisions of the Florida Supreme Court
18 during the last round of redistricting. We didn't look at the federal decisions. They had emerged
19 since then. The other thing that I would add is that two of those decisions have occurred in this
20 calendar year. One occurred in Alabama and then one just occurred, I think, earlier this month in
21 Wisconsin. That are on point with this issue of minority protection under the Voting Rights Act
22 of 1965. What has changed is, one, the perspective has broadened. From just looking at the
23 Florida Constitution to reconciling that to the U.S. Constitution. And two, there is additional data

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1 available now that was not available in January when we originally made our decisions.

2 The President: Senator Bracy. Senator Bracy for a question.

3 Randolph Bracy: Thank you Mr. President. Going back to District 10 and how it was
4 determined a minority access seat. I know it was talked about in committee. The governor's
5 office said that they just took the House's position but it really wasn't clarified exactly how they
6 came to determine if District 10 was a protected seat. I think staff guessed and said, I think they
7 looked at the trend. But I'm trying to get some specifics on what the trend is that they were
8 looking at. So if there is a downward trend in minority population, like, what was it, the trend for
9 ten years? Did it go from 60 to 58 to 56? I want to know, cause it seems arbitrary in how you can
10 determine if there is no baseline on how you determine what is a minority access seat. So, can
11 you give some detail for this body into how it was determined that District 10 is not a protected
12 seat?

13 The President: Senator Rodrigues.

14 Ray Rodrigues: Thank you Mr. President. And once again thank you for the question.
15 What the governor's office referenced in committee was they took the House position as it was
16 articulated by the House in committee at that time. They reviewed both our committee hearing
17 and the House committee hearing and agreed with the House committee hearing position at the
18 first hearing. To get to the specific of your question and what was said in the House was that that
19 district was trending and was trending away from being a minority-majority protected district. I
20 had staff go back and pull primary election turnout, which are Democrats who are Black, and in
21 2012, they were 53.78% of the primary turnout. In 2014 that dropped to 52.58% of the primary
22 turnout. In 2016, it dropped to 50.62% of the primary turnout. In 2018, it dropped to 46.89% of
23 the primary turnout. And in 2020, it dropped down to 42.53% of the primary turnout. So that was

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1 the trend over the five elections of the last decade.

2 The President: We are in questions. Senator Bracy has con— Senator Bracy do you wish to
3 continue?

4 Randolph Bracy: Thank you Mr. President. So even though what you're saying is that it's
5 going in a downward trend, what makes it not protected anymore? Is there a certain threshold
6 that at, let's say it's 40% it's no longer a minority access seat or minority protected seat, or just
7 the fact — I mean it could trend back up. So, I guess why not use a baseline to say at this point it's
8 no longer a protected seat?

9 The President: Senator Rodrigues.

10 Ray Rodrigues: Thank you Mr. President. And it's stated by the governor's office in
11 committee when they referred questions on that topic to the legal analysis in the veto letter. The
12 quote from the Supreme Court decision cited in the governor's veto letter is, when a minority
13 group is not sufficiently large to make up a majority in a reasonable shaped district, then Section
14 2 of the Voting Rights Act simply does not apply. That was in the *Cooper* decision. Then they
15 went on and further cited one of the threshold conditions for proving voter dilution under Section
16 2, which is diminish, right? Is that the minority group is sufficiently large and geographically
17 compact to constitute a majority. So majority is the key word in both of those court decisions.

18 The President: For a question, Senator Bracy.

19 Randolph Bracy: Thank you Mr. President. You started your analysis from 2012 going
20 down to 2020. In 2012 you had Barack Obama on the ballot and that would make sense that the
21 turnout was very high. If you talk about then 2016 where he's not on the ballot and you've got
22 Donald Trump on the ballot. Clearly in a Democratic primary, turnout would be less. But that
23 does not mean that there is a diminishment or less minority population in that district. So there

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1 are other variables other than just turnout that would determine if this should be a protected seat.
2 So were there other variables other than the downward trend? Because that can be due to the
3 candidate on the ballot.

4 The President: Senator Rodrigues.

5 Ray Rodrigues: We would need to have that conversation with the House. The only thing
6 they cited in the committee hearing was the trend of the turnout for the district. What I would say
7 is while I would agree with you in 2012, with President Obama in office. That would have
8 encouraged turnout. I would remind you in 2020 in the primary there was a Democratic open
9 primary for governor, which was the most heated primary I think we've seen on the Democratic
10 side going back for a number of elections. And it was a minority candidate that won that
11 primary. I would submit to you that should have turned out minority voters just as equal as
12 minority voters would have turned out in 2012 for President Obama's election. If you look at the
13 numbers, it went from 53.78% down to 42.52%. That's an 11-point drop or decline of over 22%.

14 The President: Senator Bracy for a question.

15 Randolph Bracy: Thank you Mr. President. That's actually not true. Andrew Gillum was
16 not on the 2020 ballot, so that's probably why it went down as much as it did. He was on the
17 2018. But here's another point though. If we're not even clear on how the House came up with
18 their baseline for determining if this seat is protected or not, how can we take their position?
19 We're just learning today how they even came up with it. So how is it that we can say that we
20 agree with the House position when we didn't even know how they came up with this formula?

21 The President: Senator Rodrigues.

22 Ray Rodrigues: Thank you Mr. President. And you're correct, 2020 was not a
23 gubernatorial election. I apologize for that. But we still saw the decline. What I would say to you

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1 on the question of how can we come to the House position is a bill requires three entities in order
2 to get passed and implemented. The House has to pass it, the Senate has to pass, and the
3 governor has to sign it. As we learned in committee today, the bill that is before us is what they
4 termed a compromise map. Ten of the districts that are on the bill that is before us are districts
5 that we drew, Southeast Florida and the Panhandle. I believe I heard that up to 12 of those
6 districts were districts that were on a House map. So Southeast Florida is largely the portion of
7 the state we drew. Central Florida is largely the portion of the state that the House drew. And
8 Northeast Florida is largely the portion of the map that the Executive Office of the Governor
9 drew. So what we have is a map which is a compilation of maps that have passed and been
10 presented in both chambers and lines that have been drawn by the governor's staff building off of
11 what we have done. Would, from my perspective, the ideal world be that we draw our map and
12 everybody accept it? Yes. But that's not how the legislative process works. The legislative
13 process is a process of negotiation and compromise. And ultimately this map includes ten
14 districts that are on our map, districts that were on the House map, and districts that the
15 Executive Office of the Governor has drawn.

16 The President: Senator Bracy for a question.

17 Randolph Bracy: I understand this is a compromise with the House and the Senate on the
18 majority of this statewide map. But specifically when it comes to District 10, the governor and
19 the House determined how we're going to decide what is a minority access seat. And we are here
20 defending the governor's position that District 10 is not a minority access seat. And we don't
21 even know how they came to that position. Obviously you did some research, which is fine, after
22 our committee and these questions came up, but what I'm saying is how is it that we can take the
23 position that this is not a minority access seat when we didn't even know how they even came up

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1 with that?

2 The President: Senator Rodrigues.

3 Ray Rodrigues: I would say that questions already been asked and answered.

4 The President: Senator Bracy has concluded. Leader Gibson of the 6th, you are
5 recognized for a question.

6 Audrey Gibson: I want to go to the – where is the information that a district has to be
7 50% minority to be considered under Tier One?

8 The President: Senator Rodrigues.

9 Ray Rodrigues: Thank you Mr. President, and what I would say when we did our maps,
10 we did not operate under that premise. We followed the decisions during the apportionment
11 decisions from the Florida Supreme Court. But to answer question of where is it that it has to a
12 majority. That is in the governor's legal analysis of why he vetoed the map that the Legislature
13 sent him, specifically on page 4, paragraphs 3 and paragraph 4, citing Supreme Court decisions
14 *Cooper and Thornburg and Gingles*.

15 The President: Leader Gibson.

16 Audrey Gibson: Thank you Mr. President. So when you use the term large, not large
17 enough to choose the candidate of their choice, that's the 50% standard, or is there some other
18 large number that we can use to talk about large?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you Mr. President. There is more to it than just large. I would
21 refer you to page 4, paragraph 3, the Supreme Court decision that is quoted says, When a
22 minority group is not sufficiently large to make up a majority in a reasonably shaped district,
23 Section 2 simply does not apply. So it's majority, I think that is the operative word there, not

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1 large.

2 The President: Leader Gibson.

3 Audrey Gibson: Thank you Mr. President. So that was the Supreme Court decision for
4 the country?

5 The President: Senator Rodrigues.

6 Ray Rodrigues: Thank you Mr. President. Yes, that was a U.S. Supreme Court decision.

7 The President: Leader Gibson

8 Audrey Gibson: Thank you Mr. President. Could you remind me of the year again
9 please?

10 The President: Senator Rodrigues.

11 Ray Rodrigues: I see the case but not the year. The case was *Cooper*.

12 The President: Leader Gibson.

13 Audrey Gibson: Thank you Mr. President. I want to go back to the question about the –
14 and I think, I want to connect the dots between the discussion on the reduction in primary turnout
15 and the map that we have before us today. What's the, are we, what's the connection between the
16 two?

17 The President: Senator Rodrigues.

18 Ray Rodrigues: Thank you Mr. President. Which district are you specifically
19 questioning?

20 The President: Leader Gibson.

21 Audrey Gibson: Thank you Mr. President. I'm questioning the fact that we continue to
22 talk about a diminishment supposedly in turnout as bases for not keeping 10 as a minority access
23 district as well as 5 in this case. What's the connection between that information and map, what

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1 we this map? What map number do we have here? C0109.

2 The President: Senator Rodrigues.

3 Ray Rodrigues: Thank you Mr. President. As stated by the governor's office in
4 committee, the legal analysis that they had was that District 5 was not protected because it did
5 not make up a majority in a reasonably shaped district. It was not a compact district. Where
6 District 10, they referred to the original map introduced by the House and we've already
7 articulated what the House has publicly said that lead them to take that position from what we
8 understand.

9 The President: Leader Gibson.

10 Audrey Gibson: Thank you Mr. President. So let me back up a little bit. In order for – so
11 a minority access district and I keep hearing protection, and I know there is some consent
12 decrees on certain districts in the state. So, are you saying that Tier One doesn't apply to a
13 minority access district because it's not protected? I don't understand.

14 The President: Senator Rodrigues.

15 Ray Rodrigues: Thank you Mr. President. Are you referring to Tier One in the Florida
16 Constitution?

17 The President: Leader Gibson

18 Audrey Gibson: Thank you Mr. President. Yes.

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you Mr. President. Well, you've just put the spotlight on the
21 inherent conflict, which is according to the Fair Districts Amendment we would believe that it
22 would apply as the court interpreted the Fair Districts Amendment during the last round of
23 litigation. However, the U.S. Supreme Court has made a determination that in order for a

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1 minority district to be protected, a minority group must be sufficiently large to make up a
2 majority in a reasonably shaped district. So there is the conflict between what is in our state
3 constitution and what the court has decided on the application of diminishment for districts that
4 are protected under the Voting Rights Act.

5 The President: Leader Gibson.

6 Audrey Gibson: Thank you Mr. President. So, in the conflict then we're following the
7 federal law and not the state constitution that the voters voted for? Is that correct?

8 The President: Senator Rodrigues.

9 Ray Rodrigues: Thank you Mr. President. Yes, the Executive Office of the Governor's
10 position is that under the Supremacy Clause, the U.S. Supreme Court trumps state law or state
11 constitution.

12 The President: Leader Gibson

13 Audrey Gibson: Thank you Mr. President. Only in how we're doing redistricting, right?

14 The President: Senator Rodrigues

15 Ray Rodrigues: I've not seen the Executive Office of the Governor opine on that outside
16 of this bill.

17 The President: Leader Gibson for a question.

18 Audrey Gibson: Thank you Mr. President. Using a turnout, turnout number in a primary
19 election, is that the premise for determining that the district is not large enough to not be
20 diminished? I'm missing something.

21 The President: Senator Rodrigues.

22 Ray Rodrigues: The question is, is the minority a majority in the district. The way you
23 demonstrate you are a majority in the district is by controlling the election. If it's a heavy

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1 Democratic district and you're a majority of that party's primary, and then yes, you control that
2 primary and thus you would be protected.

3 The President: Leader Gibson.

4 Audrey Gibson: Thank you Mr. President. If you are the majority in the turnout of a
5 primary determines whether you should be protected or not?

6 The President: Senator Rodrigues

7 Ray Rodrigues: Thank you Mr. President. Yes, if you are in a district that elects
8 Democrats consistently and you have a minority group that makes up a majority of the primary
9 of the party that elects their candidates, that demonstrates that they are a majority of the district
10 and thus can be eligible for protection.

11 The President: Leader Gibson.

12 Audrey Gibson: Thank you Mr. President. Where is that information that describes it that
13 way? Do we have that here somewhere?

14 The President: Senator Rodrigues

15 Ray Rodrigues: Thank you Mr. President. I would refer to the majority in a reasonably
16 shaped district to the governor's veto letter page 4, paragraph 3. Then also page 4, paragraph 4.

17 The President: Leader Gibson for a question.

18 Audrey Gibson: And so a primary elects the party primary. So, I don't understand and
19 can you explain how it is that that would be when turnout varies anyway depending on the
20 election. Off-season elections don't necessarily have the same amount of turnout in a presidential
21 year, isn't that true?

22 The President: Senator Rodrigues.

23 Ray Rodrigues: Thank you Mr. President. Yes, I would agree that there are fluctuations

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1 in turnout between presidential and gubernatorial years. What I am referring to is what the court
2 laid out in the last round of redistricting as the basis of a functional analysis, which is what gets
3 applied to see if a district is protected. And the basis of the functional analysis is if it is a district
4 that elects candidates of one party and a minority controls the primary of that party and thus
5 would be controlling the candidates of that party, showing that they can elect the candidate of
6 their choice. Then in the functional analysis that was provided by the Florida Supreme Court
7 during the round of litigation, that would demonstrate that they would be protected. That was the
8 premise that we operated under when we drew our original maps.

9 The President: Leader Gibson for a question.

10 Audrey Gibson: Thank you Mr. President. When we – I’m sorry did you say when the
11 Senate drew its map when we started? Is that what you meant? I’m sorry.

12 The President: Senator Rodrigues.

13 Ray Rodrigues: Thank you Mr. President. Yes.

14 The President: Leader Gibson.

15 Audrey Gibson: Thank you Mr. President. So, the Senate then abandoned its map for the
16 House map and then the governor vetoed that one, correct? I need to lay the foundation, I’m
17 sorry.

18 The President: Senator Rodrigues.

19 Ray Rodrigues: Thank you Mr. President. We negotiated a map with the House. That
20 map passed off the House floor and the Senate floor, and the governor vetoed it, yes.

21 The President: Leader Gibson.

22 Audrey Gibson: Thank you Mr. President. I want to move to – I’m not sure if you can
23 answer, if you can answer, but I’m going to ask you. In terms of the language that talks about the

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1 – Congressional District 5 is not narrowly tailored to achieve a compelling state interest. Are we
2 – do you know, because I could never understand in the committee what is the compelling state
3 interest when we were drawing Congressional Districts for all of the people in the entire state of
4 Florida.

5 The President: Senator Rodrigues.

6 Ray Rodrigues: Thank you Mr. President. I don't believe that was defined in committee
7 by the governor's office.

8 The President: Before we go back to Leader Gibson, a little birdie, let's just call him
9 Senator Pizzo, whispered in my ear that, indeed, food has arrived or has been delivered. Assorted
10 chicken, breads, and pasta are in the back. As you see fit, if you wish to partake, it is in the back.
11 Thank you to that little birdie who whispered in my ear that food is here. Let's go back to
12 questions. We are on the Rodrigues bill, we've amended it, we are now in questions. It will not
13 be rolled over. But it will be questioned, and that's where we are right now. Leader Gibson
14 followed by, followed by the senator of the 33rd and we haven't heard from the senator of the
15 33rd. But Leader Gibson, you have the floor in questions and you are recognized to continue.

16 Audrey Gibson: Thank you Mr. President. I'll try to wrap it up. I just want to – it's clear
17 as mud as my, as my mother used to say. In terms of, in terms of the data because I thought I
18 heard in the committee that Mr. Kelly didn't use any data. Maybe someone else, someone else
19 used data to develop the graphic for the turnout numbers, or you said that that came from the
20 House, right and so the governor's office simply used that to determine the color-neutral map. Is
21 that what, how that works? Or race-neutral.

22 The President: Senator Rodrigues to respond.

23 Ray Rodrigues: Thank you Mr. President. Yes, I believe that is what we heard in

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1 committee.

2 The President: Leader Gibson

3 Audrey Gibson: Thank you Mr. President. That's okay Mr. President I'll let somebody
4 else, I've got to reorganize.

5 The President: Leader Gibson has concluded Senator Pizzo wishes to yield to Senator
6 Osgood. Your place will be safe. It will be Senator Osgood, Senator Farmer, Senator Torres, and
7 Senator Pizzo. Senator of the 33rd, let me be one of many to welcome you to the Florida Senate,
8 and you are recognized for a question.

9 Rosalind Osgood: Thank you Mr. President. My question is, as I'm reading, you, Senator
10 Rodrigues, have referred us to page number 4, paragraph number 3 a couple of times. And when
11 I'm reading there, I keep seeing it says, Black voting-age population. And then I listened very
12 clearly at your response to both Senator Bracy and Senator Gibson about the primary number
13 being used of the actual number of voters. So I'm having trouble aligning the two. You said that
14 on the decline, you went through a list of years and you said it basically went down on the
15 decline about 22% as actual people, Black people showing up to vote. But when I read here it
16 talks about the voting age. To me that's very different, voting age and then people actually
17 voting. So I need to be clear on which one was used to make the decision.

18 The President: Senator Rodrigues.

19 Ray Rodrigues: Thank you Mr. President. And you are correct, in the governor's veto
20 letter he references the Black voting-age population. What we pulled was the component of
21 primary turnout, which is what the Florida Supreme Court directed us to utilize in performing a
22 functional analysis during the last round of litigation, during the previous litigation during the
23 previous redistricting cycle. So to answer your question specifically, what the House referenced

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1 in committee was that it was trending over time to not be a majority district. What I've offered is,
2 I've had our staff go back and pull the data that we used on a functional analysis for that district
3 and those were the numbers I gave you, which was the primary election turnout among Black
4 Democrats.

5 The President: Senator Osgood you are recognized, from the 33rd.

6 Rosalind Osgood: Thank you Mr. President. I just want to be clear so your office used the
7 voting data to determine that it was not a minority-performing district? Is that correct or not?

8 The President: Senator Rodrigues.

9 Ray Rodrigues: Thank you Mr. President. We used the primary turnout data that's
10 utilized in the functional analysis, yes.

11 The President: Senator Osgood.

12 Rosalind Osgood: Okay and in this definition, it talks about significantly large or
13 geographically compact. So which data would we use to determine that? Would we use the
14 voting-age population that it talks about here or would we use the primary turnout?

15 The President: Senator Rodrigues.

16 Ray Rodrigues: Thank you Mr. President. I believe under decisions that we've seen from
17 the Florida Supreme Court, either one of those would be utilized and could be utilized in making
18 the case.

19 The President: Senator Osgood.

20 Rosalind Osgood: Thank you Mr. President. So if I'm in District 5 as an African
21 American person, whether I actually go to the voting polls and vote or not does not change the
22 fact that I'm there and that I'm living in that area and that I should be counted as a part of that
23 population, that age population. I just have discrepancy with that. So in other words if I'm Black

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1 and I don't go vote, I miss a vote, then I'm penalized for it now for ten years.

2 The President: Senator Rodrigues.

3 Ray Rodrigues: Thank you Mr. President. And staff just clarified something for me that
4 we did hear in committee but I failed to articulate. The veto letter is specific to Congressional
5 District 5 and in Congressional District 5, it is the Black voting-age population because that is
6 what is used in the analysis of the Voting Rights Act. What I utilized for Congressional District
7 10 is the primary turnout because that's what's utilized in the functional analysis that was given
8 to us by the court. So two different standards, they both were less than a majority, but they were
9 rejected for different reasons. One by the governor because it failed the compact and majority
10 test cited by the Supreme Court decisions that are in the letter. And one by the House because
11 they believed that with it being less than a majority it was no longer protected from
12 diminishment, which was the position as we learned today in committee that the executive office
13 adopted when they prepared their compromise map.

14 The President: Senator Osgood.

15 Rosalind Osgood: Mr. President, thank you. So let me ask again. So if I didn't vote in the
16 last election so now I'm being penalized and that data is being captured to punish me from
17 voting. Whether I exercised my right to vote or not does not give the governor's office the
18 authority to take away that right.

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you Mr. President. I would make two points. The first is, voting in
21 a primary would be subject to the question that was on the table for CD 10, which is different for
22 CD 5. And the second is it wouldn't be if you just didn't vote in the last election, the statistics
23 that I provided were over the last five elections over a decade. And the percentage of the primary

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1 vote went down from 53.78% down to 42.53%. And given that the population went up and yet
2 the control of the primary went down that is indicative that it is no longer a minority-majority
3 district.

4 The President: Senator Osgood.

5 Rosalind Osgood: Thank you Mr. President. So I want to be clear so the data that you
6 gave about the decline was for District 10, you're saying. Okay, I was speaking about District 5.
7 But even if District 10 if you're saying the data is going – I'm just having a real hard time
8 understanding how the numbers being used from turnout of primary voters to determine the
9 representation that is needed when we do the census to take data and count people. So the
10 number of people living in a geographical area, in my opinion, is very, it could be very different
11 than the people that actually go vote on the primary election day. So that's what I'm having
12 trouble trying to bring together in our decision-making.

13 The President: Senator Rodrigues.

14 Ray Rodrigues: Thank you Mr. President. What I would say is for District 5 I would go
15 back to what we learned in the presentation from the Executive Office of the Governor in
16 committee today. That district – the reason the bill was vetoed over that district is because they
17 did not believe it was compliant with the U.S. Constitution, specifically the Equal Protection
18 Clause, and Section 2 of the Voting Rights Act. Because it was not a geographically compact
19 district and it was not a minority-majority district. So that was what was communicated to us in
20 committee today, which I know you arrived in committee and got to observe a portion of it. As
21 far as District 10 goes, that was the House position and as I've said before, they looked at the
22 data that we have to utilize in a functional analysis, and came to the conclusion that it was no
23 longer protected because it was no longer a minority-majority district.

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1 The President: Senator Osgood.

2 Rosalind Osgood: Mr. President. So let me just ask this question because when we talk
3 about minority-majority districts in this document sometimes we use the word Black and then
4 sometimes we say minority groups. I know that they can be used synonymously, but I also know
5 that many of our areas are made up of minority groups where its dual minority groups, Blacks
6 and Hispanics. So when we talk about the geographical location and we talk about the minority
7 groups in the case of District 5, District 10. Are we only talking about Black people, or are we
8 talking about Black and Hispanic people combined?

9 The President: Senator Rodrigues.

10 Ray Rodrigues: Thank you Mr. President. I believe it is only Black people. I do know
11 that if we do the functional analysis and we are looking at whether a district is protected as a
12 minority-majority district, we specify what the minority is. Get broken out to determine if either
13 of those minorities are a majority of their district, or if they fall into a different category, which
14 would be like a coalition category, where if there is polarized voting among the minority groups
15 and they vote as a bloc together. Do they vote together often? And do they control the primary if
16 they do so? So that's a different issue. But that did not apply to either of these districts.

17 Rosalind Osgood: Thank you.

18 The President: Thank you. Were there any additional questions? Seeing none —oh Leader
19 Gibson, you are recognized.

20 Audrey Gibson: Yes, I'll be brief. Thank you Mr. President. In the last redistricting cycle
21 the court actually drew the, drew the east-west map. Is there any indication how the east-west
22 configuration that the House drew in one of its maps that I guess is the one that is considered to
23 be gerrymandered even though it looks almost exactly the same as the previous map. Is there an

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1 indication of the difference in the, in the compactness scores as well as the population in that last
2 configuration? I think we called it part of the benchmark map too.

3 The President: Senator Rodrigues, you are recognized.

4 Ray Rodrigues: Can you clarify? Are you asking if the population between the
5 benchmark is different from the population on the map that we passed off the Senate floor as our
6 map? Or off the Senate floor as the compromise map with the House?

7 The President: Leader Gibson, you are recognized.

8 Audrey Gibson: Thank you Mr. President. I'm trying to draw, I guess, a line between the
9 map that the court drew, which apparently was constitutional in the last redistricting cycle that,
10 as I understood, we were using the last map drawn as a benchmark map. Is there a tremendous
11 difference in the east-west configuration that the court constitutionally drew in the last round and
12 the east-west configuration that the House drew in one of its maps that I consider now to be
13 gerrymandered? How similar are those two?

14 The President: Senator Rodrigues, you are recognized.

15 Ray Rodrigues: Thank you Mr. President. Are you asking for the compromise map that
16 passed both our chambers?

17 The President: Leader Gibson, you are recognized.

18 Audrey Gibson: Thank you Mr. President. The two maps, yes, yes, yes.

19 Ray Rodrigues: Okay.

20 Audrey Gibson: There is an east – Mr. President? There is an east-west configuration in
21 one of the maps that came from the House as a compromise that follows pretty much the same
22 configuration that the court passed in the last redistricting round. I'm asking has there been any
23 information gathered from that map to show the similarities, or from that draw to show the

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1 similarities in what we sent to the governor as a compromise, one of the compromise maps.

2 The President: Senator Rodrigues, you are recognized.

3 Ray Rodrigues: Thank you Mr. President. And I believe I understand your question now.
4 I believe you are referring to the second map that was on the bill that we sent to the governor.
5 And my understanding is on that map there was very little variation between what the court drew
6 and what we drew. The only variation would have been to have accounted for the population
7 difference. The population difference because the population that was being apportioned after the
8 2012 cycle would have been significantly smaller than the population being apportioned after the
9 2020 census cycle.

10 The President: Leader Gibson, you are recognized.

11 Audrey Gibson: Thank you Mr. President. Is that the map that is considered to be
12 gerrymandered in the memo, the east-west configuration?

13 The President: Senator Rodrigues, you are recognized.

14 Ray Rodrigues: I believe the Executive Office of the Governor considered both of those
15 districts on both of those maps to be gerrymandered.

16 The President: Leader Gibson, you are recognized.

17 Audrey Gibson: Thank you Mr. President. And so both maps are racially gerrymandered
18 even though one is almost identical to the last map that the court drew, except that we would
19 have had to add some more people in it, correct?

20 The President: Senator Rodrigues, you are recognized.

21 Ray Rodrigues: Thank you Mr. President. And you've hit on the tension that exists
22 because we operated under the premise that the district that was drawn by the Florida
23 Constitution was would have been constitutional in and of itself. The governor believes that that

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1 did not take into account when we copied that configuration in our current redistricting cycle,
2 more recent U.S. Supreme Court cases, which have held that that is not the case. And so, and I
3 will go down to once again, this is same memo, same page, but the portion of it that I haven't
4 spoken to was, since we did our maps in the last redistricting cycle, there was a *Shelby v. Holder*
5 decision and also the *Black Caucus v. Alabama* decision. One in 2013, one in 2015. That
6 according to the memo suggested that continuing compliance with Section 5 may not remain a
7 compelling interest in light of the *Shelby County* decision. There is a conflict between the two,
8 which is why the governor vetoed the map. Because he believes the maps not compliant with
9 U.S. law, specifically the Voting Rights Act and the Equal Protection Clause of the 14th
10 Amendment.

11 The President: Senator Powell, you are recognized for a question.

12 Bobby Powell: Thank you Mr. President. Senator Rodrigues, when it comes to this
13 particular map, why are there different schematics in terms of determining how District 5 is
14 drawn and how District 10 is drawn? When it's an entire map related to congressional districts.
15 Why are there two different schematics in terms of determining why each was eliminated?

16 The President: Senator Rodrigues, you are recognized.

17 Ray Rodrigues: Thank you Mr. President. I believe because District 5 wasn't sufficiently
18 compact and appeared to be a gerrymander.

19 The President: Senator Powell, you are recognized.

20 Bobby Powell: Thank you Mr. President. Senator Rodrigues, you indicated that the maps
21 that we passed off of the Senate floor were compromised maps. Approximately 25% of the
22 people who are elected as senators here, approximately, are attorneys, of the 40, 39. And we also
23 have a team of attorneys who worked on those maps. How is it possible that we, 40 individuals,

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1 were able to pass maps that were compromised, and the governor and his team able to find this
2 and figure out, and determine, out of your words, that these maps have been compromised? How
3 did that happen?

4 The President: Senator Rodrigues, you are recognized.

5 Ray Rodrigues: Thank you Mr. President. What I would say is I would go back to one of
6 the first answers I gave. The charge to our committee was to learn from the mistakes the Senate
7 made in the last round of redistricting where it lost legislative deference in litigation before the
8 Florida Supreme Court. Our charge was to take the decisions that came from the Florida
9 Supreme Court and make sure we drew our map within the four frames of the corner of the
10 boundaries of those decisions and that is what we did. What the governor has done is he has
11 looked beyond the Florida Supreme Court, looked at the decisions coming from the U.S.
12 Supreme Court. And said that we failed to account for that and we should have. And by failing to
13 account for that we passed maps that were not constitutionally compliant.

14 The President: Senator Powell, you are recognized.

15 Bobby Powell: Thank you Mr. President. Senator Rodrigues, you would indicate that our
16 charge was to make sure that we did not make the same mistakes that were made in the year
17 2012. In essence being that we went through a continuous process during the 60 days that we
18 were in session. Would you say that those efforts were null and void or inconsequential when it
19 comes to us passing maps off this floor that ended up being compromised, which has brought us
20 back here today?

21 The President: Senator Rodrigues, you are recognized.

22 Ray Rodrigues: Well I would go back and say. I said this earlier. Anytime you are
23 passing legislation, it's a bill that requires three to tango. You need the House, the Senate, and

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1 the governor to approve it. The House and Senate agreed on a map but the governor never did.
2 Then he vetoed that map, which is what he indicated he would do. Which is why we've come
3 back to the drawing board. To come up with another map that will pass the House, the Senate
4 and be signed by the governor. What we've seen is the governor's provided that takes ten
5 districts off the map that we drew, which is Southeast Florida and the Panhandle. It takes districts
6 through Central Florida that were on the House map that they drew. And then the governor has
7 drawn the districts, the Executive Office of the Governor, has drawn the districts in Northeast
8 Florida and into portions of Central Florida to address the constitutional concerns that he had
9 with the map. That's why it's been referred to as a compromised map because a portion of it you
10 can find in maps that passed the Senate, a portion of it you can find in maps introduced by the
11 House, and a portion of it were drawn by the Executive Office of the Governor.

12 The President: Senator Powell, you are recognized.

13 Bobby Powell: Thank you Mr. President. In essence, Senator Rodrigues, we know that
14 there are 21.5 million people in the state of Florida. I've had the opportunity to read through the
15 analysis, which would also indicate that here in the state of Florida about 16% of that population,
16 which are colored – are Black people. Sorry we don't say colored anymore. Which are Black
17 people. These maps would reduce congressional representation in terms of Black districts
18 approximately down to two districts of the 28. We start to talk about fairness, freedom, accuracy,
19 justice, all of those different words that we've used. Do you believe that these maps that have
20 been proposed the governor are fair and also in that same realm do you also believe that we
21 wasted our time during the 60 days of session that we worked on those congressional maps?
22 Two-part question.

23 The President: Senator Rodrigues, you are recognized.

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1 Ray Rodrigues: Thank you, I'll go with the second part of the question first, which is I
2 don't believe we wasted our time. I think we acted under the charge that had been given to us.
3 And we acted with the information that we had available to us at the time that we took our
4 action. If you recall we passed our first bill, the Senate bill, off the floor in the first week of
5 January. Since we passed that bill there was a Supreme Court decision from the state of Alabama
6 and a Supreme Court decision from the state of Wisconsin, which held up the legal points that
7 the governor has made in his veto letter that was provided to all of us. So I think we acted within
8 the confines of the information we had and I think we acted within the charge that the committee
9 was given. I think it's clear that with additional information it is a legitimate legal question of
10 whether a portion of the Fair Districts Amendment is in conflict with U.S. Supreme Court
11 decisions on the Voting Rights Act. That's not something that can be adjudicated by us, the
12 Senate, that's not something that can be adjudicated by the House, and it's not something that
13 can be adjudicated by the governor. That will ultimately be a decision for the courts to resolve
14 whether there is a conflict or there is not a conflict. Our responsibility as a legislature is to fulfill
15 the constitutional duty of passing a map that we believe has a constitutional basis so that
16 elections may proceed or that the map may be adjudicated if that is the case of what needs to
17 happen. This map I believe accomplishes those goals.

18 The President: Senator Powell, you are recognized.

19 Bobby Powell: Thank you Mr. President. The first part of the question I did not hear you
20 answer to that part with regard to the 28 congressional seats that will be here in the state of
21 Florida. When we have elections in August and November. We will, under this Senate's watch,
22 reduce, potentially reduce the congressional representation represented by Black people or
23 colored people as my parents used to refer to us, as people did back then. Down to two of the 28.

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1 Do you believe that's fair?

2 The President: Senator Rodrigues, you are recognized.

3 Ray Rodrigues: Thank you Mr. President. I would say that I don't agree with the premise,
4 which the premise of the question appears to be that a minority can only win a seat in which it is
5 a protected minority district. I reject that. I live in Congressional District 19, which has a
6 minority population of 3% Blacks and yet I'm represented by a Black congressmen. I don't think
7 color makes the determination of whether a person gets elected or not. I think it really comes
8 down to whether that person connects with the voters or not. I believe that what we've done is
9 constitutional. I believe what we've done will likely be adjudicated because of the conflict
10 between the Fair Districts Amendment and the recent U.S. Supreme Court decisions. I think it's
11 our duty to pass a map so that the process can be initiated.

12 The President: Senator Powell, you are recognized.

13 Bobby Powell: Thank you Mr. President. Do you believe that two representatives,
14 potentially is representative of the population of the state of Florida in terms of Black people?

15 The President: Senator Rodrigues, you are recognized.

16 Ray Rodrigues: Thank you Mr. President. I'm sorry would you repeat the question? I
17 didn't understand it.

18 The President: Senator Powell, you are recognized.

19 Bobby Powell: Thank you Mr. President. With there being 21.5 million people in the
20 state of Florida, approximately 16% of those people are Black. Do you have congressional
21 representation guaranteed almost of two members of the 28 being Black is representative of the
22 population of the state based on the idea we do a census every year since 1790. Every ten years
23 since 1790 we've done a census and part of that census in terms of redistricting is what races are

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1 and that's used in terms of redistricting. Do you believe that two of the 28 is representative
2 population of the state of Florida?

3 The President: Senator Rodrigues, you are recognized.

4 Ray Rodrigues: Thank you Mr. President. I believe that the districts that we have drawn
5 have a constitutional basis and that is our obligation.

6 The President: Senator Powell, you are recognized.

7 Bobby Powell: Thank you Mr. President. Senator Rodrigues, you indicated that you don't
8 believe that race has anything to do with whether a person is elected. You indicated that your
9 district that you live and your congressional representative is Black, which would be Byron
10 Donalds, and Black people in your district are 3% of the population. So you do not believe that
11 has any indication of who can be elected. You believe people will be elected on merit. You also,
12 because I've had to back up in information that we've reviewed with regard to this particular
13 piece of legislation and historical information. Do you have data, documents, and evidence to
14 indicate or to agree with what you have indicated you believe in terms of your belief with regard
15 to representation based on race? Remember this is a country, where yes, once the president was
16 Barack Obama. It can happen. But do you have data, documents, and evidence that would
17 indicate otherwise of what you believe in terms of your conversation?

18 The President: Senator Rodrigues, you are recognized.

19 Ray Rodrigues: Thank you Mr. President. And I believe you've mischaracterized what I
20 said I believe. What I said was the premise of the question appears to be that a minority can only
21 win a seat if they are in a minority district or minority-majority district, or an effective minority
22 district. I reject that, because I have seen it happen otherwise.

23 The President: Senator Powell, you are recognized.

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1 Bobby Powell: Thank you Mr. President. I apologize if you believe that I
2 mischaracterized your statement. However, back to my question in terms of your belief. And I
3 know what you've seen because I've seen similar information, or similar situations happen. But
4 do you have data, document, or evidence that would follow-up in terms of your belief or in terms
5 of what we can see. Is there something that I can look at statistically that would indicate that that
6 would be the case?

7 The President: Senator Rodrigues, you are recognized.

8 Ray Rodrigues: Once again, I said that I believe that's not the only factor or the only way
9 that a minority candidate can win. To demonstrate that, I gave the example that I reside in a
10 congressional district with a Black congressmen and yet Blacks are only 3% of the voting-age
11 population. I think that is an example of where you do not have to be in a minority protected
12 district or minority-majority district in order to get elected as a minority.

13 The President: Senator Powell, you are recognized.

14 Bobby Powell: Thank you Mr. President. And I agree with a part of that premise is
15 because I do not represent a majority-minority district right now. And follow up to that. And this
16 will be my final question. I'm just confused, right. In terms of we do a census every ten years on
17 the even year. I just don't understand why we would do the census because I've heard you
18 talking earlier with regard to voter turnout. And I know voter turnout is not something that's
19 measured in the census. How does – and I think this revolves around the same idea that Senator
20 Osgood got at earlier. How do we have a census based on race and age and all those different
21 demographics and variables that are looked at in the census but we are looking at drawing
22 congressional districts based on turnout in a minority or in a primary based on minority
23 representation. I've just been a little confused with regard to that premise.

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1 The President: Senator Rodrigues, you are recognized.

2 Ray Rodrigues: Thank you Mr. President. I think you've conflated two things. The first is
3 the census. The purpose of the census in this exercise is to determine what the population of the
4 state is which then determines how many U.S. congressional representatives we have. And
5 according to previous Supreme Court decisions, it also determines how large each individual
6 district is by population. Because according to previous U.S. Supreme Court decisions we can
7 only be plus or minus one person district to district. That is the purpose of the census. When it
8 comes to the primary turnout, that was being utilized to determine if a particular district should
9 be protected from retrogression under the 1965 Voting Rights Act. And that is where the primary
10 turnout was looked at to determine does the minority control that seat, which would then
11 determine do they have the ability to elect the candidate of their choice and would taking that
12 district from less than a minority-majority seat impact their ability to do so. Two different criteria
13 for two different portions of the process.

14 The President: Senator Powell of the 30th for a question.

15 Bobby Powell: Thank you Mr. President. Final question. I know you said the purpose of
16 the census is to determine the population of the state and I believe the census has a number of
17 purposes not just to determine the population of the state. Henceforth, census data can be broken
18 down into block-level data, is that correct?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: That is correct.

21 The President: Senator Powell has concluded. My order as given to me by the President
22 was Farmer, Torres, and Pizzo. So let's go to the leader from the 34th, Leader Farmer you are
23 recognized for a question.

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1 Gary Farmer: Thank you very much, Mr. President. Chair Rodrigues, you doing okay?
2 You need a break or anything? You alright? Okay. So, series of questions and I'll try not to be
3 repetitive here. The map submitted by the governor, which is what we're talking about here, is
4 109. We can refer to it as 109? That's how my notes, I just want to make sure when we're having
5 the dialogue we're on the same page. Okay. 109 splits as many counties as 8019 did. How is that
6 an improvement?

7 The President: Senator Rodrigues.

8 Ray Rodrigues: Thank you, Mr. President. According to the data I'm looking at here,
9 8019 split – had 49 counties with only one district, which meant there were 18 counties split into
10 more than one district. The governor's plan, 109, has 50 counties with only one district, which
11 means there are only 17 counties that are split into more than one district.

12 The President: Leader Farmer.

13 Gary Farmer: Thank you, Mr. President. So that's one-county difference?

14 The President: Senator Rodrigues.

15 Ray Rodrigues: That's correct.

16 The President: Leader Farmer.

17 Gary Farmer: If 8060 were adapted to turn CD 5 into a Northeast Florida district, 8060
18 would split two fewer counties than 109. So if we're doing an apple-to-apples comparison,
19 wouldn't 8060 be superior on county splitting than 109?

20 The President: Senator Rodrigues.

21 Ray Rodrigues: Thank you, Mr. President. Looking at the data that I have, 8060, which I
22 believe was the plan we passed off the Senate floor the first week of January, had 48 districts
23 with only one county, which means there were 19 counties split into more than one district. So

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1 the House primary map that we passed was a one-county improvement over the map we passed.
2 And I remember making that point in the close of the bill. And the map that is before us today is
3 a two-county improvement over the map that we originally passed, 8060.

4 The President: Leader Farmer.

5 Gary Farmer: Thank you, Mr. President. The governor's memo explaining his veto
6 focused on just one district, CD 5. And it also alluded to CD 5's impact on CD 4 as it was
7 contained in 8019. That's the only issue given for the veto of 8019. So why does this new map
8 redraw the entire state?

9 The President: Senator Rodrigues.

10 Ray Rodrigues: Thank you, Mr. President. I agree, if you look at the veto letter it is
11 specific to Congressional District 5. But I'll go back to a statement I made earlier. When you're
12 in the legislative process it doesn't take two to tango, it takes three. The House, the Senate, and
13 the governor. And so what you have in front of you is a bill that has elements of maps produced
14 by the Senate, map introduced by the House, and a map drawn by the Executive Office of the
15 Governor's staff.

16 The President: Leader Farmer.

17 Gary Farmer: Thank you, Mr. President. Well, let's divert on that comment. And you
18 referred earlier to the legislative process being one of negotiation and compromise. But how is
19 taking up a bill that's drafted by the governor, with no bills drafted by the Senate or the House
20 for this special session –

21 The President: Senator Rodrigues. Leader Farmer has not concluded. You may continue
22 with your questioning.

23 Gary Farmer: It is a multi-part question.

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1 The President: Understood. Pardon me.

2 Gary Farmer: How is taking up a bill drafted by the governor, which has never been done
3 before in Florida history, indicative or the result of negotiation and compromise by the Senate
4 and the House?

5 The President: Senator Rodrigues.

6 Ray Rodrigues: Thank you, Mr. President. I would refer you to the original map
7 introduced by the governor. And even the second map, which was submitted by the governor, to
8 compare to the current map. And what you will see is that the three maps are different. In the
9 first two maps, they drew around the concept of census CBP, Census Border Places. We drew, in
10 the Legislature, around landmarks, such as major highways, interstates, and rivers. In the current
11 map, the Senate staff abandoned the process they had drawn their first two districts around and
12 instead adopted the process that the Legislature had drawn its districts around. Furthermore, they
13 turned away from districts that they had drawn in their first two maps to take sections of the map
14 that had been introduced by the Senate and a section of the map that had been introduced by the
15 House and put that into the map that was submitted to us. So that map that contains elements
16 from all three entities. You got the Executive Office of the Governor, the Senate, and the House.

17 The President: Leader Farmer.

18 Gary Farmer: Thank you, Mr. President. And I would disagree that taking elements of
19 something that was vetoed or not passed without new input by the legislative bodies and the
20 members of those bodies is indicative of compromise, but we'll agree to disagree on that and
21 maybe mention that in debate. Going back to the veto letter and particularly CD 4 and CD 5, the
22 stated issue with 8019 was that CD 4 was made noncompact, in that it wrapped almost all the
23 way around CD 5, which was contained entirely within Duval County. So if that was the stated

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1 issue with 8019, why didn't we just reorient CD 5 and CD 4 on top of each other instead of
2 splitting Duval County east and west?

3 The President: Senator Rodrigues.

4 Ray Rodrigues: Thank you, Mr. President. In the previous answer I said how the
5 governor had originally drew their maps around Census Border Places and instead adopted the
6 standard that the Legislature used, which was interstates, highways, and major waterways. The
7 governor came to the House position on that. The dividing line in the Northeast Florida seats is
8 the river that runs through Duval County, which is the most notable landmark in that county.

9 The President: Leader Farmer.

10 Gary Farmer: And I will come back to the river issue, but I want to stay on compactness.
11 Wouldn't reorienting CD 5 and CD 4 on top of each other be more compact than what's in 109,
12 which copies original partisan issues by cracking Jacksonville in half and spreading both halves
13 out into Republican suburbs?

14 The President: Senator Rodrigues.

15 Ray Rodrigues: I would be hesitant to offer an opinion on that until I've seen the districts
16 drawn in the configuration you've suggested and then the metrics of the Reock score would be,
17 what the Convex Hull score would be, and what the Polsby-Popper score would be.

18 The President: Leader Farmer.

19 Gary Farmer: You read my mind, cause I just was about to go to Reock and Polsby-
20 Popper. In your map, CD 4 has a Reock of .38, an Area/Convex Hull of .76, and a Polsby-Popper
21 of .32. CD 5 has a Reock of .56, an Area/Convex Hull of .89, and a Polsby-Popper of .52. So if
22 you were to just change CD 4 and 5 stacked on top of each other, for example, like in the map
23 posted by Jacksonville reporter Andrew Pantazi, that map would have the following scores. The

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1 Nassau-Duval district would have a Reock of .59, an Area/Convex Hull of .89, a Polsby-Popper
2 of .42 so we'd have a better Reock, same Area/Convex Hull as the Nassau-to-Clay district. And
3 the Duval-St. Johns District would have a Reock of .48, Area/Convex of .83 and Polsby-Popper
4 of .49. All of those numbers are significantly better than the numbers in this map. So my
5 question is, how is this map more compact?

6 The President: Rodrigues.

7 Ray Rodrigues: Thank you, Mr. President. In the last round of litigation before the
8 Florida Supreme Court in the apportionment decisions, the court found that in looking at a map
9 you look at the totality of the map in making the decision on whether it's been improved or not.
10 Once you are outside of an area of a protected district. If you look at the totality of the map. And
11 I'm going to compare the map we passed off the Senate floor, 8060, to the map that is before us
12 today. The map we passed had a Convex Hull of .80, the map that is before us today has a
13 Convex Hull of .81, the map that we passed of the Senate floor had a Polsby-Popper of .43, the
14 map before us today has the same .43 Polsby-Popper score. The map we passed of the Senate
15 floor had a Reock ratio of .46, the map before us today has a Reock ratio of .47. So on the three
16 metrics that determine compactness that have been generally accepted by the courts and
17 specifically accepted by the Florida Supreme Court, two of the three are more compact with the
18 map that is in front of us than in the map that we passed off the Senate floor in the first week of
19 January. Then when you take into account that there are two counties, two additional counties
20 that are kept whole, 50 versus the 48 that were kept whole on our map. Then you look at
21 municipalities. Our map kept 368 municipalities whole. The current map keeps 396
22 municipalities whole. This map does a better job of keeping cities and counties whole and is
23 more compact in totality when looking at the metrics that are accepted by the court.

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1 The President: Leader Farmer.

2 Gary Farmer: Thank you. But Chair, respectfully, those numbers you gave were only as
3 to the one district. You giveth to one, you taketh away from another. The Pantazi map would
4 have better scores for both districts and therefore both districts would have more compact, isn't
5 that true?

6 The President: Senator Rodrigues.

7 Ray Rodrigues: Thank you, Mr. President. I may not have communicated effectively. The
8 numbers that I just gave you were totality. They were going back to the standard that the Florida
9 Supreme Court gave in that you look at the map as a total in making the determination of
10 whether it is more compact or not. All those numbers I gave you are the state in total. So in total
11 we have a higher Convex Hull score, we have a higher Reock score, we have the same Polsby-
12 Popper score. We've split fewer counties, we split fewer cities and we keep more counties and
13 cities whole.

14 The President: Leader Farmer.

15 Gary Farmer: Yes but again, the veto is not based on 28 districts, it was based on one
16 district and its impact on an adjacent district. So while maybe you get better scores for the entire
17 state, isn't my assertion still true that in CD 4 and 5, they are less compact under this map then
18 they are under maps including the Pantazi map.

19 The President: Senator Rodrigues.

20 Ray Rodrigues: I would agree with you, the veto letter specified the legal analysis behind
21 one district. But he didn't just veto one district, he vetoed the entire map, which means we need a
22 new map that will pass both chambers and be signed by the governor. And the new map that is
23 before us is one that is more compact. I will concede that it is possible within that total map there

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1 may be areas of the state that could be even more compact. I would refer you back to the Florida
2 Supreme Court decisions in the last redistricting cycle where they acknowledged that given
3 enough time, a skilled map drawer could continue to improve districts over and over and over
4 again. But at some point, you have to actually pass a map. Here's where we are. A map has been
5 vetoed, we now have a map in front of us and that map improves on Tier Two metrics compared
6 to our original map that we passed back in January.

7 The President: Leader Farmer.

8 Gary Farmer: Thank you, Mr. President. I guess we'll just agree to disagree again,
9 because the rest of the state could have stayed in its compactness scores. We could have just
10 tweaked 4 and 5, received better compact districts in 4 and 5 without touching the rest of the
11 state. But we'll save that for debate. On the objection to original CD 5 and now to CD 4 as it was
12 drawn in 8019 is that they're not compact and split cities and counties. But it seems like we're
13 going out of our way with this map to draw less-compact configurations for 4 and 5 that does a
14 worse job of utilizing existing boundaries. And I would refer to, you mentioned the river, aren't
15 city lines and county lines more discernible and fixed on maps than a meandering river?

16 The President: Senator Rodrigues.

17 Ray Rodrigues: Thank you, Mr. President. And the answer to that is, yes. But the point
18 that I don't think you are accounting for is that Duval County and the City of Jacksonville, which
19 is unique because the City of Jacksonville is the entire County of Duval, is larger than a
20 congressional district. So it is going to be split no matter what because of the federal requirement
21 that congressional districts be within one person of population of each other. We have to draw
22 more than one district in Duval, which then begs the question, how does it get split? The decision
23 that was made by the Executive Office of the Governor was to do that split on the most notable

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1 landmark, which is consistent with what we've seen in previous Florida Supreme Court
2 decisions.

3 The President: Leader Farmer.

4 Gary Farmer: But it's inconsistent with this body and your committee's specific decision
5 in our map to de-emphasize following the St. Johns River in order to favor compactness. Isn't
6 that true?

7 The President: Senator Rodrigues.

8 Ray Rodrigues: Thank you Mr. President. Yes, it is definitely inconsistent with what we
9 did. Had what we done been something that the Executive Office of the Governor felt was
10 constitutional there would have been no need for a veto.

11 The President: Leader Farmer.

12 Gary Farmer: Thank you Mr. President. Will either District 4 or District 5 as drawn in
13 109 perform for Black candidates of choice?

14 The President: Senator Rodrigues.

15 Ray Rodrigues: Thank you Mr. President. I don't know the answer to that because a
16 functional analysis was not performed on those districts.

17 The President: Leader Farmer.

18 Gary Farmer: When the president – and the president charged you to come up with draft
19 maps based on the constitutional criteria – did we, the Senate, or your committee, in consultation
20 with the president, set any hierarchy of geographical boundaries? For example, did we say that it
21 was more important to follow rivers than major roads?

22 The President: Senator Rodrigues.

23 Ray Rodrigues: Thank you Mr. President. If you go back and review our committee

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1 meetings, the charge we gave as a committee, which was unanimous and bipartisan to the staff,
2 was to start with county lines, to keep as many counties together as possible. And then from
3 there to utilize major geographical boundaries such as interstates, highways and major bodies of
4 water, which would include rivers.

5 The President: Leader Farmer.

6 Gary Farmer: Thank you, Mr. President. Okay, let's leave CD 4 and CD 5 for a minute
7 and go down to South Florida. Am I right in thinking that this map 109 basically takes the same
8 approach as both the House and the full Legislature's previous maps for Districts 21 through 28?

9 The President: Senator Rodrigues.

10 Ray Rodrigues: I would say if you look at Districts— start with 20. 20, 21, 22, 23, 24, 25,
11 skip 26, and then go to 27 and 28. You will find that those lines are consistent with what was
12 both on the map that we passed in the House in January and the map that was passed off the
13 House and Senate floor and sent to the governor and vetoed.

14 The President: Leader Farmer.

15 Gary Farmer: Thank you, Mr. President. And again, you seem to be reading where I'm
16 going because I was just about to go to CD 26. Big consideration in drafting CD 26 is, and a lot
17 of districts in South Florida that are around it, is that 26 is a Tier One protected district, correct?

18 The President: Senator Rodrigues.

19 Ray Rodrigues: That is correct.

20 The President: Leader Farmer.

21 Gary Farmer: Thank you, Mr. President. During the committee process, we talked about
22 — the committee and members, and testimony was received, that CD 26 is maybe having some
23 Tier Two drawbacks that are necessary to maintain Tier One compliance. And let me expound on

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1 that a little to lay the predicate for the question. Some of those got a bit worse from 8017 to
2 8019, and now to 109. I would use, by way of example, what's been referred to as the Stairway
3 to Immokalee, which stretches all the way to the Biscayne Bay from the Gulf of Mexico, cutting
4 off a piece of CD 24 in Downtown Miami that's now connected to the rest of CD 24 only by a
5 bridge. So you've got this kind of stairway-looking district. Now, 109 actually introduces an
6 additional split of Collier County, plus it cuts the Immokalee community in half, following local
7 streets like County Road 846, which isn't in our geographic boundary database. So I guess I'm
8 just looking for confirmation that this map 109 concluded that those Tier Two drawbacks are
9 necessary to maintain that Tier One compliance for CD 26.

10 The President: Senator Rodrigues.

11 Ray Rodrigues: Thank you, Mr. President. And, I did not have a discussion specific to
12 that level of detail in the briefing that I received from the Executive Office of the Governor. But
13 what I do have is confirmation, looking at the data, that District 26 retains its minority-majority
14 status, and that particular seat is a minority-majority district for Hispanics. It was under both of
15 the maps that we passed previously. It remains in this map as well.

16 The President: Leader Farmer.

17 Gary Farmer: Thank you, Mr. President. Chair Rodrigues, are you familiar with a report
18 that was issued by the Latino Policy and Politics Initiative at UCLA?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you, Mr. President. No, I'm not.

21 The President: Leader Farmer.

22 Gary Farmer: Do you know if staff had a chance to analyze that report?

23 Ray Rodrigues: I do not know that without conferring with them.

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1 Gary Farmer: Okay.

2 The President: Leader Farmer.

3 Gary Farmer: Thank you, Mr. President. Essentially, the UCLA report found that there
4 are separate and distinct Latino voting blocs in South Florida that varies, in some cases rather
5 significantly, by geography and ethnicity. I want you to just – I understand you're not aware. Just
6 for purposes of this question, assume that that's true. Would that new information impact your or
7 our analysis as to the three majority-Latino districts in South Florida?

8 The President: Senator Rodrigues.

9 Ray Rodrigues: Thank you, Mr. President. I would need to confer with staff to get some
10 detail on the previous decisions of the Florida Supreme Court on how functional analysis are to
11 performed in those districts to answer that question.

12 The President: Leader Farmer.

13 Gary Farmer: Thank you, Mr. President. Again, looking specifically at benchmark CD 26
14 and 27. I again, ask you to just assume this is in the UCLA report. And I wouldn't mislead you
15 like that, I promise. The UCLA report found that the majority-Latino precincts split about 55 to
16 45% between Republican and Democratic candidates in recent elections. Did you or we consider
17 such a breakdown to be evidence of political cohesion among Latino voters when drawing these
18 new Latino-majority districts in South Florida?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you, Mr. President. Well, the South Florida seats are the lines that
21 we drew in the Senate. If you go back, they are very similar to the lines on our original map.
22 They are very similar to the lines on the compromise map with the House. So I believe, using the
23 criteria that at every step of the way, we were using the more conservative of criteria. That the

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1 answer to that is yes, we believe these lines were constitutional in terms of protecting minority-
2 majority status in those districts.

3 The President: Leader Farmer.

4 Gary Farmer: Thank you, last question, Mr. President, and thank you for your indulgence.
5 Thank you, Chair Rodrigues. One last question here. In its 2015 *Apportionment VIII* ruling, the
6 Florida Supreme Court held that, quote, the establishment of voting cohesion and racially
7 polarized voting is the first step in any retrogression analysis. And federal courts interpreting
8 both Section 2 and Section 5 of the Voting Rights Act have said the same thing. The Supreme
9 Court went on to say that the Legislature made, quote, an unproven assumption of Hispanic
10 voting cohesion and polarized racial bloc voting in South Florida. So I think that holding by the
11 Supreme Court differs a little bit without your analysis. But given the court's warning just six
12 years ago, and combine that with what the UCLA report has indicated, can we figure out whether
13 we are adequately taking into account the actual reality of Latino voting patterns in South
14 Florida, and not drawing maps based on the same unproven assumptions that the court struck
15 down in 2015?

16 The President: Senator Rodrigues.

17 Ray Rodrigues: Thank you, Mr. President. The one thing that I would take issue with in
18 your question is, while the court was making that analysis, they were invalidating the districts
19 that the Senate drew during that redistricting cycle. The court then ordered the map for the
20 Senate that it was utilized. If you look at what we've done in South Florida and compare it to
21 what the court ordered, I think you would find it's very similar. So, I would say or submit to you
22 that what we've done, I think, does indeed follow the direction that the court offered.

23 The President: Leader Farmer. Leader Farmer has concluded. My list includes Senator

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1 Torres of the 15th and followed by Senator Pizzo and then anyone else that hasn't questioned
2 that'd like to get in line, give me the secret signal and we'll put you in the queue. Let's go to the
3 senator of the 15th, Senator Torres, you are recognized for a question.

4 Victor Torres: Thank you, Mr. President. Senator Rodrigues, this map here is the map
5 that came from the governor's office, correct? The one we have here that's on our table?

6 The President: Senator Rodrigues.

7 Ray Rodrigues: Yes, that's correct.

8 The President: Senator Torres.

9 Victor Torres: Sir, I refer to the – if you can look at the map, if you look at the bottom of
10 the map, you see CD 9 and 10. If you look at the map, you'll see an indication where a part of
11 Orange was inserted to CD 9, taking away minority representation from 10. Can you explain
12 that?

13 The President: Senator Rodrigues.

14 Ray Rodrigues: Thank you Mr. President. And my answer would be similar to my
15 previous discussions we've had on CD 10, which was the Executive Office of the Governor, as
16 they told us in committee today, utilized the lines for CD 10 in that area of the state that were
17 originally on the House map and so that's where it came from.

18 The President: Senator Torres for a question.

19 Victor Torres: And Senator, what I'm getting at is you've been repeating minority-
20 majority, vote, compact and I see that this is taking away from 10 because this is where I live and
21 I'm looking at this carveout from 10 as taking away the minority representation in 10. Did our
22 maps that was passed here, our congressional maps, that was passed here. Did it have the same
23 carveout?

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1 The President: Senator Rodrigues.

2 Ray Rodrigues: Thank you Mr. President. My question, and I'll ask for some
3 clarification, was in the map that we passed out, we had it identified as an opportunity district for
4 Blacks because it was at 26.8% of the voting-age population. The Hispanic percentage was
5 24.6%. Both of those were below the majority, which is why it was concluded that it wasn't a
6 protected seat. So to answer your question, are you asking us what our approach was as far
7 treating it as a Black minority protected district or if we treated it as a Hispanic minority
8 protected district?

9 The President: Senator Torres.

10 Victor Torres: What I'm asking is a combination of both, because we both, I look at that
11 community that I represent and your map originally, the map that was passed here, in the Senate,
12 didn't have this carve out. Now you're taking away, from what I see, the governor's map, is
13 taking away that representation from 10, bringing it to 9. I know the area but what my question is
14 did your map, not the numbers that you are reading to me, but your map that you originated here.
15 Did it have this carveout in the Senate maps?

16 The President: Senator Rodrigues of the 27th to respond.

17 Ray Rodrigues: What I can say definitively is the map that we passed did treat that as a
18 protected district for Black voters as an opportunity district. As far as the actual lines and
19 neighborhoods, I would need to get with staff to answer that question.

20 The President: Very good, Senator Torres has concluded. Senator of the 38th, Senator
21 Pizzo you are recognized for a question.

22 Jason Pizzo: Thank you Mr. President. A couple of questions for Senator. No not a
23 couple hundred, just a couple of questions. And I would like to give a shoutout so I can save face

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1 at my son's next baseball game to Mr. Hayes, social studies teacher at my kid's school, who
2 when I last saw him basically formed the basis of a couple of questions I'm going to ask you.
3 And you and I have spoken about this a long time ago. How quixotic rather it is that legislators
4 here, state legislators can legislate their own maps that are not within the purview of the
5 governor to take a look at, so we can carve up our own districts, but not congressional, because
6 it's implicit that those maps go to the governor. When you were speaking about CD 5 and the
7 whole conversation. Do you recall what day we actually passed 8019 off this floor? Around what
8 day it was?

9 The President: Senator Rodrigues.

10 Ray Rodrigues: Thank you Mr. President. 8019 was the compromise map between the
11 Senate and the House, that would have been at the end of session, so that would have been
12 sometime in March.

13 The President: Senator Pizzo.

14 Jason Pizzo: So and I – thank you Mr. President. I'm sure you remember hearing this in
15 some fashion but around Wednesday April 18th, 13th, I'm sorry when the governor said, I mean
16 we're not going to have a 200-mile gerrymander that divvies up people based on the color of
17 their skin. That is wrong. Do you recall if 8019, a version that was a compromise between the
18 House and the Senate, contained any 200-mile-long gerrymandered district divvied up by race?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you Mr. President. I believe the secondary map, because that bill
21 contained two maps contained the same configuration of District 5 that the court had ordered in
22 the previous redistricting cycle, which was an east-west configuration that went from Duval to
23 Gadsden. But that was the secondary map. Not the primary map.

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1 The President: Senator Pizzo for a question.

2 Jason Pizzo: Thank you Mr. President. I think we even talked about this on the floor. The
3 primary option that was presented to the governor on 8019 did not have a 200-mile-long
4 anything, did it?

5 The President: Senator Rodrigues.

6 Ray Rodrigues: Thank you Mr. President. That's correct.

7 The President: Senator Pizzo.

8 Jason Pizzo: Thank you. I'm looking at this 109, and if you take a look, do you have one
9 in front of you? I'm sure you have it memorized. Take a look at northwest Polk in the proposed
10 CD 18 and then run your finger down to the southeast corner of Hendry County, any idea of how
11 long that is?

12 The President: Senator Rodrigues.

13 Ray Rodrigues: Thank you Mr. President. I do not have that data in front of me.

14 The President: Senator Pizzo.

15 Jason Pizzo: Thank you Mr. President. Fun fact, anywhere you go in Florida, you are no
16 more than 60 miles from a beach, but if I told you that the northwesternmost portion of proposed
17 CD 18 in the governor's map down on the southeast most portion of Hendry County was 180
18 miles, would that sound accurate?

19 The President: Senator Rodrigues.

20 Ray Rodrigues: Thank you Mr. President. I don't have metrics, but I would not argue
21 with that.

22 The President: Senator Pizzo.

23 Jason Pizzo: Thank you, when you spoke earlier about CD 5 and you were talking about

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1 a downward trend and Senator Osgood had asked, it was at one time, it was at 40-plus and it
2 went down, was that based on performance of who actually voted or was that based on voter
3 registration numbers?

4 The President: Senator Rodrigues.

5 Ray Rodrigues: Thank you Mr. President. CD 5 we were actually using Black voting-age
6 population. Because that's the required metric under the Voting Rights Act.

7 The President: Senator Pizzo.

8 Jason Pizzo: Didn't have anything to do with performance as far as either the primary or
9 in a general, what the actual performance of those registered to vote of a particular race that
10 exercise that right. It was just registered voters that were African American.

11 The President: Senator Rodrigues.

12 Ray Rodrigues: Thank you Mr. President. It was just the voters that are African
13 American. Performance was not included because of the section of the 1965 Voting Rights Act
14 that applied.

15 The President: Senator Pizzo.

16 Jason Pizzo: Thank you Mr. President. And for most people at home that are watching
17 they don't realize that you take this so seriously you actually got yourself a flip phone and don't
18 take texts from people anymore. True fact, I can verify that. However, there was Tweet from the
19 governor that I'm sure somebody may have told you about. Sometime back while we were in
20 session. That says I will veto the maps, they're dead on arrival. My quest-- and do you recall, I'm
21 sure, seeing that, correct? Or hearing about it.

22 The President: Senator Rodrigues.

23 Ray Rodrigues: Thank you Mr. President. I believe we may have even heard about that

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1 while we were on the floor debating the bill.

2 The President: Senator Pizzo.

3 Jason Pizzo: Thank you Mr. President. And pleading my ignorance. What precluded the
4 governor's office from participating or submitting a draft of their own while we were all here on
5 the scheduled taxpayers' dime? What precluded that office from participating in this process
6 back then?

7 The President: Senator Rodrigues.

8 Ray Rodrigues: Thank you Mr. President. I would remind you they did submit two maps
9 during that time that we were here. We looked at both of them, well let me rephrase that, they
10 submitted two maps. The first one they submitted was done literally right before we were going
11 to consider our map on the floor. We never analyzed that map. We proceeded with our map,
12 passed it and then my understanding was there were negotiations between the House and the
13 governor as they were working on their map. If you'll recall, their process delayed and several of
14 their committee hearings were canceled, or subcommittee hearings were canceled. So ultimately,
15 at the end of the day the House and the Senate could not come to support either of the two
16 versions of the map that the Executive Office of the Governor submitted while we were in
17 session.

18 The President: Senator Pizzo.

19 Jason Pizzo: Thank you Mr. President. So, would it be accurate to characterize as the
20 Senate held their position and said we're just getting this now at the late hour, we've gone
21 through an entire deliberate, engaged, and informed process to arrive at our conclusions of maps.
22 We're not going to budge, certainly not at the midnight hour when just presented with
23 something. However, the House capitulated to some extent, engaged in conversations or

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1 negotiations, or discussions with the governor's office. The governor's office then presented one
2 or two variations, which at the end of the regular scheduled session we could not accept, correct?

3 The President: Senator Rodrigues.

4 Ray Rodrigues: Thank you Mr. President. I would just quibble with one part of that. I
5 think if you go back and watch the tape in January when I presented the first map. I believe that I
6 acknowledged at that time that while this was the end of the process for the Senate for now, it
7 wasn't the end of the process because until the House agreed on the bill, everything was still in
8 play. So what I would say is we passed our bill knowing that there was still more negotiations to
9 occur and that there would ultimately be changes as a result of those negotiations as the product
10 worked its way through. But I would concur with the rest of your statement.

11 The President: Senator Pizzo.

12 Jason Pizzo: The maps that were proposed by the governor's office that we bicamerally
13 would not accept, how much did they deviate from what we have right now?

14 The President: Senator Rodrigues.

15 Ray Rodrigues: Thank you Mr. President. I think if you go back and look, they deviate
16 significantly in Southeast Florida, I believe Southeast Florida is pretty well everything that the
17 Senate has put forth in each of the maps that we've done. I think there's – they took the House
18 position on Central Florida, but to be honest with you I haven't gone back to look at the
19 governor's original submission to see how that compared to the House original submission. So I
20 can't speak to whether that's similar or not. But I can tell you in committee today, the Executive
21 Office of the Governor identified that as a compromise where they accepted the House position on
22 that area. So what we learned is that of the 28 districts, ten of them are essentially the lines that
23 we drew in the Senate and that there are at least 12 districts where they concur with the House.

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1 And the remainder districts are district that they drew. That is my understanding.

2 The President: Senator Pizzo.

3 Jason Pizzo: Thank you Mr. President. I caught most of your meeting today and then also
4 watched Community Affairs so I may have missed this. Was Mr. Kelly from the governor's
5 office placed under oath?

6 The President: Senator Rodrigues.

7 Ray Rodrigues: Thank you Mr. President. No, he was not.

8 The President: Senator Pizzo.

9 Jason Pizzo: Any reason why not? Or did anyone ask for him to be placed under oath?

10 The President: Senator Rodrigues.

11 Ray Rodrigues: Thank you Mr. President. I'd say an hour to an hour and a half in, the
12 request was made. And at that time, I ruled it out of order given that we were already an hour to
13 an hour and a half into the committee.

14 The President: Senator Pizzo.

15 Jason Pizzo: How much time after that initial request, an hour to an hour and a half in, of
16 additional testimony was there that followed the request for Mr. Kelly to be placed under oath,
17 can you recall?

18 The President: Senator Rodrigues.

19 Ray Rodrigues: Thank you Mr. President. I believe his testimony ended at 3:30 so the
20 committee began at 1:30 so it was either an hour or 30 minutes of additional testimony after that.

21 The President: Senator Pizzo.

22 Jason Pizzo: Thank you Mr. President. And I know you're not an attorney, but do you
23 have any concern if I were to pose a hypothetical? That Mr. Kelly might be called to be deposed

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1 in a challenge that either he as an agent of his office the attorney for the Executive Office of the
2 Governor might claim some sort of privilege and not be able to be forthright in the origination
3 and genesis of the map drawing.

4 The President: Senator Rodrigues.

5 Ray Rodrigues: Thank you Mr. President. And I would say that what has for my opinion
6 on that is the last round of litigation that occurred, which I believe is the precedent. Prior to that
7 last round of litigation the legislation enjoyed deference and privilege and that was stripped
8 during that litigation and we were deposed. I believe that sets the precedent. That lays open the
9 possibility for anyone involved in the redistricting process to be deposed in litigation on that
10 subject and that's how I've operated during the entire time I've chaired the Reapportionment
11 Committee.

12 The President: Senator Pizzo.

13 Jason Pizzo: Thank you Mr. President and Senator Rodrigues, I thank you for that
14 statement, which is very valiant of you to say. I appreciate it.

15 The President: Senator Pizzo has concluded. Are there additional questions? Is there
16 additional question or comment by the sponsor? Wait a minute, let me go back, I just want to
17 make clear. Is there any additional questions from those that had not asked questions? There is,
18 and let's pursue. Let's go forward to the senator of the 31st. Senator Berman you are recognized
19 for a question.

20 Lori Berman: Thank you Mr. President. Senator Rodrigues do you have any idea how
21 many other states have not passed a congressional map as of this date?

22 The President: Senator Rodrigues.

23 Ray Rodrigues: Thank you Mr. President. I think the number is between two and four.

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1 The President: Senator Berman.

2 Lori Berman: Thank you Mr. President. The fact that we're so late in passing a
3 congressional map, do you think that will affect the ability of the courts to have an adequate time
4 to review the map before it goes into effect or if someone brings a challenge to that map?

5 The President: Senator Rodrigues.

6 Ray Rodrigues: Thank you Mr. President. I would say that the experience of last time is
7 that the courts will get it right and frequently they'll get it right on their timetable.

8 The President: Senator Berman.

9 Lori Berman: Thank you Mr. President. So it doesn't trouble you that we had elections
10 under maps that didn't get it right until several years later after the courts revised them?

11 The President: Senator Rodrigues.

12 Ray Rodrigues: Thank you Mr. President. I think what we did was appropriate for the
13 time and I think what we will do in the future, will be appropriate for this time.

14 The President: Senator Berman. Senator Berman has concluded. There being no
15 additional comments by the sponsor, pursuant to Rule 4.19, the bill is placed on the calendar of
16 bills on third reading. Read the next bill.

17 [02:42:15]



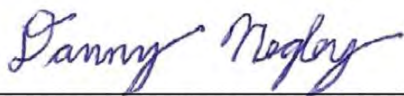
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Vanan Online Services, Inc.
10711 Spotsylvania Ave., Suite A
Fredericksburg VA 22408
Office: (888) 535-5668
Email: support@vananservices.com
Website: www.vananservices.com