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SENATE COMMITTEE ON REAPPORTIONMENT

11

OCTOBER 11, 2021

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Transcribed by:

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1 T A P E D P R O C E E D I N G S

2 Danna, please call the roll.

3 DANA: Chair Rodrigues.

4 CHAIR RODRIGUES: Here.

5 DANA: Vice Chair Broxson. Senator Bean,  
6 Senator Bracy, Senator Bradley, Senator Gurgess.

7 SENATOR BURGESS: Here.

8 DANA: Senator Gibson. Senator Harrell.  
9 Senator Rodriguez. Senator Rouson. Senator  
10 Stargel. Senator Stewart. A quorum is present,  
11 Mr. Chair.

12 CHAIR RODRIGUES: Thank you. Let the record  
13 reflect that Senator Bean is excused from today's  
14 meeting. Before we begin, please silence all of  
15 your electronic devices. Next, COVID-19  
16 precautions are in place where applicable. And  
17 the third thing to check off here, anyone wishing  
18 to testify before the committee must fill out an  
19 appearance card and hand it to a member of the  
20 Sergeant's office. Should you select to waive your  
21 speaking time your position will be read into the  
22 record.

23 Before we get into the agenda, there are a few  
24 things to update committee members on. Since our  
25 last meeting on September 20th, the House and the

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1 Senate have watched the joint website,  
2 www.dot.floridaredistricting.gov. It went live on  
3 September 22nd. That same day we also launched our  
4 redistricting application. Since then members of  
5 the public have been able to draw and submit maps  
6 using the same application and data used by the  
7 Legislature. All they have to do is to register  
8 for a free account. All Senators also have access  
9 to the map drawing application.

10 Each of you has received credentials and  
11 instructions for logging in. If any Senator has  
12 questions on how to access their account, they  
13 should contact our committee staff. In the time  
14 between our meeting our staff has been working with  
15 their counterparts in the House, to provide  
16 enchantment to the map drawing application.

17 On Friday, October the 8th, voter  
18 registration, voter turnout and election result  
19 data was added. Users can now access that data and  
20 use it to conduct the functional analysis needed to  
21 ensure that the proposed districts are not  
22 diminishing the ability of racial or minority  
23 candidates to participate in the political process  
24 and to elect candidates of their choice.

25 Additionally, we have been working with our

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1 partners in the House to document, to have  
2 documents, excuse me, that are posted on the joint  
3 website translated. Our staff will be able to use  
4 a translator to communicate and provide support to  
5 any foreign language speakers.

6 Finally, several publicly submitted maps have  
7 been received and made available on Florida  
8 Redistricting.gov. We have also implemented a new  
9 comment tool. It will allow users to submit their  
10 comments directly through the website. Staff  
11 Director Mr. Ferrin, will walk us through the  
12 website and show us how to access these  
13 submissions, and these comments for our own  
14 independent review. If a member of the committee  
15 would like staff to consider incorporating concepts  
16 from a submission or comment, they should bring  
17 that request to the attention of the committee at  
18 our next meeting. I suggest that prior to doing  
19 so, a member reach out to the author of the plan to  
20 discuss methodology and intent.

21 So today, in addition to a review of the  
22 website, Mr. Ferrin will also be demonstrating the  
23 map making application for us. We will also hear  
24 from counsel on the legal environment and  
25 redistricting related case law that will guide us

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1 through this process. Do we have any questions?

2 Senator Gibson, you are recognized.

3 SENATOR GIBSON: Thank you, thank you,  
4 Mr. Chair. Just as we start, just because I have  
5 heard from constituents in my district and across  
6 the state actually in terms of a burden on the  
7 public to access information or go through the  
8 multiple steps that we have. So a revelation I  
9 would call it. Just so far as we get started, in  
10 terms of registering for the website and visiting  
11 the website or drawing your own map or favoring  
12 your own map, so this is for the public. Are  
13 people, do people remain anonymous? Is there any  
14 capturing of who they are? How does that part  
15 work? And maybe we could talk about it as we  
16 proceed, but I think it is important that the  
17 public understands that we are not trying to  
18 overburden them, but we are trying to give them the  
19 opportunity to be included in the process, I think.  
20 But I think some do have a question about  
21 unanimity. Thank you.

22 CHAIR RODRIGUES: Senator Gibson, what I have  
23 been briefed on is anyone can access the website.  
24 So they can create a user name and submit a web  
25 address and then create any user name or web

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1 address they want. So if they want to access the  
2 website, that could be done anonymously. However,  
3 if they wish to submit a plan, it is required that  
4 they put their name on the plan.

5 And if you will recall in our first meeting we  
6 went over why we are doing that this time around,  
7 to eliminate any option or opportunity for a shadow  
8 operation to submit maps like the court found  
9 happened in the last round of redistricting. So  
10 they can go into the application anonymously, but  
11 if they choose to submit a map that they want to be  
12 considered, a name will have to be on that map in  
13 order for a Senator to speak to somebody if they're  
14 going to consider sponsoring. Senator Stewart.

15 SENATOR STEWART: Thank you, Chair. The only  
16 comment and that I have been receiving, an e-mail I  
17 am sure many of you have as well is at the  
18 beginning the public was having difficulty  
19 submitting comments, but it sounds to me in your  
20 explanation that that has been fixed. So I should  
21 be getting less and less e-mails, thank you.

22 CHAIR RODRIGUES: And I would agree with that,  
23 Senator Stewart. In the beginning we were having  
24 issues with the receive comments, but we believe  
25 that that has been corrected. Any other questions

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1 or comments?

2 SENATOR ROUSON: Chair.

3 CHAIR RODRIGUES: Senator, you are recognized.

4 SENATOR ROUSON: Thank you very much. And  
5 along your comments both at the first meeting and  
6 today about transparency, there have been some  
7 questions raised about hiding things from the  
8 public, specifically the contract with Florida  
9 State University to create a database of the  
10 election, and then specifically exempting this data  
11 from open records requests. Can you comment on  
12 that? Like why is it exempted from a public  
13 records request if it is in the contract?

14 CHAIR RODRIGUES: Senator, let me begin with,  
15 and I am glad you have raised the question. There  
16 was an allegation that the contract had been hidden  
17 from the public. And I am going to start by and  
18 having some discussion here. The contract was  
19 originally posted to the web when it was executed  
20 which would have been last year. The original  
21 contract expired in October. At the expiration it  
22 came down from the web and we have since executed a  
23 new contract which has been put up on the web.

24 So I would reject that we have been hiding the  
25 contract when it has been publicly available for

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1 anyone to see it, except for the period of time  
2 where it was expired and then we executed another  
3 one. So for at least from December of last year  
4 through October 1st of this year that contract was  
5 publicly available. So dismiss the concern that we  
6 have been hiding that contract. Could you tell me  
7 your second concern again?

8 SENATOR ROUSON: Well, my concern was not that  
9 the contract was being hidden. It was that the  
10 contract called for the creation of a database of  
11 election results and then exempt this data from  
12 public records requests.

13 CHAIR RODRIGUES: Okay, so we will start with  
14 the database, because I think we need to have  
15 explained exactly what it is we are getting. We  
16 executed a contract with Florida State University.  
17 We received from the U.S. Census Bureau the data in  
18 census blocks which is the lowest denominator that  
19 the data is segregated in or aggregated in.

20 We get from our Supervisors of Election what  
21 their precincts are. We have the Florida State  
22 University Center take the data that we have gotten  
23 from the Census, which is census blocked and the  
24 data that we have gotten from the Supervisors of  
25 Elections which is precinct data and tied those

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1 out, because without that we don't have any way to  
2 associate the census block with existing precinct.  
3 Then when we have that data tied out it gets tied  
4 to the data we get from the Division of Elections  
5 which are the actual election results by precinct,  
6 which we then need to use for the functional  
7 analysis and that is performed later. So this is  
8 something that has been done in the previous  
9 redistricting cycles, not just the last one, but  
10 the one before that, and if I am not mistaken, the  
11 one before that as well. That is why we have had  
12 that contract and why we have done that.

13 SENATOR ROUSON: Thank you for that  
14 explanation. May I follow it up with another  
15 question?

16 CHAIR RODRIGUES: Yes.

17 SENATOR ROUSON: The ESRI contract for  
18 geocoding services, it calls for geocoding  
19 services, but the allegation is that geocoding  
20 services is not necessary for any redistricting  
21 purpose. Are you familiar with that area of the  
22 contract?

23 CHAIR RODRIGUES: Yes, and let me begin by  
24 saying I find that that portion of opt ed that was  
25 put out was inaccurate and it was misleading. The  
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1 geocoding service is not available within the  
2 mapping application. Therefore, it cannot be used  
3 to identify incumbent legislators' addresses while  
4 drawing maps. there is a geocoding function,  
5 because we have an interactive website, and part of  
6 the interactive website will be to allow the public  
7 to put in their address as they have done that to  
8 see where they fall. You have to have geocoding in  
9 order to have that service available, but we do not  
10 have geocoding in our mapping software anywhere,  
11 any place.

12 SENATOR ROUSON: Thank you.

13 CHAIR RODRIGUES: Any other questions? Okay,  
14 let's proceed to the agenda. Take up tab one, walk  
15 through Florida redistricting.gov. Mr. Ferrin.

16 MR. FERRIN: Thank you, Mr. Chairman. I  
17 wanted to take some time today since this was not  
18 live before our last committee meeting and walk  
19 through the Florida Legislature's joint  
20 redistricting website. I hope that the members of  
21 the committee have had an opportunity to visit this  
22 in the meantime, but if not, we will go through it  
23 today so you can see everything that is on there  
24 and talk about the way we continue to make  
25 improvements to the site as we progress through

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1           this process.

2           So what you see in front of you on the screen  
3           is the, and I apologize, there isn't a slide show  
4           or anything for this, the website is interactive.  
5           So the interaction doesn't translate well to paper.  
6           But the -- so what we see on the screen here is the  
7           home page for the website here. And we have some  
8           information about the redistricting process in  
9           general, mentioning that we provide through this  
10          website free public access to the same data and map  
11          drawing application used by the Legislature, and on  
12          the home page here we have this interactive map  
13          that talks about the over, under population.

14          So at our last meeting we did have these in  
15          the slides, we have got them up on the website now.  
16          And so through using this you can go into any one  
17          over these maps. We have the House map, the Senate  
18          map, Congressional map, counties and cities, and  
19          you can zoom around the map and see which districts  
20          are overpopulated and underpopulated, and the color  
21          coding here is -- is detailed in the legend which  
22          shows that the redder or pinker districts are  
23          underpopulated and will need to grow in order to  
24          have the equal population as required under the  
25          Florida Constitution when we re draw the map.

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1           So you can also click on these districts and  
2 gets some additional information about the  
3 demographics within that district, and this map is  
4 tied particularly to the total population. So we  
5 have the ideal population for a Congressional  
6 district listed, the total population of the  
7 district as it is in 2020 numbers, and then the  
8 deviation which is the difference between the ideal  
9 and the actual 2020 census population, and then we  
10 expressed that here as a percentage as well. So  
11 you can see in this particular case Congressional  
12 District III is 3,000, roughly 3,000 people  
13 underpopulated which translates to less than four  
14 percent or .04 percent. So we have got this  
15 available. It is a pretty nifty tool for  
16 visualizing how the population demographics and  
17 population growth has been uneven throughout the  
18 state. We also provided at the county level,  
19 counties obviously don't have an ideal population,  
20 so we based that off of the 2010 to 2020 change.

21           And so you can visualize on this page which  
22 counties have potentially actually lost population.  
23 So the counties that are shaded darker shades of  
24 blue will have grown expedientially, whereas the  
25 counties that are in the pink or the red will have

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1       shrunk upwards of 10 to 15 percent. There is very  
2       few counties that have lost population, but  
3       nonetheless, that is true, and as you can probably  
4       imagine in the Panhandle here some of that may be  
5       related to some of the storms that we have had in  
6       that area and people moving out of the area as a  
7       result.

8               The last one we have, excuse me, on the  
9       interactive page, on the home page is the city one,  
10      and this is the same concept as it is with the  
11      counties, in that we are basing this compared to  
12      the 2010 population. And this is just going to  
13      display the growth in change by cities. And so  
14      here I clicked on Wildwood and you can the 2010  
15      population in Wildwood was 6,709, in 2020 it has  
16      increased to 15,730, for a change of 9,000 give or  
17      take, and then a 134 percent population increase.  
18      And so this may be a useful tool as you are  
19      communicating with constituents about the results  
20      of the census and the growth in your area that we  
21      thought would be helpful for members and the public  
22      to view as well.

23              So that is the home page of the website. On  
24      the about page we get into a little bit more depth  
25      about redistricting. So this is going to contain

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1 information which we have talked about at our last  
2 meeting about what the differences between  
3 redistricting and reapportionment are, and give us  
4 some information about the process. We have got  
5 this table here which shows our ideal calculations  
6 for the Congressional seat. The ideal population,  
7 excuse me, the Congressional Districts, House  
8 Districts and Senate Districts for the 2010 ideal  
9 population, the 2020, and then the difference from  
10 last year or last cycle.

11 We have also got some information here to  
12 inform the public about the sections of the Voting  
13 Rights Act that may apply and a little note about  
14 preclearance and how *Shelby County v. Holder*  
15 invalidated the preclearance formula. And so we no  
16 longer have coverage jurisdiction in Florida, but  
17 we do note that it does not affect the validity of  
18 the diminishment standard in the Florida  
19 Constitution. We also have some reference, direct  
20 references to the language that governs our process  
21 here in the Legislature, including Article III,  
22 section 16 which is what we derive our authority to  
23 draw the districts from, or one of the sources.

24 And then Article III, sections 20 and 21 which  
25 were the amendments that were adopted in 2010. And

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1 so that language is here for reference for the  
2 public and members. We also mention the statute  
3 that requires us to use the census data for  
4 redistricting, and then have these charts that we  
5 have probably shown you all before, but have the  
6 flow chart, and I apologize for the smallness of  
7 the text there, but this is going to show the  
8 process and how it has been followed in the past  
9 for passing a state legislative redistricting plan  
10 or set of plans.

11 And then the timeline for Florida which has  
12 been as we have discussed somewhat generalized by  
13 the delayed census data. So jumping back to the  
14 website, there are two pages here for the  
15 respective committees. So this is the House's  
16 committee page. I won't go through this in great  
17 detail, but you can find information about the  
18 process on the House side here, and then we have a  
19 similar page for the Senate committee with the  
20 membership of the committee there.

21 We post any memos or correspondence that goes  
22 out from the Chairman or the President Office on  
23 the website here as well as it relates to  
24 redistricting. We link back to the find your  
25 elected official tool that is on existing FL

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1 Senate.gov site so that the constituents that are  
2 looking for redistricting information can find out  
3 who who their representative is and contact your  
4 office appropriately. We also link to the Bill  
5 tracker which is also a feature of the FL  
6 Senate.gov site. That does also require a log in,  
7 but you can come in here and log in to view the  
8 Bill tracker and see what, follow legislation as it  
9 goes through the process. That is a free account,  
10 it just requires an e-mail and password creation.

11 Finally, on this page we have the appearance  
12 cards. And so this just links to an appearance  
13 card that can be filled out in preparation for  
14 appearing at one of our committee meetings or any  
15 Senate committee meeting. We do have a note there  
16 that, excuse me, in order to submit the appearance  
17 card you do have to -- you cannot submit it  
18 electronically. It does have to be delivered to  
19 the committee meeting. That is standard practice  
20 for Senate committees.

21 We do link back to the Senate committee page  
22 here, excuse me. This is going to take us back to  
23 the reapportionment committee page where you can  
24 track all of our meetings notices, packets,  
25 attendance, standard agendas and audio and video of

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1 our committee meetings. This links back to a  
2 Senate redistricting page on the FL Senate.gov site  
3 which is going to contain a lot of the same  
4 information that we have talked about here. It's  
5 just traditionally lived on that Senate page.  
6 Since we doing a joint site with the House, we have  
7 opted to put most of that information on the joint  
8 site, but to keep up the Senate site as well.

9 And then lastly, we link to the Senate  
10 calendar so that constituents can track what is  
11 going on in the Senate generally. As you can see  
12 here today our reapportionment committee is there  
13 and a link to watch the meeting live is posted  
14 there as well.

15 So that takes care of the Senate page. I will  
16 move on to the resources page. So at the top of  
17 this page, and we will talk a little bit more about  
18 this later and I think we will have another  
19 presentation that is going to touch some more on  
20 the historical plans, but we have posted all the  
21 different redistricting plans for the State of  
22 Florida going all the way back to 1982 for the  
23 House, Senate and Congressional District plans.

24 We do go in reverse order, so the most recent  
25 one you see here is the 2016 Senate plan, and this

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1 is interactive in that users can zoom around the  
2 map and explore the plan and see how the districts  
3 were configured. The neat thing about this page is  
4 that as you scroll down the districts will change.  
5 And so you can get a historical perspective on what  
6 the districts used to look like and how they look  
7 today, and it will keep the same extent.

8 So as we go back in time and see some of the  
9 plans that were enacted last cycle, you can see the  
10 differences as they progress. Here we are in 2002.  
11 We can scroll all the way back to '96 and '92, all  
12 the way back to the 1982 plan. That was about the  
13 latest, furtherest back we could go. Prior to that  
14 it was mostly paper. So we do have those for  
15 Congressional and the House as well.

16 We have also got a glossary on this page that  
17 contains a number of terms that we have worked  
18 through during or last committee meeting that talk  
19 about just general vernacular for redistricting.  
20 This link to the Census Bureau's hierarchy is a  
21 good explanation of the geographical hierarchy that  
22 we used during redistricting. Talking about how  
23 the relationships between counties, census tracts,  
24 block roots and blocks. And then we also link to  
25 the census data itself. Excuse me, that one is the

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1       apportionment result. We also link to the actual  
2       data where users can go to download the same census  
3       data that we have used in our redistricting  
4       application. It's available here in multiple  
5       formats.

6               And then finally we do link to the Florida  
7       department of State's Division of Elections page.  
8       This is where users can go to download the raw data  
9       that enters into a functional analysis. This is as  
10      it is submitted by the Supervisors of Elections  
11      through the Division.

12             On our next page here, this is the get  
13      involved page which contains links to -- for users  
14      to go to sign up for the redistricting application  
15      and use to access the software and draw maps. We  
16      have also added a button here for the public input  
17      that the Chairman mentioned. So this is, and I am  
18      sorry, I forgot who asked about it, but in terms of  
19      filling out the form and providing comments, this  
20      kind of is a way around the PDF. And so we can  
21      provide here where the users will type in their  
22      information and agree to, these are the same terms  
23      that are on the redistricting suggestion form, but  
24      agree to this and submit their comment. We will be  
25      posting the comments that we received in batches

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1       that are available for public review and for review  
2       by the members, and I believe that will live on  
3       this page as well.

4               This is the form that I was -- just mentioned  
5       that is available in PDF form. We have discussed  
6       that. It was fillable and we did so the users  
7       don't have to print it out and then return it and  
8       scan it, or excuse me, print it out, scan it and  
9       return it. We did load the site with some  
10      instructions on how to apply that signature without  
11      having to use the scanner. We also provided a  
12      link. This is in the footer at the bottom of each  
13      page where users can go to download a free version  
14      of Adobe Acrobat Reader that will allow them to put  
15      their mark on the redistricting suggestion form and  
16      submit it without having to print it.

17             Getting back to this page. We do link to both  
18      the quick start guide and the help manual. The  
19      kick start guide for the application is a  
20      relatively short overview of how to access the  
21      application, including how to sign up for an  
22      account, how to create a plan, how to save the  
23      plan, export the plan, real basic functionality.  
24      The help manual goes into some more depth. It does  
25      cover the same general topics, but is going to

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1 provide some more information on the specifics and  
2 more detail functionality about exactly how to  
3 navigate around the map and change the base map,  
4 zoom in and out, that kind of thing. There is also  
5 a series of video tutorials for users. The  
6 subjects for these are how to create an account and  
7 change the password, how to load a template plan  
8 and save a plan. How to import and export a plan.  
9 How to use the actual map drawing tools, and then  
10 how to run reports and submit plans to the  
11 Legislature.

12 Which brings me to the submitted plans page.  
13 So we were just able to add this recently. This is  
14 the page where all of the plans that are submitted  
15 by users. So using the application, the user will  
16 submit a redistricting plan. We will respond to  
17 them and say, you know, we have received your  
18 submission, please complete the redistricting  
19 suggestion form. We will then process that plan  
20 and post it on the web along with the form. And so  
21 users and members can go here to review the  
22 submissions that is we have received. So the  
23 reports that we have created are going to be  
24 available for the public submissions. And so you  
25 can click, for example, the boundary analysis

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1 report. That is a bad example. That is fine. So  
2 this is the plan that was submitted. This the plan  
3 number P0006C006. And I will go ahead and explain  
4 the naming convention there. So in order to  
5 standardize the naming formats and give it some  
6 sense of what has been received and what kind of  
7 plans they are, we have developed this standard  
8 naming convention. So the first character for a  
9 public plan is the letter P. If it is a plan that  
10 was submitted by a Senator or the Senate committee  
11 it will receive the letter S there. A House will  
12 receive H. And then the next three digits are a  
13 number. So for a public plan that is going to get  
14 000. For a member of the Legislature that is going  
15 to get their district number, and that is how we  
16 identify the member author. The next character is  
17 a letter, that is the plan type. So S for Senate,  
18 H for House, C. for Congress. And then this is a  
19 serial number the last four digits. This plan just  
20 happens to be 6m which for the public plans we are  
21 going in order. I believe for the Senate and House  
22 plans we will go odd, even, the same way we do  
23 field numbers. And that should, I believe that  
24 explains everything about the naming convention.

25 So jumping back to the submitted plans page.

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1 The reports that are posted here currently are the  
2 boundary analysis report, the district compactness  
3 report, which I will pull up here and we will go  
4 through some more of these later on, but this is  
5 just to show you what kind of reports you can get  
6 for submitted plans, but you can get the district  
7 compactness report which reports the compactness  
8 scores for each one of the districts in the plan.  
9 You can get an image which shows the plan as it was  
10 drawn by the submitter.

11 A KMZ which is a file that will open in Google  
12 Earth and allow users to interactively maneuver  
13 around the plan using that application. The doc  
14 plan file is a file format that will open within  
15 our redistricting application. So if a user wants  
16 to load up one of these public plans into their  
17 account, they can just download this doc plan file,  
18 and when they load it into their account, it will  
19 carryover the same district coloring and district  
20 numbering and demographic fields that are displayed  
21 in the application for the plan as it was drawn.

22 The TXT file here is a block assignment file, and  
23 this is the basic format for redistricting plans.  
24 This is what has been recognized by the Department  
25 of Justice for decades at this point as a -- a

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1 standard format for redistricting plan. And the  
2 way these work is that they list each census block  
3 within the state if it is a complete plan. If it  
4 is less than a complete plan it won't have all the  
5 census blocks, but that 15 digit code is actually a  
6 census block identifier. Those are composed of the  
7 state, the county, the track, the block route and  
8 the block all embedded into one 15 character code.  
9 A comma and then the district number. So a  
10 district number you see here all these blocks  
11 happen to be listed in this instance are in  
12 District III. And using this sort of universal  
13 format for redistricting plans, users can both  
14 export and import plans into our redistricting  
15 application. This is universally accepted as an  
16 import and export method for this process and we  
17 make these available for all the submitted plans on  
18 our website.

19 The other ones here, this zip file is a set of  
20 shey files, and so shey files are GIS based file  
21 formats that allow users to import that file into  
22 another commonly used GIS program, such as RGIS.  
23 That is what that is. That includes the layers and  
24 the population data embedded in it at well.

25 We have the completed redistricting

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1       redistricting suggestion form here, and this  
2       particular one, so members, if you are reviewing a  
3       submitted plan and have an interest in potentially  
4       providing that to the committee for consideration  
5       or asking for it to be considered for inclusion in  
6       a staff product. One would come look at this form  
7       and get the author's contact information and as the  
8       chairman suggested, instead of reaching out to them  
9       prior to authoring a plan up for consideration.

10           And then the last report here is the VAP  
11       summary report, and this is a population statistics  
12       report for the redistricting plans. So here you  
13       can see the total population, voting age  
14       population, population, voting age population by  
15       race. This is all pre-populated in this report.  
16       The other thing that I wanted to mention about this  
17       is the interactive map that is here. So if you  
18       click the web map link, this is going to take you  
19       to that submitted plan, and its ability to maneuver  
20       around the map and see what their map looks like in  
21       an interactive fashion.

22           SENATOR GIBSON: Can we go back to the voting  
23       age population? I am trying to figure out what I  
24       heard but I didn't hear. You said it is  
25       pre-populated by, is it by census track? I didn't

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1 hear, it is pre-populated by what?

2 MR. FERRIN: Thank you, Mr. Chairman. I  
3 apologize, Senator. So this is by district. So  
4 this is going to show the total population of the  
5 plan that was drawn by the submitter for District  
6 I. The number below that is a percentage of the  
7 statewide population that that is made up of that  
8 district. So it should be pretty well balanced.

9 And then we have the total age population in  
10 that district, and the percentage below that  
11 indicates that the total voting age population for  
12 that district makes up 78 percent of the district  
13 population in this instance, and I will try to zoom  
14 in, maybe that will help. The single race, non  
15 Hispanic white voting age population is listed here  
16 as well, and that VAP number is calculated the same  
17 way as a -- or the percentage is calculated the  
18 same way as a percent of, it is calculated as a  
19 percent of the total voting age population. And  
20 then we have the same thing for non Hispanic black  
21 age population, Hispanic black voting age  
22 population, Hispanic not black, other voting age  
23 population, all Hispanic voting age population of  
24 any race and then all black voting age population.  
25 And this is in an effort to try to provide a

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1       standardized report. These are the fields that  
2       were selected for inclusion in the default report  
3       that we are running for posting of the submitted  
4       plans.

5             If there is additional demographics such as,  
6       and we will get to this later today, the political  
7       data for conducting a functional analysis. In  
8       order to do that you will have to log into -- you  
9       will have to download the plan, log into the  
10      application and report it out that way.

11            SENATOR GIBSON: So on the voting age  
12      population, is there something that explains to  
13      the -- to the general public that voting age  
14      population is fairly different from the population  
15      in a district, period. And then what is helpful  
16      about the voting age population in joined lines.

17            CHAIR RODRIGUES: Go ahead.

18            MR. FERRIN: Thank you, Mr. Chairman. So  
19      the -- we do define these fields and provide  
20      documentation on what these fields are within the  
21      help manual. And in terms of what -- what voting  
22      age population is used for in redistricting. This  
23      would be, you know, in particular with regard to  
24      the creation of affected minority districts, where  
25      you would be looking at voting age population in

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1 concert with the other data that has been specified  
2 as something we should be using to conduct the  
3 functional analysis and ensure that a district has  
4 the ability to elect a racial or language minority  
5 candidate of choice. We are not limited to using  
6 voting age population, but as an initial drawing  
7 point, I think that is traditionally used to  
8 indicate when you are attempting to draw a minority  
9 district, one of the things you are looking at is  
10 the racial voting age population of that district.

11 SENATOR GIBSON: Follow up.

12 CHAIR RODRIGUES: You are recognized.

13 SENATOR GIBSON: Thank you. So in, is it  
14 Columbia County, those places where we have  
15 correctional institutions where the individuals,  
16 incarcerated individuals cannot vote, but they are  
17 considered in the population for adjoining  
18 districts. How do we explain that? How it makes  
19 sense, and then how that potentially impacts the  
20 next district when the side, top, bottom?

21 MR. FERRIN: Senator, is your question why we  
22 are including the population of the prison in that  
23 district, or how we explain the voting age aspect  
24 of that?

25 SENATOR GIBSON: Yes, the latter. How we

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1 explain the voting age population. They may be the  
2 age to vote, but they can't vote, but they're  
3 considered in joining the population of the  
4 district, and then that impacts the next district  
5 over, up, side, bottom. Because of the population  
6 is being counted, but they can't vote.

7 CHAIR RODRIGUES: Understood. And I will  
8 recognize Deputy Director Ferrin, but before I do  
9 that, the census counts the inmates incarcerated,  
10 where they're incarcerated, and our state statute  
11 requires us to use the census data as we are doing  
12 that, but that is why we put them there. Now I  
13 will turn it over to Deputy Director Ferrin to  
14 address the second part of your question.

15 MR. FERRIN: That is correct, Mr. Chairman.  
16 We don't alter the census data. The residents are  
17 counted where they are as of April 1st, 2020, which  
18 is census day. The -- I believe the second part of  
19 your question which is how would you account for an  
20 incarcerated population that is not eligible to  
21 vote, and I think that is where a functional  
22 analysis comes in and the results of that analysis  
23 would indicate that perhaps the population in that  
24 district, while it may have a certain percentage of  
25 VAP, you will notice a lower registration and

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1 turnout numbers to kind of understand. That is why  
2 we don't consider VAP in isolation because of other  
3 factors such as that.

4 And that goes for electoral participation,  
5 whether it is a area or group of low propensity or  
6 incarceration, it is going to, you know, we examine  
7 a functional analysis to ensure that the districts  
8 will perform regardless of actually who is in it,  
9 if that kind of makes sense.

10 CHAIR RODRIGUES: Are there any other  
11 questions? Had we completed the presentation?

12 MR. FERRIN: I believe we have a couple more  
13 things to go through, Mr. Chairman. But I think  
14 that covers the plan, submitted plans page B. We  
15 do have links to the benchmark plans here at the  
16 top of this page that a user can click those and  
17 quickly jump to them. They are in this table as  
18 well, but because they were the, quote, first  
19 submission, they are at the bottom of the list.  
20 And so we have those buttons to get there quickly  
21 which they will provide the same kind of reports  
22 for the benchmark plans.

23 And then lastly, we have the contactor's page  
24 where user can go to get contact information for  
25 the committee. And then I don't believe I have

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1 mentioned this, but we do make use of the dual  
2 translate service on our website. And so users can  
3 select a language to translate the site into. As  
4 the chairman mentioned we are have also engaged, or  
5 are engaging the services of a translation service  
6 to help us translate some of the PDFs and other  
7 documents on here, and to help us in the event that  
8 we find ourselves needing to provide some support  
9 for a foreign language speaker, we should be  
10 covered there. And Mr. Chairman, I believe that  
11 concludes the website walk through.

12 CHAIR RODRIGUES: Are there any questions from  
13 the members? Senator Gibson, you are recognized.

14 SENATOR GIBSON: Thank you, Mr. Chair, thank  
15 you for the transparent. It is very transparent  
16 for sure. So I didn't hear any discussion about  
17 coalition districts. I know it was mentioned about  
18 minority access districts. Are coalition districts  
19 explained in this or how do we explain that to the  
20 public.

21 CHAIR RODRIGUES: Do we have anything on the  
22 website that would direct them to protect those  
23 districts or how does that work?

24 MR. FERRIN: Thank you, Mr. Chairman. I  
25 believe that is covered in the glossary. I am not

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1       sure where I left off and, which tab that would be  
2       on, but I am pretty sure it is covered in the  
3       glossary. If it is not we can certainly take a  
4       look at adding that to the glossary and we will --  
5       we will make sure that a coalition is defined  
6       somewhere for the public.

7               CHAIR RODRIGUES: Thank you. Being no further  
8       questions, we will move to tab two in our agenda  
9       which is introduction to redistricting law. We  
10      have our Senate counsel on redistricting, Dan Norby  
11      here today. Mr. Norby, you are recognized.

12             MR. NORBY: Members of the committee. So my  
13      topic today is an introduction to redistricting  
14      law. The idea is to talk through both process and  
15      the governing constitutional and statutory standard  
16      that will guide your work in the weeks and months  
17      to come as you consider maps that are presented in  
18      subcommittees and in this committee.

19             As the title suggest, it is an introduction to  
20      redistricting law, not a high level CLE course in  
21      redistricting law, but the idea here will be to  
22      equip you with the knowledge of the concepts that  
23      you will be confronting and some of the vocabulary  
24      at a little bit of a higher level than what was  
25      described last week during the introductory

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1 presentation. So the three areas that I will be  
2 covering today are the constitutional authority and  
3 legislative procedures for redistricting. Some of  
4 the federal redistricting requirements, both under  
5 the U.S. Constitution and under the Federal Voting  
6 Rights Act, and then the Florida redistricting  
7 requirements that are imposed by the Florida's  
8 Constitution.

9 In terms of Congressional redistricting  
10 authority, the requirements for states to  
11 re district Congressional districts has been found  
12 in Article I, Section 4 of the United States  
13 Constitution. Provides that the manner of  
14 upholding elections for Representatives shall be  
15 prescribed in each state by the Legislature  
16 thereof, that is you all. So you that have the  
17 obligation and the responsibility to re district  
18 Congressional districts after each centennial  
19 census. The authority to redistrict legislative  
20 districts is found, not surprisingly, in the  
21 Florida Constitution in Article III, Section 16  
22 which describes the Legislature in its regular  
23 session in its second year following each  
24 centennial census to a portion of the state in not  
25 less than 30, nor more than 40 consecutively

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1        numbered Senatorial districts, and into not less  
2        than 80 nor more than 120 consecutively numbered  
3        Representative districts.

4                For quite sometime now the Legislature has  
5        exercised authority by creating the maximum number  
6        of Senate districts and the max number of State  
7        House districts, 40 Senatorial districts and 120  
8        Representative districts. The procedures for  
9        adopting redistricting plans vary depending on  
10       whether it is a Congressional plan or a state  
11       redistricting plan. Congressional districts are  
12       formally established through amendments to Chapter  
13       8 of the Florida Statutes, and a Bill establishing  
14       Congressional districts is subject to all of the  
15       constitutional requirements that apply to any other  
16       piece of legislation that you will be considering  
17       on any other committees and on the floor. Passage  
18       by a majority vote of each House and submission to  
19       the Governor for either approval or veto decision.

20               I have on your screen here what the actual  
21       redistricting legislation looks like in the non map  
22       form. It is an assignment of those particular  
23       tracks and blocks to particular districts, and you  
24       can look in the Florida Statutes and find it there  
25       in legislative language. For obvious reasons based

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1 on what is on the screen it is much easier to  
2 describe it in terms of how the maps looks and what  
3 the lines look like on a map, but that is the  
4 actual legislation that has passed.

5 The procedures for adopting legislative  
6 redistricting plans are different from  
7 congressional. State legislative districts are  
8 formally established through amendments to Chapter  
9 10 of the Florida Statutes, and they're adopted by  
10 joint resolution of the House and Senate rather  
11 than through a Bill that is submitted to the  
12 Governor for approval or veto, and that requirement  
13 is found in Article III, Section 16 of the  
14 Constitution as well.

15 For legislative redistricting plans, but not  
16 Congressional redistricting plans, Florida  
17 Constitution also provides for a mandatory review  
18 of the joint resolution by the Florida Supreme  
19 Court, and the language of the Constitution is here  
20 on the screen, and I should mention that throughout  
21 this presentation what I have tried to do is  
22 include the exact language of the constitutional  
23 requirements that will be referenced for you in the  
24 weeks and months to come so you can refer to that.  
25 I have also tried to include the most recent

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1 precedence on several of these issues,  
2 understanding that redistricting law goes back some  
3 70 or 80 years at least, but I have highlighted in  
4 particular some of the court decisions from the  
5 Florida Supreme Court or from the United States  
6 Supreme Court from the last decade. So there will  
7 be updates from the last cycle of redistricting.

8 So the judicial review of apportionment is  
9 initiated within 15 days after passage of the joint  
10 resolution by the Attorney General of the State of  
11 Florida who petitions the Florida Supreme Court for  
12 declaratory judgment determining the validity of  
13 the apportionment, and the Supreme Court under the  
14 Constitution permits adversary interests to present  
15 their views, and within 30 days from the filing of  
16 the petition enters its judgment. This is a very  
17 rapid proceeding following the passage of the joint  
18 resolution, and part of that given the timelines  
19 that your staff director laid out for you before  
20 involves the short time period between the  
21 legislative session in a year of reapportionment  
22 and candidates qualifying for that follows  
23 selections. Those two things combined require a  
24 quick review by the Florida Supreme Court on the  
25 validity of the plans.

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1           The Florida Supreme Court's review produces a  
2           judgment of apportionment and the Constitution  
3           provides that a judgment of the Supreme Court of  
4           the state determining the apportionment to be  
5           valid, shall be binding upon all the citizens of  
6           the state. If the court decides that the  
7           apportionment is invalid, violates some standard  
8           that is in the Florida Constitution, then the  
9           Governor is directed to reconvene the Legislature  
10          within five days in an extraordinary apportionment  
11          session to consider adopting a joint resolution  
12          conforming to the judgment of the Supreme Court.

13          As the Chair mentioned during the introductory  
14          session last time, that happened in the last  
15          redistricting cycle. The Senate was directed to  
16          adopt a new joint resolution in an extraordinary  
17          apportionment session. Following the extraordinary  
18          apportionment session if one is convened, the  
19          Attorney General files a second Petition in the  
20          Supreme Court. The Supreme Court then goes through  
21          the same process again, considers the validity of  
22          apportionment.

23          If the Legislature fails to adopt a resolution  
24          of apportionment during the extraordinary session  
25          or adopts an apportionment that the court

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1 determines is invalid, then the court within 60  
2 days after receiving the petition shall file with  
3 the custodian of state records, the Secretary of  
4 State, an order making the apportionment to be a  
5 judicial apportionment to the state Legislature.

6 I will move on now to some federal  
7 redistricting requirements now that I have gone  
8 through the process. Under federal law there are  
9 two key courses of legal authority that govern the  
10 redistricting process. First is the United States  
11 Constitution, the second is the Voting Rights Act,  
12 particularly section two of the Voting Rights Act,  
13 section five of the Voting Rights Act.

14 In terms of the constitutional requirements,  
15 the primary federal constitutional requirement that  
16 is a governing standard for redistricting is  
17 equality of population. The United States Supreme  
18 Court decided in a series of cases in the 1960s,  
19 that Congressional districts must achieve precise  
20 mathematical of equality of population plus or  
21 minus one person from the ideal population.

22 Some of the earlier cases suggest that that  
23 standard is to be done to the extent practical for  
24 the states, but while with the current availability  
25 of data, more recent decisions have held to that

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1 line that it is essentially plus or minus one  
2 person and that is what the state of Florida has  
3 done in recent cycles. The ideal population for  
4 Florida is now 28 Congressional districts and  
5 769,221 people. So that is what we are shooting  
6 for each of the 28 districts.

7 I have included there a quote as well from  
8 *Westberry versus Sanders*, the United States Supreme  
9 Court case from 1964, which grounded this equality  
10 of population requirement and the language of  
11 Article 1, Section 2 of the Constitution, says  
12 "Representatives shall be chosen by the people of  
13 the several states. The court construed that to  
14 mean equality of population, subsequent decision  
15 has held.

16 In terms of state legislative districts, the  
17 United States Supreme Court and the lower federal  
18 courts have provided additional flexibility for  
19 state and local districts in terms of population.  
20 They have to achieve a substantial equality of  
21 population. I have on the slide here the ideal  
22 population for a Florida state Senate district and  
23 for a Florida House district based on 120 House  
24 districts and 40 state Senate districts, and a  
25 quote from *Reynolds versus Sims* here, an equal

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1 protection clause requires the state to make an  
2 honest and good faith effort to construct districts  
3 in both houses of its legislature as nearly equal  
4 population as is practicable. Before *Reynolds*  
5 *versus Sims*, several states had had as a  
6 redistricting practice, a similar set up to the  
7 United States Senate, where the Senate districts  
8 represented, the state Senate districts represented  
9 counties or larger groupings and the state House  
10 districts were more tied to population.

11 After *Reynolds versus Sims* that was no longer  
12 a permissible way of drawing state legislative  
13 districts. The substantial equality of population  
14 is the governing principle there for both Houses in  
15 the state Legislature. The courts have allowed  
16 reasonable deviations for mathematical equality for  
17 state legislative districts to accommodate  
18 traditional districting objectives, such as  
19 compactness, continuity and respect to the  
20 boundaries of political subdivisions. General rule  
21 establish by that federal precedence is that  
22 population deviations of less than 10 percent are  
23 presumptively valid. Population deviations from  
24 one district to another of greater than 10 percent  
25 are presumptively invalid.

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1           Traditionally, Florida has drawn districts  
2           with a deviation of quite a bit less than 10  
3           percent. So those sort of principles have not been  
4           tested, but some other states have drawn districts  
5           with 10 percent deviation to allow them to better  
6           accommodate keeping counties whole for example for  
7           states that require that.

8           In the last redistricting cycle here in  
9           Florida as well, that explained some of the  
10          population deviations from one district to another.  
11          I believe there was one state House district which  
12          was drawn with a greater population than some of  
13          the others, specifically because drawing a district  
14          a little bit larger would allow it to keep  
15          Charlotte County entirely within one House  
16          district. So a little more population deviation  
17          there. I think that was about three and-a-half  
18          percent, so still much less than the 10 percent of  
19          the case law. Also under the United States  
20          Constitution one of the principles that significant  
21          is the idea of political or partisan gerrymandering  
22          claims. This was a topic that required more  
23          discussion in the analogous presentation to this  
24          committee 10 years ago, because at the time the  
25          United States Supreme Court had held that partisan

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1       gerrymandering claims were judicable under the  
2       federal Constitution, that there could be such a  
3       thing as a district that was redrawn in too  
4       partisan a way, but the court had not established  
5       what that standard would be to measure how far is  
6       too far. Since then, in 2019, I have *Rucho versus*  
7       *Common Cause*. The United States Supreme Court has  
8       withdrawn from that field and has held that as a  
9       matter of federal constitutional law, partisan  
10      gerrymandering claims present political questions  
11      beyond the reach of the federal courts. So we will  
12      talk later about the Florida Constitution which  
13      does heavily restrict intent to favor or disfavor  
14      parties or incumbents, but as a matter of federal  
15      constitutional law those claims are no longer  
16      viable, and the United States Supreme Court had  
17      said that the federal courts will not take up  
18      partisan or political gerrymandering claims.

19           Racial gerrymandering claims though are  
20      something that the federal courts continue to  
21      police quite heavily. The equal protection clause  
22      at the 14th Amendment forbids racial gerrymandering  
23      which is intentionally assigning citizens to a  
24      district on the basis of race without sufficient  
25      justification, and it also forbids intentional vote

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1 delusion invidiously minimizing or canceling out  
2 the voting potential of racial or ethnic minorities.  
3 These claims continue to be pressed in every  
4 redistricting cycle. I cited here *Abbott versus*  
5 *Perez*, a United States Supreme Court from 2018  
6 involving Texas' redistricting which considered  
7 racial gerrymandering claims.

8 In considering these types of claims, what the  
9 court looks at is whether race was a, quote,  
10 predominant factor motivating the Legislature's  
11 decision to place a significant number of voters  
12 within or without a particular district. If so,  
13 then the district much be narrowly tailored to  
14 achieve a compelling interest. The court in a  
15 variety of decisions has assumed without deciding  
16 that compliance with the Voting Rights Act  
17 represents a compelling interest that states are  
18 justified in considering race in the assignment of  
19 districts, voters to one district or another. The  
20 narrow tailored requirement under *Bethune Hill*  
21 *versus Virginia State Board of Elections*, the  
22 narrow tailoring requirement is satisfied if a  
23 Legislature has, quote, good reasons to believe  
24 that must be use race to comply with the Voting  
25 Rights Act. The Voting Rights Act, moving from  
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1 federal constitutional claims to federal statutory  
2 claims, the Voting Rights Act of 1965, of course  
3 was adopted to combat discriminatory practices in  
4 voting and elections, and to enhance minority  
5 registration and participation rates. There are  
6 two principle provisions of the Voting Rights Act  
7 that are at issue in redistricting cases and have  
8 been for sometime. Section 2 of the Voting Rights  
9 Act, Section 5 of the Voting Rights Act. Section 2  
10 of the Voting Rights Act is a permanent provision.  
11 It is applicable nationwide. Section 2 prohibits a  
12 state from enacting a districting plan that  
13 provides less opportunity for racial minorities to  
14 elect representatives of their choice. And what  
15 Section 2 is most significantly designed to protect  
16 is to protect minority voters from practices that  
17 improperly weaken or dilute minority voting  
18 strength.

19 Two of those in particular that I have  
20 referenced here are cracking and packing. So those  
21 would be either in the case of cracking, taking a  
22 minority population that is geographically compact  
23 and splitting it into separate districts, so that  
24 in neither district in that minority voting  
25 population effectively exercises electoral power.

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1 Packing is the opposite of that. Intentionally  
2 assigning voters to a particular district to a  
3 level more than is necessary to exercise an  
4 effective voting power, and in so doing, diminish  
5 their minority voters ability to elect in a  
6 neighboring district. Under certain circumstances  
7 Section 2 of the Voting Rights Act require states  
8 to draw opportunity districts in which minority  
9 groups form effective majorities. The standard  
10 that has been adopted by the courts, and I have  
11 here *Thornburg versus Gingles*, 1986 which is still  
12 the governing standard that is applied and this is  
13 a highly complex area of Voting Rights Act law. So  
14 I am giving a high level view of it here. We will  
15 talk about it much more when we are examining  
16 specific maps and districts in the weeks and months  
17 to come, but the general standards under Section 2  
18 are the Section 2 protects a group of minority  
19 voters that satisfies what are called the Gingles  
20 factors and I have listed them there. A  
21 geographically compact minority population,  
22 sufficient to constitute a majority in a single  
23 member district. There has to be political  
24 cohesion among the members of the minority group,  
25 meaning that they tend to vote the same way, and

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1 block voting by the majority is present that would  
2 defeat the minority's preferred candidate of  
3 choice. If all of those factors are true, and that  
4 minority group's members under the totality of the  
5 circumstances have less opportunity to participate  
6 in the political process and elect representatives  
7 of their choice, then Section 2 may provide a  
8 Voting Rights Act remedy.

9 So this is a background principle that the  
10 Legislature must apply when it is drawing districts  
11 is to ensure that the drawing of the districts that  
12 it does not violate the requirements of Section 2  
13 of the Voting Rights Act. In 2009 in the case  
14 called *Bartlett versus Strictland*, this is right  
15 before the last redistricting cycle, the Supreme  
16 Court decided a question that had been unsettled  
17 for a long time before then, which is whether  
18 Section 2's vote delusion provisions extended to,  
19 had a coalition or opportunity type districts where  
20 the minority group would not constitute a numerical  
21 majority in the district. The United States  
22 Supreme Court said that it did not. That in order  
23 for Section 2's protections to be triggered it must  
24 be possible to draw a geographically compact  
25 district which the minority group could constitute

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1 a majority in a single member district.

2 I will move on now to Section 5 of the Voting  
3 Rights Act. So Section 5 of the Voting Rights Act  
4 was a temporary measure adopted in the 1960's that  
5 was not applicable nationwide. It was applicable  
6 only in certain covered jurisdictions that were  
7 identified under a statutory formula based on  
8 voting practices, turnout and voter registration  
9 rates in 1964. When the original Voting Rights Act  
10 was passed by the United States Congress, Florida,  
11 neither Florida as a state nor any counties or  
12 jurisdictions within Florida were considered  
13 covered jurisdictions based on the application of  
14 those criteria.

15 During a later amendment to the Voting Rights  
16 Act in the mid 1970s, five Florida counties were  
17 added to the list of covered jurisdictions.

18 Collier, Hardy, Hendry, Hillsborough and Monroe  
19 Counties were added along with the provisions that  
20 were added on minority, language minority groups  
21 provisions. Those five counties in the 1970s  
22 employed English only ballots and had a greater  
23 than five percent population that spoke a language  
24 other than English. Based on the application of  
25 that formula, those five counties became covered

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1 jurisdictions.

2           So what does that mean? Well, a covered  
3 jurisdiction under Section 5 could not enact  
4 election laws and immediately enforce them. A  
5 covered jurisdiction was prohibited from enforcing  
6 any change to an election law that has the purpose  
7 or will have the affect of diminishing the ability  
8 of the minority group to elect their preferred  
9 candidates of choice, and it could not enforce that  
10 until those provisions were precleared by the  
11 Department of Justice or by a three Judge Federal  
12 District Court. So the covered jurisdictions had  
13 the burden of proof to establish that any election  
14 changes within those counties would not diminish  
15 the ability of a minority group to elect their  
16 candidates of choice. This applies both voting  
17 process type provisions as well as redistricting  
18 plans that took place in effect in those counties.  
19 So because those counties were affected by  
20 statewide redistricting plans, Florida was required  
21 to submit its statewide congressional maps and its  
22 state legislative maps to either the Department of  
23 Justice or to a three Judge federal court and to  
24 prove that those plans would not diminish the  
25 ability of minority candidates to elect their

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1 candidates, minority voters to elect their  
2 candidates of choice in those five covered  
3 counties.

4 In *Shelby County versus Holder*, which is a  
5 2013 United States Supreme Court case, so after the  
6 first round of redistricting last cycle, the United  
7 States Supreme Court found that the coverage  
8 formula found in Section 4 of the Voting Rights Act  
9 was unconstitutional because it had not been  
10 updated based on more current data. The covered  
11 jurisdictions continued to be identified based on  
12 the data from the 1960s and the 1970s, the voting  
13 practices and turnouts and registration rates from  
14 the 1960s to the 1970s. In 2006, the Section 4  
15 coverage formula was extended for a 25-year period  
16 without changing the formula, and the United States  
17 Supreme Court said that as a result of that the  
18 formula no longer reflected current conditions and  
19 was unconstitutional and could not be used as a  
20 basis for subjecting jurisdictions to preclearance.  
21 So the actual Section 5 requirements, the non  
22 diminishment requirements were not addressed in the  
23 majority opinion of the Supreme Court, it was the  
24 coverage formula. Congress has not adopted a new  
25 coverage formula since *Shelby County versus Holder*.

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1       So as we stand here today, Section 5 is not  
2       applicable to these redistricting plans, although  
3       the principles of Section 4 which I will talk about  
4       shortly, do apply to Florida's redistricting plan.

5           I will move on now to Florida redistricting  
6       requirements. Chair, I don't know if this would be  
7       a good time to stop and ask for questions or if you  
8       would like me to save that to the end.

9           CHAIR RODRIGUES: Yes, let's see if there are  
10       any questions on what has been presented so far by  
11       the committee. Seeing none.

12          SENATOR BRACY: Chairman, I got a quick  
13       question.

14          CHAIR RODRIGUES: You are recognized.

15          SENATOR BRACY: Thank you. So you are saying  
16       now that Section 5 does not have to be adhered to,  
17       only in principle, but -- but it does not have to  
18       be adhered to when drawing the maps, is that  
19       correct?

20          MR. NORBY: Chairman.

21          CHAIR RODRIGUES: You are recognized.

22          MR. NORBY: Senator, that is not quite right  
23       and let me explain why. Section 5 itself is not  
24       enforceable as a result of the United States  
25       Supreme Court decision. The next section of my

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1 presentation will explain why Florida Constitution  
2 incorporates that same non diminishment requirement  
3 from Section 5 as a matter of State Constitutional  
4 law. So in the drawing of congressional maps and  
5 state legislative maps, the Legislature is the  
6 required to ensure non diminishment. That  
7 requirement just comes from the State Constitution  
8 rather than from the federal law.

9 SENATOR BRACY: Thank you.

10 CHAIR RODRIGUES: Any other questions? Let's  
11 proceed.

12 MR. NORBY: Thank you, chair. So now I will  
13 talk about the Florida redistricting requirements  
14 that are in the State Constitution. I will talk  
15 about the constitutional standards for establishing  
16 Congressional and legislative district boundaries,  
17 and then go into more detail with the so-called  
18 tier one standards and tier two standards under the  
19 Florida Constitution with reference to some of the  
20 case law interpreting those standards that  
21 developed over the last redistricting cycle.

22 The first provision of the Florida  
23 Constitution that provides standards for  
24 congressional and legislative district boundaries  
25 is one that has been in place for some time. It is

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1 the one I cited earlier, the requirement that the  
2 Legislature apportion the state in accordance with  
3 the Constitution of the state and of the United  
4 States into a certain number of Senatorial  
5 districts and a certain number of state House  
6 districts of either contiguous overlapping or  
7 identical territory.

8 The more detailed set of standards are the  
9 ones adopted by the voters in 2010, found in  
10 Article III, Sections 20 and 21 of the Florida  
11 Constitution. I have grouped them together here  
12 because the substantive standards are identical  
13 between the standards that apply for congressional  
14 districts and the standards that apply for state  
15 legislative districts. They're just found in two  
16 separate provisions of the Constitution. So there  
17 is no distinguishing between the two of them, so I  
18 grouped them together here, and they are there on  
19 this slide, but then I will be breaking them down  
20 in more detail in the remainder of the  
21 presentation.

22 The first set of standards are those found in  
23 paragraph A of III, Section 20 and Article III  
24 Section 21. They are called the tier one standards  
25 because of the priority they're given under the

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1 Constitution. These standards are that no  
2 apportionment plan or individual district shall be  
3 drawn with the intent to favor or disfavor a  
4 political party or an incumbent. Districts shall  
5 not be drawn with the intent or result of denying  
6 or abridging equal opportunity of racial or  
7 language minorities to participates in the  
8 political process or to diminish their ability to  
9 elect representatives of their choice, and the  
10 requirement that districts consist of contiguous  
11 territory.

12 So three requirements are packed into that one  
13 tier. The first is the prohibition against drawing  
14 a plan or district with an intent to favor or  
15 disfavor a political party or an incumbent. The  
16 second are what I will call the minority voting  
17 protection provision of tier one. And the third  
18 one is the requirement that districts consist of  
19 contiguous territory. In the event of a conflict  
20 between the requirements of this section of the  
21 Constitution and the tier two standards, the tier  
22 one requirements have priority.

23 But the order in which the tier one standards  
24 are set out does not establish any priority among  
25 the standards within that tier. So each of them

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1 stands on equal footing. I will break them down  
2 one at a time now.

3 The first one, no apportionment plan or  
4 individual district shall be drawn with the intent  
5 to favor or disfavor a political party or an  
6 incumbent. I mentioned *Rucho* decision from the  
7 United States Supreme Court is not considered  
8 political gerrymandering claims judicable under the  
9 federal Constitution. One of the things that the  
10 United States Supreme Court referenced in that  
11 decision was Florida's Constitutional provision  
12 which does prohibit the drawing of plans to favor a  
13 political party or incumbent or to disfavor a  
14 political party or an incumbent. So it is an  
15 expressed requirement for Florida Constitution even  
16 though it is non judicable at a federal level.

17 This prohibition applies both to the  
18 apportionment plan as a whole and to each district  
19 individually. The Florida Supreme Court in  
20 interpreting this provision for the first time in  
21 the last redistricting cycle, held that the  
22 Florida's constitutional provision prohibits  
23 intent, not affect because any redrawing of lines  
24 regardless of intent will inevitably have an affect  
25 on the political composition of a district, and

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1       likely whether a political party or incumbent is  
2       advantaged or disadvantaged. That is a recognition  
3       that any moving of a line for whatever reason will  
4       have an affect, but affect is not what the  
5       Constitution prohibits, it's intent. The court did  
6       say though that there is no level of improper  
7       intent. A malevolent or evil purpose, colorful  
8       language there from the court, is not required to  
9       constitute improper intent. There is either  
10      improper intent or there is not improper intent.

11           If there is, then it is an invalid district or  
12      plan under the Constitution. The Supreme Court of  
13      Florida exams both direct and circumstantial  
14      evidence of intent. The direct evidence of intent  
15      would be a member stating, certainly hope would not  
16      happen, but a member would state that they were  
17      drawing the map for some prohibited purpose.  
18      Circumstantial evidence of intent though is what  
19      the court primarily looked at in the 2012  
20      redistricting cycle opinion that I have cited here.  
21      They looked to objective evidence. This is during,  
22      especially during the initial review that the court  
23      had of the joint resolution.

24           Objective evidence it could bear on intent.  
25      It includes the shape of district lines and the

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1 demographics of an area. Though in 2012, the  
2 Supreme Court reviewed voter registration,  
3 elections data, incumbent addresses to try to  
4 determine incumbent favoritism and demographics of  
5 the district. All of that objective data was  
6 looked at as circumstantial evidence that could  
7 bear on the intent of the Legislature.

8 The court also noted that strict compliance  
9 with the expressed terms of the tier two  
10 redistricting standards may undercut or defeat an  
11 assertion of improper intent. So the idea there is  
12 the tier two standards that we will be discussing  
13 shortly, compactness, respect for geographical and  
14 political boundaries. If those are adhered to, it  
15 is evidence that rebuts an ideal that a map was  
16 drawn intentionally for any impermissible purpose.  
17 On the other hand, disregard of those traditional  
18 restricting principles set out in tier two can  
19 provide evidence of improper intent. So a district  
20 that breaks county boundaries is grossly non  
21 compact for example will need a strong  
22 justification by the Legislature for why drawing it  
23 that way was not done for an improper purpose. The  
24 court also said in relation to that where the shape  
25 of the district in relation to the demographics is

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1       so highly irregular and without justification that  
2       it cannot be rationally understood as anything  
3       other than an effort to favor or disfavor a  
4       political party, improper intent may be inferred.  
5       I think what that language says reflects what the  
6       court said in 2012, is that the Legislature is owed  
7       deference in the manner in which it chooses between  
8       constitutionally compliant plans and provided it  
9       acts constitutionally within that broad range of  
10      deference. Only under these sorts of circumstances  
11      will the court infer improper intent from  
12      circumstantial evidence.

13             With respect to incumbents, similarly the  
14      shape of the district in relation to the legal  
15      residence of an incumbent is relevant to the  
16      evaluation of intent to favor or disfavor the  
17      incumbent. The Chair mentioned earlier incumbents'  
18      addresses and information is not something that is  
19      in the redistricting software. It is not something  
20      that is considered in the drawing of plans, but it  
21      is something that the court can consider when it is  
22      evaluating improper intent.

23             For example, in the last cycle there was one  
24      district in which a member's residence was found to  
25      be at the end, above the long line that shot out

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1 from the district and scooped up the member's  
2 house. The court inferred from that, that that  
3 district was drawn that way to favor that  
4 particular member whose house was brought into  
5 that. Also with respect to the incumbent  
6 favoritism.

7 CHAIR RODRIGUES: Do you have a question? You  
8 are recognized.

9 SENATOR BRACY: Thank you very much. So  
10 conversely if that was drawn specifically to  
11 include and that was the intent found by the court,  
12 it could also be the converse. If a member's house  
13 is drawn out of a district, is that true?

14 CHAIR RODRIGUES: You are recognized.

15 MR. NORBY: Yes, Senator. Any drawing of  
16 lines that could -- that are found to be done in a  
17 way that could favor or would have the intent of  
18 favoring or disfavoring, there was circumstantial  
19 evidence of that, could be something that the court  
20 could consider. Similarly, if incumbents are  
21 paired within a district, that could provide under  
22 some circumstances circumstantial evidence one way  
23 or another, but it doesn't necessarily find that.  
24 It may be that members were paired within a  
25 district because that district best adhered to

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1 county boundaries or rivers or roads. So it is all  
2 of those factors could be considered as  
3 circumstantial evidence.

4 CHAIR RODRIGUES: Any other question?

5 SENATOR BRACY: No. Just a statement that  
6 this is not fact.

7 CHAIR RODRIGUES: You may proceed.

8 MR. NORBY: Chairman, I would agree. Finally  
9 on intent to favor or disfavor a political party or  
10 an incumbent, one of the arguments made in the  
11 first round of redistricting litigation in the last  
12 cycle was that access to political data by the  
13 Legislature, presumptively demonstrated prohibit an  
14 intent, and the Florida Supreme Court rejected that  
15 argument, because in fact access to political data,  
16 election results data, turnout data, voter  
17 registration data is actually a necessary component  
18 of the functional analysis that the Legislature  
19 must perform to evaluate whether a minority group  
20 has the ability to elect representatives of its  
21 choice. If the Legislature does not look at that  
22 data, if the Legislature instead looks purely at  
23 racial demographics in deciding how to draw  
24 districts, then that would violate or could violate  
25 either federal racial gerrymandering requirements

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1 or the requirements of the Voting Rights Act, or  
2 the requirements of the minority voting protection  
3 provisions of the Florida Constitution. So merely  
4 having access to that political data if it is used  
5 appropriately is not, is not a manner of  
6 demonstrating improper intent.

7 The next set of standards in tier one are  
8 again what I have called the minority voting  
9 protection standards. Districts shall not be drawn  
10 with the intent or result of denying or abridging  
11 the equal opportunity of racial or language  
12 minorities to participate in the political process  
13 or to diminish their ability to elect  
14 representatives of their choice. So this long  
15 provision here really imposes two requirements that  
16 protect racial and language minority in Florida  
17 during the redistricting process.

18 One is the prevention of impermissible vote  
19 delusion. The second is the prevention of  
20 impermissible diminishment of a minority's group's  
21 ability to elect a candidate of its choice. These  
22 two standards essentially restate Section 2,  
23 Section 5 of the Voting Rights Act respectfully,  
24 which we discussed earlier. Section 2 relates to  
25 claims of impermissible vote delusion. Section 5

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1 refers to attempts to irradicate impermissible  
2 retrogression in a minority's group's ability to  
3 elect a candidate of its choice.

4 The Florida Supreme Court in its first  
5 opportunity to construe the provisions in 2012,  
6 dated that it would construe those provisions as  
7 consistent with the corresponding provisions of the  
8 Federal Voting Rights Act guided by prevailing  
9 United States Supreme Court precedence. That is  
10 the interpretation that was offered when the court  
11 approved the amendments that were adopted in 2010  
12 for the ballot, sponsor of the amendment  
13 represented that they should be interpreted in that  
14 way. The court did in fact interpret them that  
15 way. So the court will construe them consistent  
16 with the case law in Section 2 and Section 5 of the  
17 Voting Rights Act.

18 The anti vote delusion provisions of the  
19 Florida Constitution, like Section 2, the Voting  
20 Rights Act, requires the creation of a majority  
21 minority district where the *Gingles*' preconditions  
22 are satisfied, and if so, where the totality of the  
23 circumstances demonstrates that minority voters'  
24 political power is truly diluted. And the anti  
25 retrogression provisions of the Florida

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1 Constitution provides that the Florida Legislature  
2 cannot eliminate majority, minority districts or  
3 weaken other historically performing minority  
4 districts where doing so would actually diminish  
5 minority groups' ability to elect it's preferred  
6 candidates. In addition to majority, minority  
7 districts, coalition or crossover districts, as the  
8 Senator referenced earlier, that previously  
9 provided minority groups with the ability to elect  
10 a preferred candidate under the benchmark plan.

11 The benchmark plan, the prior plan, those must  
12 also being recognized and protected against  
13 diminishment. In order to determine whether there  
14 has been a retrogression or a diminishment, the  
15 Legislature must perform a functional analysis to  
16 evaluate retrogression and to determine whether a  
17 district is likely to perform for minority  
18 candidates of choice. This is a complex multi  
19 factor determination, requires consideration of  
20 minority populations in the districts, minority  
21 voting age populations in the districts, political  
22 data, turnout data, voter registration data, how a  
23 minority group has voted in the past. There is no  
24 predetermined or fixed demographic percentage used  
25 at any point in that functional analysis. And in

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1 fact, under some of the prior provisions of federal  
2 law, states have been found to violate the racial  
3 gerrymandering requirements of the federal  
4 Constitution when they have pegged a percent to a  
5 particular racial percentage.

6 So functional analysis considers multiple  
7 factors to protect against diminishment. In  
8 certain situations compactness and other  
9 traditional redistricting criteria may be  
10 compromised to avoid retrogression. Under the  
11 Florida Constitution, the tier two requirements of  
12 compactness and adherence to political and  
13 geographical boundaries give way to the extent  
14 necessary to avoid retrogression.

15 As I mentioned in response to a question  
16 earlier, Section 5 of the Voting Rights Act  
17 originally applied to only five Florida counties.  
18 Now unenforceable following the *Shelby County*  
19 *versus Holder* decision, but the Florida  
20 Constitution's non-diminishment requirements and  
21 anti vote dilution requirements in redistricting  
22 apply to the entire state and they remain  
23 enforceable by the court.

24 The final tier one requirement is a continuity  
25 requirement. This is not traditionally been as

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1 litigated as some of the other requirements. The  
2 Supreme Court has defined continuity as being in  
3 actual contact, touching along a boundary or at a  
4 point, and it is found that districts lacks  
5 continuity when a party is isolated from the rest  
6 of the territory of another district by the  
7 territory of another district, excuse me, or where  
8 the lands mutually touch only at a common corner or  
9 right angle. The principle place where this has  
10 been litigated in Florida and elsewhere is  
11 consideration of bodies of water. So a district  
12 that crosses a river and doesn't touch land on  
13 either side of the river can still be contiguous  
14 even though the land map doesn't touch. The  
15 Florida Keys are another obvious example, they  
16 don't touch one another other than through a  
17 roadway, but they're still contiguous with one  
18 another over that body of water.

19 So moving on now to the tier two standards of  
20 the Florida Constitution, and these encompass what  
21 are often called traditional redistricting  
22 criteria. Tier two states that unless compliance  
23 with the standards in this subsection, tier two  
24 conflicts with the standards in Subsection 1-A or  
25 with federal law. Districts shall be as nearly

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1 equal in population as practicable. Districts  
2 shall be compact and districts shall where feasible  
3 utilize existing political geographical boundaries.  
4 The population equality to the extent practicable,  
5 compactness, and then where feasible the use of  
6 existing political and geographical boundaries.  
7 These requirements are subordinate to both the tier  
8 one requirements and to the requirements of federal  
9 law, and of course, the Federal Constitution in the  
10 event of a conflict. As with tier one, the order  
11 in which the tier two standards are set out in the  
12 Constitution does not establish any priority among  
13 those standards within the tier. So compactness,  
14 population equality and respect for geographical  
15 and political boundaries are all on an equal level  
16 for the Legislature's consideration, and one of  
17 them is not any higher ranked than the other.

18 In terms of population equality, the Florida  
19 Supreme Court has rejected arguments that the  
20 population equality language in the Florida  
21 Constitution now imposes any stricter requirement  
22 than prevailing federal precedence. The court said  
23 that strict and unbending adherence to the equal  
24 population requirement will yield to other  
25 redistricting considerations as long as those

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1       considerations are based on the expressed  
2       constitutional standards.

3               So population deviation in order to keep  
4       existing counties whole, to follow geographical or  
5       political boundaries are permissible grounds for  
6       deviations in population from one district to  
7       another. As well as of course adherence to  
8       minority voting protection and their reason to  
9       adjust population census. Because obtaining equal  
10      population is an explicit constitutional mandate,  
11      the deviations must be based on compliance with  
12      other constitutional (inaudible). Compactness is  
13      another requirement under tier two. The Supreme  
14      Court says that compactness is geographical  
15      compactness rather than a sort of community  
16      interest or subjective based compactness, which is  
17      one argument that was made in the last cycle. The  
18      review of compactness by the Supreme Court begins  
19      by looking at the shape of a district. So what is  
20      sometimes called the interocular test, how does it  
21      look when you look at it with your eyes. A compact  
22      district should not have, quote, bizarre designs.

23              There are also certain quantitative  
24      measurements of compactness that have been used to  
25      assist courts in assessing compactness. I believe

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1        your staff director will be going over some of  
2        those and explaining those. Those are also  
3        available in the redistricting software that can  
4        provide a numerical figure that represents how  
5        compact a certain district is. Now, the  
6        geographical, excuse me, the geometrical  
7        measurements of compactness each have their own  
8        flaws. Some of them attempt to measure how close a  
9        district resembles a circle. Well, a district that  
10       is a perfect quare would not necessarily score very  
11       high on the compactness measure of how close, how  
12       much it looks like a circle it says as one example.  
13       But they can be a tool, they were a tool that was  
14       used by the court during the last redistricting  
15       cycle. It has traditionally been used by courts  
16       across the country in evaluating compactness, and  
17       it is something that the redistricting software has  
18       the ability to measure. It is one consideration of  
19       compactness.

20            I describe here the re-oct method and the  
21       convex hull methods is two of the ones that were  
22       commonly used. Geographic and minority protection  
23       factors also influence the compactness of a  
24       district. The Florida Constitution does not  
25       require the Legislature to adopt the redistricting

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1 plan that achieves the highest mathematical  
2 compactness scores. I mentioned that geographic  
3 boundaries can be a valid consideration for the  
4 Legislature, and obviously minority protection is a  
5 valid consideration. It is a superceding  
6 requirement under the Florida Constitution, but non  
7 compact and, quote, bizarrely shaped districts will  
8 require close examination by the courts. The court  
9 referred to corridors, connecting isolated  
10 populations or appendages from districts as  
11 something that will have to be justified by some  
12 other constitutional requirement.

13 Another tier two standard, districts shall  
14 where feasible utilize existing political and  
15 geographical boundaries. Political boundaries  
16 primarily refers to county and municipal  
17 boundaries. County boundaries tend to be fixed.  
18 Every now and then counties, the Legislature will  
19 adjust the boundary between counties for one reason  
20 or another, but county boundaries tend to be more  
21 permanent than municipal boundaries which change  
22 through annexations and de-annexations over the  
23 course of an election cycle. There are  
24 municipalities in Florida that are non contiguous.  
25 It is a single municipality where the territory

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1 does not connect one part to another. Those are  
2 political boundaries that can be taken into  
3 account.

4 Geographical boundaries, the court said are  
5 boundaries that are easily ascertainable and  
6 commonly understood. So as examples, these would  
7 the primary and secondary roads, rivers, large  
8 bodies of water, railways and so forth. Not every  
9 split of a political or geographical boundary  
10 violates the Florida Constitution. The  
11 constitutional language actually explicitly  
12 recognizes flexibility in the Legislature by  
13 providing for the use of boundaries where feasible,  
14 just by virtue of pure population demographics,  
15 there are some counties that are not large enough  
16 to have a Senate district all to themselves.

17 There is some counties that you cannot put a  
18 couple of Senate districts in. So there will be,  
19 inevitably some splitting of political or  
20 geographical boundaries, but where feasible the  
21 Constitution requires the Legislature to use those  
22 boundaries. And Mr. Chair, that is the end of this  
23 portion of my presentation.

24 CHAIR RODRIGUES: Do we have any questions?

25 SENATOR BRACY: I have a question.

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1 CHAIR RODRIGUES: Senator Bracy, you are  
2 recognized.

3 SENATOR BRACY: Thank you. I wanted to go  
4 back to this tier one standards and having to --  
5 having it to apply to equal opportunity and racial  
6 or language minorities. Is there a certain  
7 percentage that we have to meet to adhere to this  
8 standard? Let's say if it is an African-American  
9 community, would 75 percent be enough to adhere to  
10 this standard, or would just a simple majority? I  
11 mean, how do you determine if we are meeting that  
12 standard or not?

13 CHAIR RODRIGUES: You are recognized.

14 MR. NORBY: Senator, there is no one  
15 particular number that applies in all  
16 circumstances. The focus of the inquiry is to  
17 determine where there are districts that provided  
18 an effective opportunity to elect in a benchmark  
19 plan, and then to ensure that any plans adopted by  
20 the legislation during this process, that there is  
21 not a diminishment in the actual or effective  
22 ability to elect within that district.

23 So for example, a district that and some of  
24 the case law out of Alabama or Mississippi for  
25 example, where there are districts that may be

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1       70 percent voting age population of  
2       African-American population, the courts have said  
3       in that context, that is not necessarily a  
4       diminishment to reduce that percentage from 70  
5       percent to 60 percent. It is driven not only by  
6       the racial demographics of the district, but by  
7       other factors such as voter registration rates,  
8       turnout rates, in some parts of the state  
9       citizenship rates affect the ability to elect a  
10      certain minority population. Political party  
11      registration rates can affect the ability to elect  
12      a certain population. It is one of the factors  
13      that the court looked at in the last cycle was  
14      whether particular racial groups would have the  
15      ability to control the result in one political  
16      party's primary election, where the other political  
17      party's primary election and then how that would  
18      perform in the general election. So that is a long  
19      answer I think to the short question which is that  
20      there is no specific percentage. It requires an  
21      analysis of many, many factors.

22           SENATOR BRACY: Thank you.

23           CHAIR RODRIGUES: Senator Stewart, you are  
24      recognized.

25           SENATOR STEWART: Thank you. Is there any

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1 rule or any past experience on dividing  
2 neighborhoods or using a street as a division  
3 between districts for one side of the street will  
4 be in one district and their neighbor across the  
5 treat into be in another? Is there any direction  
6 regarding that?

7 CHAIR RODRIGUES: You are recognized.

8 MR. NORBY: Senator, the criteria that would  
9 apply in that circumstance would be the use of  
10 political or geographical boundaries to the extent  
11 feasible. So to the extent that it is feasible and  
12 when balancing all of these other factors, minority  
13 voting protection, equality of population, to the  
14 extent it is possible for draw those lines along  
15 state highways or railways or rivers or other  
16 things that don't divide someone from one side of  
17 the street to the other side of the street, that is  
18 a relevant consideration, particularly on  
19 Congressional districts where the precedent  
20 requires exact equality tea of population. It is  
21 sometimes necessary just to make sure that there is  
22 exactly equal population to divide other sorts of  
23 streets, but those sort of things should be avoided  
24 to the extent possible.

25 CHAIR RODRIGUES: Senator Bracy, you are

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1 recognized.

2 SENATOR BRACY: Thank you. I just have one  
3 more question regarding adhering to this minority  
4 district. If you -- if you pack too many  
5 minorities in one district, could -- could the  
6 argument be made that they're trying to help one  
7 political party in the outside districts to that  
8 minority district? I mean, has that case ever been  
9 made in court to that example I just gave?

10 CHAIR RODRIGUES: You are recognized.

11 MR. NORBY: Yes, Senator, the legal term for  
12 that is exactly what you said, packing of a  
13 district, intentionally assigning voters to a  
14 district on the basis of race in a way that would  
15 not be justified like that, and under some  
16 circumstances that could violate Section 2 of the  
17 Voting Rights Act.

18 CHAIR RODRIGUES: Seeing no further questions.  
19 Thank you for your informative presentation today.  
20 Much appreciated.

21 MR. NORBY: Thank you, chair.

22 CHAIR RODRIGUES: We are going to move to tab  
23 three, 2022 redistricting application  
24 demonstration. Staff Director Ferrin, you are  
25 recognized.

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1           MR. FERRIN: Thank you, Mr. Chairman. Give me  
2           one moment here. Okay, there we go. Sorry about  
3           that. I just had an issue with the connection to  
4           the overhead system. So we will walk through the  
5           actual map drawing application and give the members  
6           the chance to ask questions about this and see how  
7           this process works.

8           I would like to just point out, and we have  
9           talked about this already, that this is the Florida  
10          House and Florida Senate agreed to jointly use the  
11          same redistricting application cycle as opposed to  
12          last cycle and prior ones where we may have used  
13          different applications. And we chose Esri which,  
14          they offer an online web based GIS mapping program  
15          for use in redistricting. Florida is one of, it is  
16          one of many state and local governments that uses  
17          their products for this type of service, and Esri  
18          is in fact a national industry leader in GIS  
19          applications and technology. We are as has been  
20          mentioned providing access to this application at  
21          no cost to the public. They can use it for free.  
22          They do have to sign up for credentials and log  
23          into the account, but the account is being web file  
24          based, preserves their plans there securely for  
25          their access. And so there are some credentials

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1           that are required as we were discussing earlier.

2           So when a user logs into the application, the  
3           first thing they are going to see is a prompt  
4           for -- to select a template plan, and these  
5           template plans have been pre created for use in  
6           redistricting here in Florida. We have three,  
7           well, we have one for Congressional, one for House  
8           and one for Senate, but there is actually two of  
9           each. So, so there is the benchmark plans that are  
10          located here and labeled as such. See if that  
11          works out.

12          I am sorry, they are prompted to select a  
13          template for either Congressional, House or Senate  
14          districts. Each type has two versions. One is  
15          blank, pre formatted for use in drawing a plan from  
16          scratch. The second is the benchmark plans. We  
17          have the benchmark plans loaded into the  
18          application so that easers can use them for  
19          comparison purposes to the draft that they're  
20          working from, or to even start from a benchmark  
21          plan if they so choose. They could start there and  
22          make adjustments for equal population from there.

23          So in doing so, and we will just open up the,  
24          we will do the Congressional one. So if we log in  
25          as a user, we would pop in, see that template.

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1 This is going to open the benchmark template. And  
2 so from here users will notice that this is saved  
3 as a read only plan. So in order to save this  
4 plan, they will have to come in and click the save  
5 as and they can give it their own name, because  
6 they're working currently off of the generic  
7 template plan, so they're basically making a copy  
8 of that and adding their own changes to it.

9 Once saved, users can come in here into the  
10 open plan dialogue box and they will see that they  
11 have a list of their plans, which this is a  
12 demonstration account, there is no plan. And so --  
13 and then the shared plans which include the same  
14 templates that they just chose from. So all users  
15 will have access to these at all times and their  
16 saved plans will be stored here.

17 You can also opinion up a local plan. So as I  
18 was discussing the artifacts that are available on  
19 the website, we had that doc plan file. That is  
20 correct is a local plan. So a user can download  
21 one of those from the website and open it in their  
22 own account. They can also cave their own plan,  
23 and we will go talk about that.

24 So in addition to being able to save it in the  
25 account, they can save it down locally and store

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1       that plan in the doc plan format on their machine.  
2       Plans can also be imported and exported. So the  
3       import as I was discussing earlier uses that fixed  
4       text format, which is the block assignment file.  
5       And so that will open up a browser window and allow  
6       users to pop in there and select the location of  
7       the text file. That is the universally formatted  
8       file. They can also export that to either an  
9       image, a KML like we discussed for Google Earth.  
10      Again, the fixed text format for a shay file for  
11      consumption and other GIS applications.

12           We also have the options for printing here as  
13      well, so users can print the plans, but most of  
14      what is going to happen in the map drawing  
15      application is going to be on this create tab. And  
16      so this is where users will be able to zoom in and  
17      around the map. They can pan simply by clicking  
18      and dragging the map. They can zoom in using the  
19      mouse wheel, which as they zoom in you will notice  
20      all these other lines that started appearing on the  
21      map. Those are going to be track lines, and as you  
22      zoom in you will block group lines, and then as you  
23      zoom in further, you will see the block lines. And  
24      so that is adjusted automatically as the user zooms  
25      in and out.

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1           Going through the tools over here on the left.  
2           So these are the selection and assignment tools  
3           right here. They allow you to select geography  
4           using different methods. So this is a picking  
5           tool. So if we wanted to assign just this block,  
6           and I am currently here as an unassigned, but this  
7           is where you would change the district number that  
8           you are working with here in this drop down. So  
9           you would un-assign this block by simply clicking  
10          on it and that would change it to unassigned. If  
11          you wanted to undo that, you could use the undo  
12          button right here and that will go away.

13          The other selection methods are by rectangle  
14          where you can select a group of blocks all at once  
15          by polygon. So if you are trying to follow a  
16          roadway perhaps, you might try to draw the polygon  
17          up the road. Double click and it will assign all  
18          the blocks that are touching that polygon.

19          And then the last type of selection tool here  
20          is the line selection. So this just allows the  
21          user to click a straight line and assign blocks  
22          that way after double clicking. So you notice that  
23          didn't pick up the ones in the middle, just the  
24          ones on the edge. We also have a two stage  
25          assignment tool. And so this allows users to kind

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1 of preview the geography that they may assign. And  
2 so you see how that sort of selected the block, but  
3 didn't automatically assign it, but we can come  
4 down to the proposed tab down here and see that if  
5 we were to assign that to the unassigned group we  
6 would be moving 225 people out of District III into  
7 the unassigned territory.

8 If you want to abandon those proposed  
9 assignments, you click the red X here and that will  
10 undo it. If you wanted to execute that assignment  
11 you would click this little lasso tool here and  
12 that executes it. And if you wanted to zoom to the  
13 current selection in your two stage selection you  
14 can click the magnifying glass here and that will  
15 pan to that selection. The binoculars next to it  
16 are used for findings unassigned geography. So if  
17 you are compiling a district map and you think you  
18 are done and want to find areas that are  
19 unassigned, you can click that and there are little  
20 slivers in road medians or other places between  
21 districts that may have kind of gone unassigned as  
22 you were working through the state, it will pan to  
23 those directly. It will list those here and as  
24 you, you assign them you can click refresh and it  
25 will -- it will take care, you know, it will

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1 refresh the unassigned list and the next one will  
2 appear and you can go on and so forth.

3 The other tools for moving around the map, we  
4 have talked about. I mentioned the pan tool. So  
5 as you can use his hand to pan around the map. You  
6 can use the zoom tools if you are not using a mouse  
7 wheel, you can draw that box and that will zoom in  
8 and out for you. The arrows next to it manage the  
9 expanse, an expanse in this context is your last  
10 kind of level of geography view, so it will bounce  
11 back and forth to whatever you were last looking  
12 at. I will go forward to the next one.

13 The tools next to it have to do with the level  
14 of assignment and their visibility. And so as I  
15 mentioned as I was zooming in and out, the  
16 different geometry we are showing. You can  
17 automatically, you can leave your selection level  
18 on automatic and it will work with whatever is  
19 currently visible on the map or you can  
20 specifically select one of these geometry layers.  
21 So if we selected county and click anywhere in here  
22 in Alachua, this would propose that we un-assign  
23 Alachua County. So this can be used for any of the  
24 levels since it is geometry left on automatic.  
25 These sliders here will kind of automatically

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1 display based on your zoom level. So if you want  
2 to see blocks from a very zoomed out level, you can  
3 adjust this slider and it will show you blocks. If  
4 you want to see counties at that level, you can  
5 adjust it and it will remove the other lines and  
6 show you counties.

7 The other tools that are selectable here are  
8 the base maps and themes. So base map, the default  
9 is to a street map in the background, but if you  
10 wanted to use satellite imagery you could do so.  
11 Just simply come in there and change the base map  
12 and you will see satellite imagery for the areas  
13 that you are drawing in. The themes have to do  
14 with color coded overlays. And so if you were  
15 looking to, if you were working on drawing an  
16 African-American district, you would come down here  
17 and select either the standard or alternative VAP  
18 and the alternative is the aggregated for all  
19 Hispanic and all African-American. The standard  
20 breaks it out into the different VAP categories.  
21 And so you can select alternative. So if you want  
22 to use the percent and it will color code the  
23 levels of geometry that are available on your  
24 screen here with the density. And these are  
25 adjustable for users. They can change the colors,

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1       you can change the transparency, you can label them  
2       with different characteristics. There is a lot of  
3       options there for users.

4               So that is going to cover most of the trade  
5       tools. I want to go through some of the other  
6       items here. I didn't go through all the file tabs.  
7       The learn tab does have links to the quick start  
8       guide, help manual and website on it. So if users  
9       are in there and they get stuck, they can come find  
10      that information or go to the website and contact  
11      us there.

12             The view settings have a lot to do with what  
13      is being shown on the map. A user can come in here  
14      and adjust the number of districts that their  
15      drawing. I should have gone up and not down, I  
16      apologize. So if we were given a 30th  
17      Congressional seat by some chance, we would, you  
18      could come in here and adjust the number of  
19      districts and the ideal population would adjust  
20      automatically.

21             The other settings here have to do with  
22      visibility. So whether or not your districts are  
23      showing up in color, you can change your own,  
24      change that. The lines or fill is an option as  
25      well as names. So the numbers that are shown on

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1       them, they can be displayed. The shorter version  
2       without the word districts can be shown, and you  
3       can also show the population.

4               So other tools are here are available are  
5       deviation coloring for this. So if you want to  
6       adjust your deviation to be a lower number, this  
7       will show you whether or not the districts are --  
8       which ones are under or underpopulated. It is very  
9       similar to the tool that we have on our website.  
10      It's just incorporated into the application.

11             And then we have some other tools here for  
12      joining and modifying districts. Joining allows  
13      you to merge districts together quickly. So if you  
14      wanted to merge Districts 1 and II, you could come  
15      in here a do that simply by selecting District I  
16      and District II, hitting that button and now we  
17      have combined Districts 1 and 11 into District I.  
18      That is not un-doable just for the record. And  
19      then, so some other, let's see here, that was the  
20      view tab.

21             I didn't really talk about this and I probably  
22      should have already, I apologize, but it is  
23      specific demographic fields that are listed here,  
24      the ones we have kind of gone over already. We  
25      have the total field for the total population of

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1 the district. The target and the target deviation.  
2 So this is the target deviation. So this shows you  
3 how far off you are from the ideal population and  
4 this target tab E expresses that as a percentage.  
5 The other fields here for SRW, VAP, and these are  
6 all defined in the help manual. This is single  
7 race, white voting age population in raw numbers  
8 and then expressed as a percentage. We have the  
9 same for non Hispanic black, for Hispanic black,  
10 for Hispanic not black. We other VAP which  
11 includes all the other unmentioned combinations for  
12 demographics. And then our BVAP is our black  
13 voting age population and HVAP is Hispanic voting  
14 age population, and those are both expressed as raw  
15 numbers and percentages.

16 Also here on the review tab, just going back  
17 to that, we have buttons here for the compactness  
18 test, and we can -- this will run in a pop up  
19 window here and provide the compactness scores for  
20 the districts as they're drawn in the plan. And  
21 one of the things that is in the feeding materials  
22 is the, we put together a little take away for the  
23 Senators, for the members and posted this on the  
24 website. This is I think in the other meeting  
25 materials documents on the compactness matrix and

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1       how they're used and how they're calculated. This  
2       is the -- this document, if you have got it  
3       available, we should have provided all the members  
4       a copy of it. But the -- this is where we talk  
5       about how these scores are calculated in sort of  
6       the rubber band imagine that we have discussed  
7       regarding convex hill scores and the circular reoct  
8       dispersion score as well as the Polsby-Popper  
9       score. And as was mentioned these all test for  
10      different things. So convex hill is a score that  
11      test for concavities or indentations in district  
12      boundaries and uses the ratio of the area of the  
13      district to the minimum convex polygon that can  
14      enclose the district's geometry, essentially the  
15      rubber band.

16           The Polsby-Popper score test for jagged or  
17      squiggly district boundaries and calculates the  
18      ratio of the area of the district to the area of a  
19      circle whose circumference is equal to the  
20      perimeter of a district. So if you have a lot of  
21      perimeter, you are going to have a very large  
22      circle that could encompass the district and that  
23      ratio is going to be less. The reoct score is  
24      basically test for the district's similarity to a  
25      circle, and as you heard counsel discuss, circles

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1 are difficult to draw in all circumstances due to  
2 Florida's geography and the fact that circles  
3 don't, also don't stack very well. Nonetheless, it  
4 is a relevant score for compactness measurements  
5 and is used in concert with the other scores in a  
6 visual interocular view as a way to identify  
7 potentially outlier districts in terms of  
8 compactness.

9 We have also provided on the last page of this  
10 handout just a kind of table of some common shapes  
11 for illustration purposes, and some of their  
12 mathematical compactness scores. And so you can  
13 kind of look through the list here and see how a  
14 circle would score on all of them, how a coil or a  
15 crescent or a triangle, squares. We provide all  
16 these different examples just as reference points  
17 so that we can understand how they all work. So  
18 for example, a coil would get a reasonably well  
19 reoct score and convex hull score, but do very  
20 poorly on Polsby-Popper, because it has essentially  
21 got a very long perimeter that is wrapped around  
22 itself.

23 So jumping back into the application real  
24 quick. So the compactness test is available as an  
25 independent button as well as in this reports drop

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1 down here. So we talked a little bit earlier about  
2 the VAP summary ports that can be generated using  
3 this tool. When a user comes in here to select  
4 this, they have several different options. One,  
5 they can name it and then title it at whatever they  
6 would like to, so they can enter the name of their  
7 plan there. They can format it either as a PDF,  
8 Excel or HTML document. They can e-mail it to  
9 themselves or -- and they can select all the  
10 different fields that are available in that report.  
11 It defaults to the ones that we have listed in the  
12 VAP summary reports on our website, but this is  
13 also how users will access the data for functional  
14 analysis.

15 So you see here these last three categories  
16 are registered voters, voter turnout and election  
17 results, and each one of these can be dropped down  
18 and there is a number of fields here. All these  
19 field are going to be listed in the handout that  
20 says functional analysis. They're described in the  
21 help documentation in general terms, but we went  
22 ahead and listed them out here. But each one of  
23 these is -- is going to be selectable by the user  
24 to include in their own functional analysis and  
25 determine how the districts are going to perform

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1        accordingly. So we have the voter registration, we  
2        have the voter turnout, and then we have the  
3        election results. So for the registered voters,  
4        that is available for general elections. The  
5        turnout is available for both primary and general  
6        elections. So the way these are coded, you see  
7        here it says GE 20 VT. That means that is voter  
8        turnout for the general election in 2020. And this  
9        goes all the way back from 2020 to 2012. And so we  
10       have primary and general turnout available. This  
11       is all broken down by race and party as would be  
12       done for a functional analysis. That is what this  
13       data is here for.

14                And then lastly we have the statewide election  
15       results for the last 10 years worth of statewide  
16       elections. So we go from the 2020 Presidential  
17       election. We have Cabinet contests, U.S. Senate  
18       contests, Gubernatorial contests, and I think I am  
19       covering them all there, as well as the primaries  
20       broken down by parties. So here would be an  
21       example of the 2014 CFO contest in the general, and  
22       then here it is in the primary is coded very  
23       similarly but with P in the beginning. So you have  
24       the primary for Attorney General here within the  
25       Democratic ticket. So that is how that data is

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1       accessed via the reports. Other reports that are  
2       available include, we have the Bill text, but that  
3       is probably not something that is going to get used  
4       by many users. That actually generates text that  
5       can be converted into the Bill language that was  
6       displayed earlier.

7             The compactness report is here as well. So if  
8       a user wants to export the compactness report or  
9       pull it up in a different format, they can do that  
10      here. It is going to generate the same set of  
11      numbers. And then the metes and bounds type  
12      reports that are available currently. One of the  
13      things that is available in the application is a  
14      boundary analysis, and we do have another set  
15      within the handout materials for this.

16            The boundary analysis is something that was  
17      brought into existence after passage of the  
18      amendments in 2010, to try to measure the  
19      compliance with that criteria and to try to define  
20      political and geographic boundaries, and we have  
21      refined that since then. The way it worked in  
22      2012, we have improved upon that. And so for this  
23      cycle it is going to calculate the coincidence with  
24      each type of geographical feature, which includes  
25      primary and secondary roads, railroads, significant

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1 water bodies which are contiguous water bodies that  
2 are greater than 10 acres. So a bay or a river  
3 that is a polygon and not a line, so not a stream  
4 or creek or a ditch, but a river or some other body  
5 that is contiguous that can be followed for an area  
6 that is over 10 acres. And then the municipal.  
7 And there is city and county boundaries. And so  
8 these reports will generate the coincidence of that  
9 for each type of those categories. And then it  
10 also is going to generate the coincidence for the  
11 amount of distance that a district boundary does  
12 not follow one of those types of specified  
13 geography. And so in that way this tool can be  
14 used to identify outlier districts that do not  
15 follow political or geographic boundaries, and it  
16 can also be used to measure the consistent use of a  
17 particular political or geographic boundary type  
18 within a district or plan, and it takes a few  
19 minutes to run, but it is running here. And so I  
20 will just keep going through the remaining  
21 materials while that is running so everybody can  
22 take a look. But there is an example of that  
23 report available in the materials as well.

24 The other thing worth mentioning, and we have  
25 kind of touched on this today a little bit is the  
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1       municipal boundaries. I forgot to mention this,  
2       the pop up block. But the municipal boundaries  
3       handout talks a little bit about the differing, the  
4       changing nature of municipal boundaries in Florida.  
5       So we did some calculation based off of information  
6       that was reported to the Census Bureau, and that  
7       suggest that Florida has had over 3,500 annexations  
8       since the 2010, between the 2010 census geography  
9       cutoff date and the 2020 census geography cutoff  
10      date. So that is between January 1st, 2010, and  
11      January 1st, 2020. And we looked at that and did  
12      some calculations on the geometry and other  
13      geographical features of these cities, and noticed  
14      that a number of Florida cities as has been  
15      discussed, not very compact and also has  
16      discontinuities and holes. And so we kind of  
17      looked at that in relation to population size and  
18      geographic size and noticed that as cities get  
19      larger they tend to have more of those type of  
20      features, whether they be holes or discontinuities  
21      or compactness scores.

22           Just as an item of note as we are having the  
23      discussion about the use of municipal boundaries  
24      and how those change so frequently, that is the  
25      likely that our municipal boundaries that we have

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1 embedded in the 2020 census data as of January 1,  
2 2020, may have already changed from a practical  
3 standpoint. And so we have just included for  
4 reference some of these information about the  
5 number of boundaries changes that have happened in  
6 these municipalities over the last decade, and I  
7 think there is 200 cities that have changed their  
8 boundaries out of our 412. And information as well  
9 about discontinuities within cities and the count  
10 of the holes or enclaves within cities. And this  
11 all just for note as we are having the discussion  
12 related to this.

13 So getting back to the software. Having gone  
14 through the reports, I want to make mention of the  
15 compare tool. So this as you are in the review  
16 tab, this open plan button will allow users to open  
17 up a plan that is existing within their account or  
18 one of the benchmark plans or the blank template,  
19 and they can on that plan and compare it against  
20 the plan that they're working on.

21 This will facilitate comparison between, and  
22 you can do this for any of your draft plans over  
23 the existing plans. It is going to, the way that  
24 the system handles this is it creates cross marks  
25 or hatches across the areas that are different. So

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1 in this particular case we were comparing the  
2 benchmark Congressional map to the Senate benchmark  
3 map, and we can see that District I is showing as  
4 being the same in this area, because we are  
5 comparing kind of apples to oranges here, but --  
6 but it is an example of how this could work. It is  
7 going to work a little bit better if you are  
8 looking at two Senate plans side by side that  
9 are -- you are checking for similarities.

10 These can be -- you can use this tool to turn  
11 on or off the compare plan which is the one that  
12 you just loaded up or the active plan which is the  
13 one you are working on. So you can kind of toggle  
14 those to view the visibility of them and check  
15 whether or not you want to see those differences,  
16 which is going to make those disappear, those cross  
17 marks disappear and you will just be left with the  
18 outlines of the districts. And you can also zoom  
19 to the differences in the comparison. And probably  
20 most importantly, you can merge the differences.

21 And the way this works is it allows the user  
22 to designate whether they want the differing areas  
23 to become unassigned, to jump to kind of take, take  
24 on the form of your active plan or the one that you  
25 are working on or the comparison one, which is the

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1 one that you just loaded up. So that is -- that is  
2 how that tool works.

3 The next thing to mention is the submit tab.  
4 The submit tab is where a user, well, actually, let  
5 me apologize. Let me back up. Let me talk about  
6 integrity reports, integrity checks real quick. So  
7 prior to submitting a plan users should run these  
8 integrity checks, and these are going to check for  
9 things like duly assigned territory, population  
10 summary, making sure that your population is in  
11 balance, that all districts have been assigned.  
12 That you are within your maximum deviation for the  
13 districts and your overall range for the plan.

14 The null assignment checks for unassigned  
15 territory, and then the connectivity check checks  
16 for little slivers that may be discontinuous. So  
17 all of these are going to be used to help ensure  
18 that the plan meets the basic constitutional  
19 criteria of having the right number of districts,  
20 the correct population assignment, it is contiguous  
21 and doesn't have any unassigned territory.

22 So after running that type of a test, users  
23 can come submit their plan, and if you click the  
24 submit, this is still a read only draft. So I  
25 can't actually walk through the submit process, but

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1       it is going to prompt you for a few fields, such as  
2       it is going to pre-load the plan name, ask for a  
3       user name and e-mail address, and then also offer  
4       the author an opportunity to enter in some other  
5       information about what their objectives were in  
6       drawing the plan. Once we receive, when you submit  
7       that plan it is going to send us, we will get a  
8       message that a plan has been submitted and we will  
9       respond to the author at their designated e-mail  
10      address with the redistricting suggestion form that  
11      we would ask them to fill out and return to us so  
12      that we can then post their plan on the web.

13           SENATOR BRACY: I have a question. And this  
14      question may be for you, Chairman, but how with  
15      re going to go about the business of our work in  
16      creating maps? I understand this is for the  
17      public, but what will be our process?

18           CHAIR RODRIGUES: The next committee hearing  
19      we are going to take the data that we have gotten  
20      today from our counsel regarding what the  
21      requirements are from the Florida Supreme Court in  
22      the last round of redistricting, and we are going  
23      to put forth the standards that will be used for  
24      the drawing of maps. That is what we will provide  
25      staff in the charge, here are the standards we wish

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1       you to draw maps around, and that is how staff will  
2       move forward based upon the input we have given  
3       them. As members we are free to go into the site  
4       ourselves and begin working on drawing maps if that  
5       is what we choose to do. As any Senator in the  
6       body can do.

7           SENATOR BRACY: Follow up. So the staff will  
8       create the maps. Will there be, will there be a  
9       couple of iterations of maps by staff? And are  
10      we able to amend those as a committee?

11          CHAIR RODRIGUES: Okay. So this will be, next  
12      week will be a full committee meeting where we  
13      together as a committee put together the charge to  
14      the staff. Following that, the subcommittees will  
15      meet. So the staff will put together proposals,  
16      plural, for each of the subcommittees for them to  
17      consider. The select subcommittees will review  
18      those proposals, provide input to staff on areas  
19      where they believe the proposals can be improved.  
20      And the maps will get better as they go through, as  
21      they take the input from the members and go through  
22      the subcommittee meeting.

23          The subcommittees in their third meeting will  
24      then make a recommendation of maps, and I am going  
25      to say, my belief is it will be plural, that

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1       they're recommending come up to the full committee.  
2       Because they are select committees, it will be a  
3       recommendation and there won't be a vote. It will  
4       be consensus, those maps will come to us. When  
5       those maps come to us we then have the ability like  
6       any other piece of legislation to debate it,  
7       consider it and amend it. And then if we decide  
8       either of the maps, plural, I am not sure what that  
9       number is going to be, that would depend upon the  
10      subcommittee, are acceptable as they are, we could  
11      in theory vote one of those maps out. If we decide  
12      that none of those maps are acceptable, then we can  
13      direct staff to areas where we believe those maps  
14      may be improved, and then we will go through a  
15      similar process essentially that the subcommittees  
16      went through where there is a different iteration  
17      of the map and it improves as we go.

18           SENATOR BRACY: And then once we have our  
19      final maps, we have the entire Senate body vote on  
20      the maps, what is the process working with the  
21      House? Do we have a process like we do with the  
22      budget, where we --

23           CHAIR RODRIGUES: So the process would be a  
24      map that comes out of the committee supported by a  
25      the majority of the committee would then go to the

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1 floor of the Senate for consideration. I believe  
2 the process would be similar to what we do with the  
3 budget. We will vote maps off of the Senate floor.

4 If our maps match perfectly with the maps that  
5 the House has done, then, you know, we could be  
6 done. If those maps do not match, like the budgets  
7 nerve match, then I suspect there will be a  
8 conference and then we will confer with the House  
9 and produce maps that will then come back to the  
10 body.

11 SENATOR BRACY: Thank you.

12 CHAIR RODRIGUES: Senator Thompson. I am  
13 sorry, Senator Gibson and then I will go to Senator  
14 Rouson. Senator Gibson, you are recognized.  
15 Accident.

16 SENATOR GIBSON: Thank you, Mr. Chair. I have  
17 three questions. So the first one I want to ask as  
18 we are on the data, well, it is all data. On the  
19 descriptions of population. We have black voter.  
20 BVAP, other VAP. Did we use, and I asked this  
21 earlier. The census had different descriptors in  
22 terms of ethnicity we talked about when we first  
23 started, to re. Or if you go back to that screen  
24 if it is not too much trouble, where the numbers  
25 that, I mean, the demographic description which

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1        were really acronyms are to see if they kind of  
2        line up so people actually understand what that  
3        they mean. Not only what they mean, but what the  
4        neighborhood or the community looks like or the  
5        district looks like.

6            And I think -- and also while we are going  
7        back, when an individual is using the cite to  
8        gather their map and they're looking at the  
9        demographics of a current district, maybe as the  
10       benchmark for drawing the new one, is there any  
11       indication of the change in the demographics in  
12       that particular district since it was established  
13       when we did it in 2012, '12, '13, '14, '16?

14           CHAIRMAN PERMAN: Do we have the ability to do  
15       that?

16           MR. FERRIN: Thank you, Mr. Chairman. I think  
17       if I understand your question, you are asking if  
18       while you are drafting the plan you can visualize  
19       changes in the district from one census to the  
20       next, is that correct?

21           SENATOR GIBSON: The demographics in the  
22       district, and if those match. Is that the one?  
23       How is that categorized on the -- when the  
24       individuals go in to draw their --

25           CHAIR RODRIGUES: You are recognized.

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1 MR. FERRIN: Let me try to answer the  
2 categorization by race first.

3 SENATOR GIBSON: Okay.

4 MR. FERRIN: So SRW, VAP is single race, non  
5 Hispanic white voting age population. The NHB, VAP  
6 is non Hispanic black voting age population. HB,  
7 VAP is Hispanic black voting age population. In  
8 order to get to the BVAP which is all black voting  
9 age population, you can add the NHB and the HB,  
10 VAP. So you are adding, Hispanic is treated as a  
11 different question than race in the sense that it  
12 is data. So you can, the black and Hispanic, the  
13 black and non Hispanic. And in our circumstances  
14 we treat all multi racial responses if they include  
15 African-American or black, we count them as such  
16 and that is per DOJ guidance. So if an individual  
17 was African-American and Asian, we would still  
18 count them and non Hispanic, they would be counted  
19 in the non Hispanic black voting age population  
20 provided they're over 18. And so we -- the way  
21 this all works, and so the other VAP category  
22 catches the other one. So if an individual is  
23 Asian and native American and not African-American  
24 and non Hispanic, they would fall into the other  
25 VAP category for our purposes. And when you add  
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1       these up you can add up single race white, non  
2       Hispanic black, Hispanic black, Hispanic not black  
3       and other and you will get the total.

4               Now, that is a big part of why we break it  
5       down, because you can count. There is a lot of  
6       different ways to categorize this whole data, but  
7       we want to make sure that it adds up to 100 percent  
8       and that the sub groups equal the total.

9               SENATOR GIBSON: So it is --

10              CHAIR RODRIGUES: You are recognized.

11              SENATOR GIBSON: So I guess it really doesn't  
12       matter what the districts flips back and forth, you  
13       are not really tracking that, you just want to see  
14       what it looks like now. I thought that was the  
15       benchmark part.

16              CHAIR RODRIGUES: You are recognized.

17              MR. FERRIN: So the, because we are only  
18       drawing on 2020 data, that is sort of what matters.  
19       We can review the benchmark plans, but we are  
20       reviewing them with the 2020 population figures.  
21       Reviewing them with the 2010 population figures is  
22       not going to yield an apples to apples comparison  
23       because Florida is uneven and distribution of  
24       population growth. And so if we were to look at  
25       specifically at the 2010 numbers and try to compare

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1       them to the 2020, there may have been a lot of  
2       population shifts within that district that would  
3       throw that off, and that is why we try to, we  
4       standardized it all on 2020 data. So we would be  
5       looking at the benchmark district configuration  
6       with the 2020 census data applied.

7               SENATOR GIBSON: One last follow up.

8               CHAIR RODRIGUES: You are recognized.

9               SENATOR GIBSON: Thank you, Mr. Chair. I  
10       wanted to go back to the map, the map and the  
11       submission of maps by the public after they fill  
12       out the form, and I guess we receive the map when  
13       they fill out the form first. And then if a map is  
14       to be considered that is submitted by the public,  
15       does a Senator have to file that map? Or do  
16       they -- they don't have to, but the only way that  
17       map could go considered is if it were filed by a  
18       Senator or what?

19              MR. FERRIN: That is correct. And the reason  
20       we have done that is if you look at the technology  
21       that is available, the ability to draw district  
22       maps has largely been automated. It is  
23       theoretically possible that we could be flooded  
24       with thousands of maps.

25              And so for two reasons. One, to ensure that  
  
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1 we don't have a shadow operation, there needs to be  
2 a sponsor is a member of the body who has met with  
3 the person who has submitted the map, determined  
4 that there is no ill-intent, and understands the  
5 methodology that they have chosen to draw the map  
6 and can then present that to us for consideration.

7 But the second is we don't want our staff  
8 overwhelmed with thousands of submissions and not  
9 even looking at what the Senators are preparing or  
10 what we have directed them to prepare with the  
11 criteria that we will give the charge to next week.  
12 So by treating this like any other piece of  
13 legislation, which is nothing gets in the Bill  
14 until a member of the public gets a member of the  
15 body to sponsor it. We feel like we are being  
16 consistent and we are preserving the most precious  
17 element at this point which is time for committee  
18 staff to work on that which the body, the Senators  
19 want them to be working on.

20 SENATOR GIBSON: Thank you, Mr. Chair. That  
21 is more clarity. So you know, I am interested in  
22 making sure and I know we all are, that the public  
23 fully understands this process, and that they also  
24 understand that submission is one thing, but how it  
25 gets to the committee is absolutely something else.

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1 MR. FERRIN: Indeed.

2 SENATOR GIBSON: Thank you.

3 CHAIR RODRIGUES: Senator Rouson, you had a  
4 question?

5 SENATOR ROUSON: Yes, and it concerns public  
6 comment. Has there been anymore thought or  
7 consideration to how the public will comment and  
8 interact with us as committee members other than  
9 submitting a map on their own?

10 CHAIR RODRIGUES: The question of whether we  
11 will do the virtual hearings, because I know you  
12 had asked that in the past, is still under  
13 consideration. I anticipate we will have a final  
14 answer on that soon, if not this week, then at the  
15 next committee week. In the interim until that  
16 decision is made one way or the other, we still  
17 have the ability for the public to comment, like  
18 they do with any other committee, which is appear  
19 in committee and submit public testimony, and we  
20 have gone I think even further with the website by  
21 updating the comment section to accommodate anyone  
22 who cannot make it to a committee hearing, but  
23 wishes to get their comment on the record which  
24 will be reviewed by us as members as well. So the  
25 question of the virtual hearings, that is still

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1 under consideration. Any other questions? Seeing  
2 none, we will move at this time to the next tab on  
3 the agenda, which is public comment. We have one  
4 public comment card that has been submitted. If  
5 anyone wishes to comment, please prepare a card and  
6 get it to a member of the Sergeant's office.

7 Cecile Scoon with the League of Women Voters.  
8 Welcome back.

9 MS. SCOON: Thank you for this opportunity.  
10 My name is Cecile Scoon, I am President of the  
11 League of Women Voters of Florida, and I really  
12 listened intently. Was taking notes of everything  
13 that was said and presented. That is very, very  
14 helpful. I want to change counsel, you really gave  
15 a primer on about three topics all in one. So as a  
16 practicing lawyer myself, I was really impressed.

17 I also want to thank the committee for  
18 listening to the people and listening to the League  
19 and others in our co districts' coalition. We had  
20 asked for some changes with regards to the Adobe  
21 and people not having printers at home, and we feel  
22 heard and there were some changes made and we want  
23 to continue that ongoing conversation with you as  
24 you are, you know, struggling to capture so many  
25 balancing acts of Tier one, Tier two, state,

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1 federal. It is a lot, you know, it is really, it  
2 is really a lot, but that is really important for  
3 tan for us to advocate for the citizenry. I also  
4 wanted to say that we strongly believe in the  
5 hearing process. Why? Because so many people are  
6 not going to be able to drive and take off work and  
7 stay in Tallahassee and do that from across this  
8 massive beautiful state that we have.

9 And so that interaction of being able to  
10 actually talk to you virtually is next to being  
11 actually being physically present and that is  
12 really, really important to hear your response, or  
13 if there is a question, you might ask me a question  
14 as you did last time. You have that opportunity  
15 that is non existence with putting a comment in a  
16 box. And you also want to encourage people to  
17 believe in the system and to feel like they are  
18 heard, and there is nothing like having a  
19 conversation to actually give that impression.

20 I had a couple of questions with regards to so  
21 much that we heard today, that the ESRI application  
22 which allows for the functional analysis, when was  
23 that added to the website?

24 CHAIR RODRIGUES: October the 8th.

25 MS. SCOON: Okay. And when was it made

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1 accessible to the public?

2 CHAIR RODRIGUES: October the 8th.

3 MS. SCOON: All right.

4 CHAIR RODRIGUES: And just for the record,  
5 when we rolled the website out, we did not have  
6 that voter data at the time. So when we received  
7 the voter data we immediately put it on the  
8 website.

9 MS. SCOON: Okay.

10 CHAIR RODRIGUES: And it is important for me  
11 to say that because there was an opt ed out there  
12 that many people have seen that alleged that we  
13 were hiding data from the public, we were not. We  
14 did not have possession of the data at the time the  
15 website went up. When we received the data, we put  
16 it on the website.

17 MS. SCOON: And when did the data get received  
18 then I guess?

19 CHAIR RODRIGUES: Okay the 8th. We received  
20 it and we put it up. The website went up  
21 September 22nd with the data we had available, and  
22 then when we received the voter data we put it on  
23 the website.

24 MS. SCOON: Thank you, that is helpful. You  
25 were mentioning articles, and of course, we are all

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1       trying to keep abreast of the many things that are  
2       out there so we with educate ourselves. And you  
3       were quoted in the article, the Florida Phoenix,  
4       and they expressed that it was your belief that  
5       because of the change in the *Shelby* case of taking  
6       away pre-clearance I guess, that it was not a need  
7       for a traveling show on the redistricting. Is that  
8       your belief?

9           CHAIR RODRIGUES: They actually did not  
10       recount the conversation correctly. That came out  
11       of the press gaggle at the first committee meeting,  
12       and what I said was, as a result of the *Shelby* case  
13       there is no longer a requirement that we have the  
14       public hearing traveling road show. That was  
15       directly tied to the *Shelby* decision where we had  
16       to go out and take public input. Specifically if  
17       you go back and look at what we received in public  
18       input during those tours on the last two  
19       redistricting cycles, it was primarily the public  
20       letting the Legislature know, these are the  
21       communities of interest that we want you to keep  
22       together.

23           So what I said was it is no longer required.  
24       Now, what I raised was the question, now that fair  
25       districts has passed and the court made clear in

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1 the 2012 litigation, that the fair districts'  
2 coalition brought forth, that the Legislature can't  
3 consider communities of interest because it is not  
4 in the objective standards spelled out in the fair  
5 districts' amendments. That does beg the question  
6 of whether we need to have a traveling road show to  
7 receive that information if we can't use it once we  
8 have it.

9 MS. SCOON: Would you agree with me that the  
10 communities of interest also include racial and  
11 language minorities?

12 CHAIR RODRIGUES: I don't believe that is  
13 traditionally how it has been defined, but if you  
14 would like to set up a meeting with me, I would be  
15 happy to sit down and have a conversation with you,  
16 but this is public comment. So rather than us  
17 continue with the back and forth, please continue  
18 with your comments.

19 MS. SCOON: okay. Thank you, I will take  
20 you up on that offer. I appreciate that. Let's  
21 see. There was some discussion on the geo coding  
22 that is going to be available I think was  
23 mentioned, so that citizens could check to see, YOU  
24 KNOW, where they are, where their family might be  
25 within districts or maps that they may be drawing.

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1 Did I hear that correctly?

2 CHAIR RODRIGUES: Ma'am, we are not going to  
3 continue with Q and A. You can make your comments.  
4 If you have questions, you and I can sit down  
5 directly.

6 MS. SCOON: Okay.

7 CHAIR RODRIGUES: And have the conversation.

8 MS. SCOON: I will convert that into a comment  
9 then. The concern was that frankly I believe I  
10 heard that citizens could use it to check where  
11 they were in the district. And that same ability  
12 to check where you are in a district that is being  
13 drawn, there is a concern that representatives or  
14 Senators or persons might also look to see, and  
15 that may influence their decision-making if they're  
16 looking to see also. So the concern is the use of  
17 the geo coding, that is open for everybody to use.

18 And I want to thank you again for the very  
19 broad review and certainly the legal review was  
20 very helpful. Thank you and we will follow up with  
21 a meeting between us. Thank you very much.

22 CHAIR RODRIGUES: Look forward to it. Okay,  
23 seeing no other public comment cards, that  
24 concludes public comment. We are at the portion of  
25 if the meeting where we can DO final comments and

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1 thoughts. A couple of things that I want to  
2 address before I move to the committee members.  
3 The first is Senator Rouson, I appreciate the  
4 questions you had earlier regarding the opt ed that  
5 was out there. We were able to clarify a number of  
6 the misrepresentations that were in that opt ed.  
7 Some of the other misrepresentations that were  
8 later clarified by the presentations from Staff  
9 Director Ferrin, was the opt ed said that data  
10 could not be downloaded from our website and then  
11 uploaded into another third-party application, and  
12 conversely data from a third-party application  
13 could not be uploaded into our system. As we  
14 learned when both of those systems were  
15 demonstrated, that is inaccurate. We can allow for  
16 the downloading of data and for the uploading of  
17 data. And so we have that ability.

18 Another inaccuracy that needs to be addressed  
19 was thankfully brought up by our speaker from the  
20 League of Women Voters, that we were able to  
21 address the allegation that we were hiding data.  
22 We were not hiding data. And just to make sure  
23 that I am completely clear with the answer I gave  
24 you, the 10/08 was when the data had been  
25 completely integrated into the software. As soon

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1 as that data was integrated it was uploaded, but  
2 prior to that it had not been integrated into the  
3 software. So I want to make sure I am complete and  
4 clear on that, but as soon as we had that we made  
5 it available. There was another allegation in that  
6 opt ed that we were asserting legislative privilege  
7 in telling FSU with our contract with them not to  
8 fulfill public records requests. That is  
9 inaccurate. Public records requests can be  
10 fulfilled. What is required is that FSU must  
11 notify us when a public records request has been  
12 received, and the reason for that is we are the  
13 custodians of the records. And the mere request of  
14 a public record is and of itself a public record  
15 that would have to be maintained by us as well.  
16 And so we never asserted legislative privilege, we  
17 never told FSU to not fulfill any public records  
18 requests. We just made it clear that should they  
19 receive those public records requests, the  
20 Legislature must be notified for us to fulfill our  
21 responsibility under the government and Sunshine  
22 statute. And so I think that covers the  
23 misrepresentations that were out there that we need  
24 to have clarified on the record.

25 And at this point I will turn to other members  
  
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1 if there is the any comments or other business that  
2 needs to be brought forth. Seeing none, Chair  
3 Broxson moves that is we adjourn. Is there any  
4 objection? Seeing none, show the motion adopted,  
5 we are adjourned. Thank you.

6 Whether Whereupon, the meeting was adjourned.)  
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## C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF LEON )

I hereby certify that the foregoing transcript is of a tape-recording taken down by the undersigned, and the contents thereof were reduced to typewriting under my direction;

That the foregoing pages 02 through 112 represent a true, correct, and complete transcript of the tape-recording;

And I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.



CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2022

Commission NO.: GG 272880