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SENATE REAPPORTIONMENT COMMITTEE HEARING  
WEDNESDAY, MARCH 21, 2012

Transcribed by:  
CLARA C. ROTRUCK  
Court Reporter

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

2 SENATOR GAETZ: Good morning. Thank you  
3 for being here this morning bright and early,  
4 we appreciate all of that, and ask committee  
5 members if they would take their seats, and  
6 members of the audience who would like to  
7 observe and perhaps testify, if you would find  
8 a spot. And would the administrative assistant  
9 please call the roll for the Senate Committee  
10 on Reapportionment?

11 THE CLERK: Senator Gaetz?

12 SENATOR GAETZ: Here.

13 THE CLERK: Senator Margolis?

14 SENATOR MARGOLIS: Here.

15 THE CLERK: Senator Altman?

16 SENATOR ALTMAN: Here.

17 THE CLERK: Senator Benacquisto?

18 SENATOR BENACQUISTO: Here.

19 THE CLERK: Senator Braynon?

20 SENATOR BRAYNON: Here.

21 THE CLERK: Senator Bullard?

22 Senator Dean?

23 SENATOR DEAN: Here.

24 THE CLERK: Senator Detert?

25 SENATOR DETERT: Here.

1 THE CLERK: Senator Diaz de la Portilla?  
2 SENATOR DIAZ DE LA PORTILLA: Here.  
3 THE CLERK: Senator Evers?  
4 SENATOR EVERS: Here.  
5 THE CLERK: Senator Flores?  
6 SENATOR FLORES: Here.  
7 THE CLERK: Senator Garcia?  
8 Senator Gardiner?  
9 SENATOR GARDINER: Here.  
10 THE CLERK: Senator Gibson?  
11 SENATOR GIBSON: Here.  
12 THE CLERK: Senator Hays?  
13 SENATOR HAYS: Here.  
14 THE CLERK: Senator Joyner?  
15 SENATOR JOYNER: Here.  
16 THE CLERK: Senator Latvala?  
17 SENATOR LATVALA: Here.  
18 THE CLERK: Senator Lynn?  
19 SENATOR LYNN: Here.  
20 THE CLERK: Senator Montford?  
21 SENATOR MONTFORD: Here.  
22 THE CLERK: Senator Negrón?  
23 SENATOR NEGRÓN: Here.  
24 THE CLERK: Senator Rich?  
25 SENATOR RICH: Here.

1 THE CLERK: Senator Sachs?

2 SENATOR SACHS: Here.

3 THE CLERK: Senator Simmons?

4 SENATOR SIMMONS: Here.

5 THE CLERK: Senator Siplin?

6 SENATOR SIPLIN: Here.

7 THE CLERK: Senator Smith?

8 SENATOR SMITH: Here.

9 THE CLERK: Senator Sobel?

10 SENATOR SOBEL: Here.

11 THE CLERK: Senator Storms?

12 SENATOR STORMS: Here.

13 THE CLERK: Senator Thrasher?

14 SENATOR THRASHER: Here.

15 THE CLERK: Senator Wise?

16 SENATOR WISE: Here.

17 THE CLERK: Quorum present.

18 SENATOR GAETZ: Thank you very much. A  
19 quorum being present, we are called to order.

20 Yesterday, as you will remember, just to  
21 put us back into the frame here, we TP'd the  
22 proposed committee substitute for SJR-2B after  
23 we got into a discussion about renumbering.  
24 Today we will need to get through that  
25 discussion in some fashion and report the bill

1 so it would be available for special order  
2 tomorrow.

3 Please recall that I asked Senators to pay  
4 particular attention to this. Please recall  
5 that the deadline for filing floor amendments  
6 is now changed to 5:00 p.m. tonight because we  
7 needed to have today's meeting today. So if it  
8 is your desire to file an alternative plan,  
9 submit it by three o'clock p.m. to the staff.

10 We had a little problem yesterday where we  
11 had one or maybe two Senators who felt as  
12 though there were flaws in their plan that  
13 might have been caused by not getting all of  
14 the kinks worked out, but we had both of those  
15 amendments, one filed ten minutes before the  
16 deadline, one filed two minutes before the  
17 deadline, a little tough then to work out  
18 technical problems in Senators' plans with that  
19 kind of lead time. So we would -- we would  
20 particularly request your indulgence and your  
21 help. If you have an alternative plan, file it  
22 by 3:00 today if you want the staff to assist  
23 you. If you don't want the staff to assist you  
24 and you want to just let it stand as it may be,  
25 that is your prerogative and your privilege,

1 and we certainly would respect that. But if  
2 you want help, file it by 3:00 today at the  
3 latest.

4 Here are three steps members should follow  
5 when filing an amendment: First, after  
6 completing a complete statewide plan on  
7 District Builder, Senators will use the "Submit  
8 Plan" feature to publish the plan to the Web.  
9 It is a good idea to alert Redistricting  
10 Committee professional staff that a plan is in  
11 the hopper so they can give it priority  
12 attention, kind of know that there is incoming.  
13 Once the staff starts file processing, it can  
14 take an hour or more to generate all of the  
15 maps and statistics and downloads and post them  
16 to the Web.

17 Then, secondly, once the plan appears on  
18 the Web, Senators would request that the Senate  
19 Bill Drafting Office prepare an amendment using  
20 the full legal description published on the  
21 Web.

22 Third, Senators would file the bar coded  
23 amendment with the Secretary's office when the  
24 bill reaches the floor.

25 Now, to let you know, I have a proposed --

1 I have filed an amendment to the proposed  
2 committee substitute, and I want to tell you  
3 what the amendment is, although we will not  
4 take it up right now. Basically all the  
5 amendment does is to remove all reference to  
6 the numbering system from the plan, just remove  
7 it, because what I would hope to do today, and  
8 I have taken this up with the Minority Leader  
9 and the incoming Minority Leader -- good  
10 morning. It is time to get up. That was my  
11 wake-up call. The Minority Leader and the  
12 incoming Minority Leader have both agreed that  
13 this morning, what we might do is take some  
14 time for members to discuss their preferences  
15 as to a numbering system. We had some comments  
16 made yesterday about what was wrong or right  
17 with certain systems. Why don't we continue  
18 that discussion so that everyone has the  
19 opportunity to share their views. Then at some  
20 point, I will ask Mr. Guthrie to lay out what a  
21 random system might look like so that we have a  
22 straw man and we can take shots at it, and then  
23 at some point we will try to develop an  
24 understanding as to what a majority of the  
25 Committee or maybe a consensus of the Committee

1           might be as to a numbering system, and then,  
2           obviously, any member can file an amendment for  
3           the floor tomorrow, and based on if we can get  
4           a consensus or get a majority view, I will file  
5           an amendment to try to represent that consensus  
6           or that majority view. Then, based on my  
7           discussion with the Minority Leader and the  
8           incoming Minority Leader, before we leave  
9           today, we would take a vote on the PCB as it  
10          stands after we had removed from the PCB any  
11          reference to a numbering system, that on the  
12          floor with plenty of notice for everybody, we  
13          would take up any amendments that you, any of  
14          you, or the Committee as a whole might have as  
15          to a numbering system.

16                 Does that seem like an okay way to go?  
17          Senator Latvala, you are recognized.

18                 SENATOR LATVALA: Thank you, Mr. Chairman.

19                 We do have still to -- from a procedural  
20          standpoint, it is my understanding that we do  
21          still have Senator Altman's amendment available  
22          since he only temporarily passed that  
23          amendment. So if he chose to bring that back  
24          up in the meeting today, that is still  
25          available, correct?



1           SENATOR GAETZ: Absolutely, and thank you,  
2           Senator Latvala. Since there was a comment  
3           made yesterday that perhaps the Chair had asked  
4           Senator Altman to withdraw his amendment, I  
5           made sure Senator Altman knew last night that I  
6           encouraged him to bring it forward, and so  
7           Senator Latvala is exactly correct, that  
8           amendment has been TP'd and it can certainly be  
9           brought forward by Senator Altman during this  
10          meeting today or it can be brought forward on  
11          the floor.

12          Senator Sobel.

13          SENATOR SOBEL: Thank you, Mr. Chair, good  
14          morning.

15          Many of us left our very good maps that  
16          were handed out in our computers and they are  
17          gone. Do you have any suggestions?

18          SENATOR GAETZ: What -- you mean the maps  
19          that the committee staff handed out?

20          SENATOR SOBEL: They were used yesterday.  
21          They were excellent. They are missing.

22          SENATOR GAETZ: Okay. Do we have any  
23          extra copies for those Senators who may not  
24          have --

25          MR. GUTHRIE: Thank you, Mr. Chairman,

1           yes, you requested as we were leaving yesterday  
2           that the room be secured, but the cleaning team  
3           was very efficient last night, so staff right  
4           now is reprinting the maps for all the  
5           Senators.

6           SENATOR GAETZ: Yeah, if you did not take  
7           your map with you or if you don't have it this  
8           morning and you need one, we will make sure you  
9           get one.

10           Anything else procedurally before we  
11           start? Senator Montford.

12           SENATOR MONTFORD: Mr. Chair, if we can  
13           too, the other handouts that you provided us,  
14           there were three sets, you know, the  
15           information that went with it as well.

16           SENATOR GAETZ: Mr. Guthrie.

17           MR. GUTHRIE: Thank you, Mr. Chairman.

18           Yes, I believe staff also is getting  
19           copies of the functional analysis reports for  
20           the districts, yes.

21           SENATOR GAETZ: Okay. Anything else  
22           anybody might need? Yes, Senator Sachs.

23           SENATOR SACHS: I think I had my lunch  
24           here -- no. Good morning, Mr. Chairman.

25           SENATOR GAETZ: It is being brought from

1 the 21 Club. It will be here.

2 SENATOR SACHS: Very nice. Thank you,  
3 sir.

4 Just to recap, we need to have any floor  
5 amendments in by 3:00 p.m. at the latest for  
6 them to be worked on by 5:00?

7 SENATOR GAETZ: Yes. The amendment  
8 deadline that was set yesterday when we learned  
9 that we would need to carry this meeting over  
10 until today, the amendment deadline is at 5:00  
11 today if you don't need any staff help, if you  
12 are going to walk in with a fully completed  
13 amendment and all you want is for it to be put  
14 on the Web, because it is already technically  
15 perfect and it is a statewide amendment. But  
16 if you would like staff help, and staff would  
17 like to help if you desire it, then we would  
18 ask that you bring your amendment in at the  
19 latest by three o'clock. But if you've got an  
20 amendment already and it is burning a hole in  
21 your pocket, we would love to have that  
22 amendment sooner rather than later. That way,  
23 every one will have a chance to see your good  
24 work.

25 Anything else? Yes, President Margolis.

1           SENATOR MARGOLIS: There are those of us  
2 who don't -- I personally don't care if I get a  
3 four-year seat or a two-year seat. I wonder if  
4 people should volunteer.

5           SENATOR GAETZ: People may say anything  
6 they wish to say if we go into a general  
7 discussion, which is what I would propose next.  
8 I would, however, ask Mr. Bardos to remind us  
9 what the Supreme Court said about intent --  
10 what they said and what they implied about  
11 intent as to a numbering system. Mr. Bardos.

12           MR. BARDOS: The Court said that numbering  
13 certainly is a -- is part of the prohibition  
14 against an intent to favor or disfavor, and it  
15 invalidated the numbering system that we had  
16 previously chosen because, in the Court's  
17 words, "It significantly advantages incumbents  
18 by increasing the length of time that they may  
19 serve by two years," and it also stated that  
20 the purposefully -- "That purposefully  
21 manipulating the numbering of the districts in  
22 order to allow incumbents to serve in excess of  
23 eight years would also appear to frustrate the  
24 intent of the voters when the term limits  
25 amendment was adopted."

1           SENATOR GAETZ:  So I -- I am not your  
2           lawyer, but I would be -- I would advise you to  
3           just bear in mind what Mr. Bardos has just  
4           said, and unless there's anything else -- yes,  
5           Senator Lynn.

6           SENATOR LYNN:  I just want to make sure  
7           that I am clear on something.  Is it -- is it a  
8           plan or is it possible to just consider the  
9           numbering system so that we end up with a map  
10          with the numbers on it, according to the way we  
11          all vote, and then the decision as to how to go  
12          for the eight or ten years would be a separate  
13          decision?

14          SENATOR GAETZ:  Senator Lynn, my  
15          understanding, and I certainly can be corrected  
16          by counsel, my understanding is that the two  
17          are related; in other words, if a determination  
18          is made that a particular district is numbered  
19          odd or even, based upon the underlying  
20          Constitution that is already in place, having  
21          nothing to do with Amendment 5, we already know  
22          that an odd-numbered district would run for a  
23          four-year term in a Presidential year.  That is  
24          already pre-decided.  So I think the issues are  
25          interrelated; however, what I've proposed to

1 the Minority Leader and the incoming Minority  
2 Leader for our -- for our procedures today is  
3 that I will withdraw -- I have an amendment  
4 that would take out any reference to the  
5 numbering system so that we could vote on the  
6 plan without the numbering system, then we  
7 can -- we can have an amendment dealing with  
8 the numbering system on the floor, and that  
9 amendment would be your amendment or anybody  
10 else's amendment, or it could be an amendment  
11 that the Committee itself would work on today.

12 SENATOR LYNN: Thank you.

13 SENATOR GAETZ: Yes, ma'am. Senator Hays?

14 SENATOR HAYS: Thank you, Mr. Chairman.

15 You know, this is not brain surgery that  
16 we are trying to do here, and I think the Court  
17 has given us very clear indication that they  
18 want this done in a neutral manner, and I don't  
19 know of a better neutral manner than the  
20 lottery that you proposed. I am in favor of  
21 stripping all the numbers off of it, starting  
22 from scratch. To me, we need to send to the  
23 Court a complete package that has the whole  
24 state numbered and with, you know, the proper  
25 numbers that were done by a random system and

1 be done with it. Why do we need to burn three  
2 or four more hours talking about it?

3 SENATOR GAETZ: Well, that is certainly an  
4 appropriate point to make, but I think  
5 yesterday there were Senators who were anxious  
6 to discuss the numbering system in concept and  
7 in specifics more, so by agreement with the  
8 Minority Leaders, we wanted to provide time for  
9 that. We will certainly offer up how a random  
10 system would work, and it can be discussed and  
11 it can be cussed, but if any members wish to  
12 discuss other systems, as Senator Latvala  
13 pointed out, Senator Altman had a system that  
14 he certainly can bring back up.

15 Anybody have any ideas that they would  
16 like to share, any criticisms, any points of  
17 view? Yes, Senator Dean.

18 SENATOR DEAN: Thank you, Mr. Chairman.

19 I share with Senator Hays one thought  
20 about the -- going back and presenting it to  
21 the Court. Our choices are very limited. If  
22 you look and see about the ballots when it says  
23 that we shouldn't have any weighted incumbency  
24 anywhere, that anything we try to do -- because  
25 I sat up for a couple of hours last night and

1 we tried to figure out all the issues that were  
2 settled ten years ago and try to be fair and  
3 put those numbers together. Any way you do it  
4 is going to end up to three to four seats and  
5 they're going to have an overlapping situation,  
6 we will change the complex of incumbency or  
7 what we are going to do. So, you know, if  
8 there is a way we can just take -- strip the  
9 numbers and just make it a lottery just the way  
10 that they wanted to do, because they are going  
11 to do it to us anyhow and -- or for us or  
12 however you want to determine that, but I feel  
13 that it is an issue that we can spend a lot of  
14 time on and accomplish nothing, and it is  
15 clearly the directive to have a lottery and  
16 make it work, and I just think that is the best  
17 thing to do.

18 SENATOR GAETZ: Thank you, Senator Dean.

19 Any other comments?

20 Senator Sobel.

21 SENATOR SOBEL: Thank you, Mr. Chair.

22 What are the specific parameters or  
23 guidelines we would have to follow? First of  
24 all, I believe you just said that if you picked  
25 an odd number, it was a four-year term, is that



1 correct, that is constitutional? I need some  
2 clarification on that.

3 SENATOR GAETZ: Sure. Mr. Bardos, can you  
4 tell us what the Constitution says? Or Mr.  
5 Guthrie, either one, or both.

6 MR. GUTHRIE: We can turn to the  
7 Constitution here. Let's go to the Senate  
8 website and pull down the Constitution, Article  
9 III, Section --

10 A VOICE: Fifteen -- 16.

11 MR. GUTHRIE: Article III, Section 15 says  
12 that "Senators shall be elected for terms of  
13 four years. Those from odd-numbered districts  
14 in years which are multiples of four, and those  
15 from even-numbered districts and even-numbered  
16 years, the numbers of which are not multiples  
17 of four."

18 2012 is a multiple of four, so Senators  
19 elected from odd districts in 2012 will get a  
20 four-year term. Senators elected in 2012 from  
21 an even-numbered district will get a two-year  
22 term.

23 SENATOR GAETZ: Is that satisfactory,  
24 Senator Sobel? Did you have a follow-up,  
25 ma'am?

1           SENATOR SOBEL: Yes, thank you, Mr. Chair.

2           SENATOR GAETZ: Please.

3           SENATOR SOBEL: So we pick -- say I pick  
4 an odd number. Then that number -- would that  
5 number in a random picking, would that become  
6 my Senate seat, or would we then try to put the  
7 numbers in some sort of rational order?

8           SENATOR GAETZ: Well, that presupposes how  
9 one might do a random system, and Mr. Guthrie  
10 is prepared to give us an example of how that  
11 might work, but before we go to any ideas that  
12 professional staff might have, Senators may  
13 have good ideas. We would like to hear any  
14 ideas that you may have.

15          SENATOR SOBEL: One other follow-up?

16          SENATOR GAETZ: Sure.

17          SENATOR SOBEL: Another parameter is that  
18 it has to be neutral, no preference for  
19 anybody. Are there any other parameters or  
20 guidelines that we would have to follow in  
21 setting up a numbering system?

22          SENATOR GAETZ: Mr. Guthrie and Mr.  
23 Bardos, we will ask both of you to opine. I  
24 think we have to follow the law, the  
25 Constitution. Please go ahead.

1           MR. GUTHRIE: Yeah, the direction we got  
2           on that is the direction we got for everything  
3           we've been doing during this extraordinary  
4           session, and it comes from the Supreme Court's  
5           opinion. The pertinent provisions, which Mr.  
6           Bardos read just a little bit ago, are on the  
7           screen for you all to see and read.

8           SENATOR GAETZ: Senator Detert, and then  
9           Leader Rich. Senator Detert.

10          SENATOR DETERT: Thank you, Mr. Chair, and  
11          I hope we are going to stick with what you  
12          outlined this morning that we would just go  
13          ahead and vote the maps out and then have this  
14          other discussion so I personally could have  
15          somewhat of a sense of accomplishment for the  
16          day that we accomplished one thing. But since  
17          we are on this road, what would be the matter  
18          with just starting left to right going 1, 2, 3,  
19          4, 5, 6, 7, 8, 9, 10, and then to determine who  
20          gets the four-year seat and who gets the  
21          two-year seat, you would just flip a coin and  
22          say all the odd numbers get this and all the  
23          even -- or heads, you get this, tails, you get  
24          that? It is what -- it is -- oddly enough, it  
25          is what we do in the state of Florida, if you

1 have an election that is a tie, you flip a  
2 coin, so what would be the matter with just  
3 sequentially doing the numbers? I just don't  
4 -- which we could probably do in six minutes.

5 SENATOR GAETZ: Well, let's see if we can.  
6 Why don't we just do a little -- a little  
7 real-time example. Without lifting your pencil  
8 from the map, to use Senator Latvala's phrase,  
9 why don't you see if you can do -- just walk us  
10 through. You got a big map there, John. See  
11 if you can walk us through without using any  
12 subjective judgment at all.

13 MR. GUTHRIE: Okay, and before I do that,  
14 let's make sure that we all are understanding  
15 the effect of the provision in Article III,  
16 Section 15. We cannot say that an odd number  
17 is going to get a two-year term. The  
18 Constitution says that an odd number is going  
19 to get a four-year term. So that is -- so if I  
20 were -- if I had no indication as to -- other  
21 than I wanted to sweep from the northwest down  
22 to the southeast of how these districts ought  
23 to be numbered and -- what I would do is  
24 something like, 1, 2, 3, 4. Now I have a  
25 choice to make, because a District 2 actually

1           adjoins 1, 2, 3, 4, 5 --

2           SENATOR GAETZ:   Could you move that just  
3           so that everybody over on that side could see,  
4           there is just a little confusion, while we want  
5           to make sure it is on tape and that everyone  
6           can hear.

7           MR. GUTHRIE:    So after --

8           SENATOR GAETZ:   Ben, why don't you hold  
9           the other end and help John out a little bit.  
10          That way John can work the middle of the map.  
11          There we go.

12          MR. GUTHRIE:    I see what you are saying.  
13          Come back this way.

14          SENATOR GAETZ:   There we go.

15          MR. GUTHRIE:    So we get to District 4 --  
16          well, we get to District 2, we've got a choice  
17          to make.   I could either very logically make 7  
18          the next district, or I could make 4 the next  
19          district, and depending on which choice I made  
20          there, I would be determining whether this  
21          district or this district gets a four-year  
22          term.

23          SENATOR GAETZ:   There's our problem.

24          MR. GUTHRIE:    And I run across it that  
25          quickly.   It is easy as we sweep across the

1 Panhandle. As soon as we get out of the  
2 Panhandle, it is going to be up to whomever it  
3 is assigning those numbers to determine who  
4 gets four years and who gets two years, unless  
5 you have some kind of a random scheme that  
6 predetermines which of these areas are going to  
7 get your odd numbers and which of these areas  
8 are going to get your even numbers.

9 By the way, the numbering that you see on  
10 the map right now, how that was applied is we  
11 used the rule that was explained in the staff  
12 analysis giving members who had short terms two  
13 years or less prior to redistricting preference  
14 for an odd-numbered district, giving those who  
15 had four-year terms prior to redistricting  
16 two-year terms, and then there were three --  
17 three exceptions, and that is explained in the  
18 staff analysis. That is a system that the  
19 Supreme Court found to be wrong. But what I  
20 did in this process is step one was using that  
21 rule, that systematic rule, based on four years  
22 and two years and trying to have those who had  
23 terms less than the constitutional provision of  
24 four years prior to redistricting have  
25 preference for a four-year term after

1           redistricting.

2                   SENATOR GAETZ:  But the Court said that  
3           was invalid.

4                   MR. GUTHRIE:  They said that was invalid,  
5           but to make the point, the first -- step one  
6           was I determined that this, this and this were  
7           going to be odd, this was going to be even, and  
8           that was simply by applying the rule.  So what  
9           the Court has told us here, I believe, is that  
10          the rule we use is an invalid rule, we need a  
11          different rule for determining what gets odd  
12          and what gets even.  After we assign the odds  
13          and evens to the entire state, then I or  
14          somebody else, really anybody could go and  
15          logically number the districts just as I did  
16          here, okay.  They -- first they were odd or  
17          even, and then I made the choice that -- to  
18          start here.  I had odd, odd, odd, so I went 1,  
19          3, 5.  The next one was an even, so I made it a  
20          2.  This was an even and this was an even, so I  
21          made them 4 and 6, but that was just a choice  
22          that I made trying to provide, as Senator  
23          Latvala has said, a logical sequence of  
24          districts as we swept across the state.

25                   SENATOR GAETZ:  Leader Rich.

1           SENATOR RICH: Thank you, Mr. Chair.

2           I am just wondering since Mr. Guthrie has  
3 a random plan that he could present to us, if  
4 we could possibly hear from him and get that  
5 plan and see how the body feels about that.

6           SENATOR GAETZ: Okay, Leader. We did have  
7 a couple of other Senators who wanted to speak,  
8 and then we could do that if it is agreeable to  
9 the Committee.

10          Senator Sachs and Senator Montford.

11          SENATOR SACHS: Thank you very much, Mr.  
12 Chairman.

13          I think we need to be cautious, because it  
14 is not necessarily the way that we number. The  
15 Court is very specific, and I think we need  
16 also to watch our discussion in talking about  
17 member districts or incumbents. These are not  
18 member districts. These are districts. They  
19 don't belong to anybody. And the issue with  
20 the Court is that member districts or  
21 incumbents must not be favored one way or the  
22 other.

23          So I think if we are looking at territory  
24 or land or districts, we can number them anyway  
25 we want as long as our discussion today with



1 regard to this issue does not or should not  
2 mention member or incumbent. These are  
3 territories, these are districts, they don't  
4 belong to anybody. And I would just suggest  
5 that, Mr. Chairman, if we could in our  
6 discussion today possibly refrain from using  
7 words such as "members" or "incumbents" so that  
8 we follow the dictates strictly of the Court's  
9 ruling.

10 SENATOR GAETZ: Well put. Senator  
11 Montford.

12 SENATOR MONTFORD: Thank you, Mr. Chair.

13 A couple of observations or questions. I  
14 believe in the Court's opinion they did not  
15 suggest a lottery, is that correct, they just  
16 simply -- they wanted it neutral?

17 SENATOR GAETZ: Mr. Bardos.

18 MR. BARDOS: The Court did not direct the  
19 method that we should use.

20 SENATOR MONTFORD: Okay. Then what would  
21 -- what would be a concern to me is, you know,  
22 we've all put a lot of work into this, and I  
23 would hate to see it go down the tubes just  
24 because of the numbering. Now, if we use a  
25 true lottery type, and it was suggested by a

1 couple of members yesterday that any number of  
2 things could happen, I mean, you could have all  
3 north Florida one and south Florida another, I  
4 mean, you know what the choices are there. If  
5 that truly was the result of a lottery, then I  
6 can't -- I mean, I can see the Court saying  
7 even though you use the lottery, the end result  
8 of this is there is gross inaccuracy -- gross  
9 inequities in the result of the lottery. You  
10 know, sometimes we have had people win two or  
11 three Lottos in Florida, the same people. Now,  
12 the odds of that occurring are one -- well, one  
13 in however many, ten million or trillion, but  
14 that could happen. So I would hate to see the  
15 whole thing thrown out simply because of a  
16 chance.

17 And Mr. Guthrie and others have -- you  
18 know, you've made some tough choices for the  
19 last nine months. I mean, these lines didn't  
20 just appear up there. You had a very  
21 well-defined process, as evidenced yesterday in  
22 your discussion about why the line went this  
23 block and not that block and so on.

24 And so I would encourage us not just to  
25 throw our hands up and say, "Let's do a

1 lottery." Let's dig a little deeper and see if  
2 there is a way that we can come up, because I  
3 am afraid that the end result of the lottery  
4 will be of such magnitude in the discrepancies  
5 that the Court won't accept it anyway, even  
6 though it was a lottery.

7 SENATOR GAETZ: Well, let us dig deeper,  
8 and you have a shovel, Senator, so we would be  
9 happy to have your idea or the idea of any  
10 other Senator who has a proposal or a plan.  
11 Senators have been working on this for some  
12 months.

13 Senator Latvala.

14 SENATOR LATVALA: Thank you, Mr. Chairman.

15 I am wondering -- Senator Montford raised  
16 a good point with regard to could the numbering  
17 be used to throw out the actual district lines,  
18 and I would -- we have with us on our legal  
19 team someone who has practiced before the  
20 Supreme Court for 20 or 30 years, and I would  
21 like to ask her what -- Ms. Tunnicliff, what  
22 she thinks about the propensity of the Court,  
23 if they don't agree with our numbering scheme,  
24 what is her opinion on whether or not that  
25 would impact the boundaries or the -- or

1           whether or not the Court would just redo the  
2           renumbering. In other words, would that be the  
3           occasion to draw new lines just because they  
4           didn't like the numbering, or would they just,  
5           you know, confine their activity to renumbering  
6           correctly the way they think it should be?

7           SENATOR GAETZ: That is a great question.  
8           We posed that question to a former Justice of  
9           the Supreme Court who is consulting with us,  
10          and he has offered his views, and  
11          Ms. Tunnicliff, we would love to have yours.

12          MS. TUNNICLIFF: I certainly would take  
13          the Justice's words over mine, and in my 30  
14          years of practicing in the Court, I never would  
15          glean to opine on what they might rule, but I  
16          do think we would certainly argue that it was  
17          severable, that the numbering system is  
18          severable. Whether the Court would do that, I  
19          don't know. They said that the numbering  
20          system as it was held unconstitutional here  
21          violated the Constitution because it favored  
22          incumbents. So anything that favors incumbents  
23          could be -- invalidate the whole plan. That is  
24          what the Court ruled here. It has to be  
25          neutral and not to favor or disfavor any

1 incumbents.

2 SENATOR GAETZ: Any follow-up questions,  
3 Senator Latvala?

4 SENATOR LATVALA: Historically, when the  
5 Court has found a problem with a specific part  
6 of a redistricting map, has it not historically  
7 targeted in on that problem area and only  
8 redrawn those problem districts as opposed to  
9 taking on the task of redistricting the whole  
10 state?

11 SENATOR GAETZ: Ms. Tunnickliff?

12 MS. TUNNICLIFF: This Court has never done  
13 that in terms of invalidating the plan. This  
14 Court has -- this is the first time it has  
15 undertaken to invalidate a plan.

16 SENATOR LATVALA: Well -- Mr. Chairman?

17 SENATOR GAETZ: Yes, of course, and  
18 Ms. Tunnickliff, if you could use the mike  
19 closer.

20 MS. TUNNICLIFF: Sorry.

21 SENATOR GAETZ: That way, we have a large  
22 Committee, everybody can hear you, and members  
23 of the press and the public.

24 Senator Latvala.

25 SENATOR LATVALA: I do recall that in 1992

1 the Supreme Court drew eight Senate districts  
2 in the central Florida area, in the Tampa Bay  
3 area, because of a problem with the map, not  
4 the whole dis- -- not the whole map. You know,  
5 can we get -- can we not get a legal opinion as  
6 opposed to a staff opinion?

7 SENATOR GAETZ: We have a legal -- you  
8 have asked for a legal opinion.

9 SENATOR LATVALA: Well, but --

10 SENATOR GAETZ: You are getting it from  
11 Ms. Tunnicliff.

12 SENATOR LATVALA: John is getting ready to  
13 try to answer, and that's --

14 SENATOR GAETZ: No, he is not going to try  
15 -- he will give an answer from his perspective  
16 if I ask him, or any other member does, but  
17 Ms. Tunnicliff has got the podium, and you are  
18 asking her questions, so please go ahead.

19 MS. TUNNICLIFF: I believe they did redraw  
20 just the section. So what you are saying is by  
21 that, by way of analogy, it is -- might well  
22 just zero on the numbering system and not  
23 invalidate all of the districts, and that is  
24 possible. As I said, the Court can do whatever  
25 it wants to do.

1           SENATOR GAETZ:  And, Mr. Bardos, since  
2           Senator Latvala would like a legal opinion,  
3           would you like to chime in?

4           MR. BARDOS:  Sure, and as I recall, the  
5           Court was involved in the drawing of the  
6           districts in '92 not because it invalidated the  
7           districts, but because there was a  
8           pre-clearance objection from the Department of  
9           Justice.  And we --

10          SENATOR GAETZ:  You got to speak into the  
11          mike.

12          MR. BARDOS:  So in '92, the Court  
13          invali- -- drew districts, not because it  
14          invalidated them, but because there was a  
15          pre-clearance objection from the Department of  
16          Justice.

17                 There's also a difference in the form of  
18          the proceeding here.  This is not the  
19          traditional remedial proceeding where the Court  
20          has no express constitutional authority to draw  
21          lines, but instead is remedying a plan that is  
22          found invalid.  Here we have a constitutional  
23          provision which authorizes the Court to draw  
24          lines.  So we don't know whether the Court  
25          would construe that express authorization to

1 draw lines as giving it more than simply  
2 remedial powers.

3 SENATOR GAETZ: And Leader Smith is next.  
4 Leader.

5 SENATOR LATVALA: Can I ask one more  
6 follow-up?

7 SENATOR GAETZ: Of course you can, sure.

8 SENATOR LATVALA: Thank you.

9 Is there not a number of places in this  
10 opinion where Justice Pariente, writing for the  
11 majority, indicated a lack of interest in  
12 redrawing the plan? Weren't there a couple of  
13 specific references to the fact that she did  
14 not believe it was the Court -- necessarily the  
15 Court's job to draw the plan?

16 SENATOR GAETZ: Who would you like that  
17 directed towards?

18 SENATOR LATVALA: Mr. Bardos. He is the  
19 one that answered the last one.

20 MR. BARDOS: Sure. There were those  
21 references. There were also references that  
22 stated that it would be the Court's duty to  
23 draw the plan if it were invalidated a second  
24 time.

25 It was also instructive the way that the



1 Court dealt with the U.S. Supreme Court's  
2 recent decision in Perry versus Perez. There  
3 the U.S. Supreme Court had reversed a trial  
4 court's decision where the trial court had  
5 decided to redraw the entire plan, and the U.S.  
6 Supreme Court stated that the Court should  
7 confine itself simply to those areas which were  
8 invalidated. And certainly that is the  
9 argument that we would make here, but the Court  
10 -- the Florida Supreme Court in this opinion  
11 did note that Perry versus Perez also involved  
12 issues of federal versus state sovereignty, and  
13 that could be a ground of distinction between  
14 that case and the role that the Florida Supreme  
15 Court would assume here.

16 And I don't mean to suggest by these  
17 comments that the Court would redraw the entire  
18 map. Certainly we think that the better course  
19 would be for the Court to simply remedy those  
20 areas that have invalidities, but I do want to  
21 make the point that this is a little bit  
22 different from the usual proceeding and we have  
23 not gone quite this far down the road before.

24 SENATOR GAETZ: Ms. Tunnickliff, did you  
25 want to also respond to Senator Latvala's

1 question?

2 MS. TUNNICLIFF: No, I think Mr. Bardos  
3 did a very good job of that.

4 SENATOR GAETZ: Okay. Then Leader -- did  
5 you want to follow up, Senator Latvala, or --

6 SENATOR LATVALA: No, thank you.

7 SENATOR GAETZ: Okay. Leader Smith.

8 SENATOR SMITH: Thank you, Mr. Chair, for  
9 a comment and then a question.

10 Yesterday I was kind of troubled at the  
11 end of the meeting when it was suggested that a  
12 discussion by the Supreme Court of the  
13 numbering system was in fact a type of judicial  
14 activism, I think was the term used. And so I  
15 went and read the opinion again last night in  
16 looking at page 20 and looking at supporting  
17 documents. It seems to me that the Supreme  
18 Court, because their review of reapportionment  
19 comes directly from the Constitution, that they  
20 do have to review the entire map with  
21 compliance for the entire Florida Constitution,  
22 and the eight is enough, like it or not, is a  
23 part of the Florida Constitution. So when the  
24 Supreme Court reviewed our plan, doing their  
25 job as granted to them by the Florida

1           Constitution, they had to look at compliance  
2           with all provisions of the Constitution. So  
3           they would be delinquent in their duties if  
4           they had not looked at the numbering system.  
5           So I would suggest that it wasn't a sense of  
6           judicial activism, but fulfilling their  
7           constitutional duty as prescribed by the  
8           Florida Constitution.

9                     Now, my question on this is to legal  
10           counsel, and I discussed this with the Chair  
11           over the weekend, my view of this opinion is  
12           that the Supreme Court looked more to results.  
13           When they said that the numbering system  
14           favored incumbents to give everyone ten years,  
15           it seems that they were looking more towards  
16           results, not how it came about. And so to even  
17           do a blind system, if the results would still  
18           bring about ten years for every, you know,  
19           incumbent, would the Supreme Court still --  
20           from legal opinion, I guess either counsel,  
21           would -- how do they feel the Supreme Court  
22           would still look upon this, because if they are  
23           going to look at results, then contrary to what  
24           was stated before, we do have to look at  
25           individual members in these districts when

1           doing the numbering, because results is what  
2           matter, not how we got there.

3           SENATOR GAETZ: Ms. Tunnickliff, did you  
4           hear the Leader's question and his point, and  
5           would you care to comment on it?

6           MS. TUNNICLIFF: I think what --

7           SENATOR GAETZ: You've got to speak  
8           directly into the mike, ma'am.

9           MS. TUNNICLIFF: I think what the Court  
10          said was that by granting the ten-year terms in  
11          the way it was numbered that there was -- they  
12          inferred intent by that, mal-intent to favor  
13          incumbents. So I don't think that necessarily  
14          another random selection -- there was no random  
15          selection, there was a purposeful, I think,  
16          intent to give everybody ten years, and from  
17          that, they inferred that it was to favor  
18          incumbents. A random system won't necessarily  
19          be viewed in the same light.

20          SENATOR GAETZ: Mr. Bardos, any comment on  
21          Leader Smith's point?

22          MR. BARDOS: I agree with the point that  
23          was just made. I think we have to keep in mind  
24          that the constitutional test is intent and not  
25          result, but that the Court has looked to result

1 as an objective indicator of intent.

2 I think the Court in this case found that  
3 because it was systematic and because the  
4 choice of the rule was, in its words,  
5 purposeful, and because it extended the  
6 potential term of all incumbents, that it was  
7 enough to infer intent. And so I believe that  
8 if we were to choose a -- again, a similar rule  
9 that gives all incumbents the same advantage,  
10 then we would meet with the same result, but  
11 there are -- because the ultimate test is  
12 intent, the dynamics might be quite different  
13 with a random selection.

14 SENATOR GAETZ: Leader, are you -- did you  
15 have any follow-up, sir? Okay. Senator Altman  
16 is next.

17 SENATOR ALTMAN: Thank you, Mr. Chairman.

18 I think one of the parts of the  
19 Constitution that we must consider, and it's  
20 because it is required in the Constitution that  
21 we have no less than 30 or no more than 40  
22 consecutively-numbered Senatorial districts.  
23 So if we were to follow the consecutive  
24 concept, that would be, I think, the first  
25 starting point in what is required in the

1 Constitution.

2 I know Senator Gaetz and I spoke last  
3 night. One option would do a consecutive  
4 numbering system from north to south or do a  
5 consecutive numbering system from south to  
6 north by a flip of a coin or whatever system we  
7 would determine which way we would number it.  
8 If you number from the north south, that gives  
9 you one set of numbers. Then if you were to  
10 number from the south north, that gives you the  
11 opposite set. So that meets the random test of  
12 the Constitution, and at the same time, by  
13 determining whether we number from the south or  
14 the north would meet the non -- the  
15 non-incumbent, the non-motivation, non-intent,  
16 and that was something I was considering as an  
17 amendment as well to -- sort of a hybrid.

18 SENATOR GAETZ: And, President Margolis, I  
19 think you were next.

20 SENATOR MARGOLIS: I wonder if I can get  
21 someone's opinion. In 1992 when we did the  
22 reapportionment, we sent the plan to the  
23 Supreme Court to draw the lines, and they were  
24 the ones that drew the lines in the  
25 congressional -- was it the congressional map,

1 John?

2 SENATOR GAETZ: Yes, I think that question  
3 is addressed to you as a historian of the  
4 process.

5 MR. GUTHRIE: I am not a lawyer.

6 SENATOR GAETZ: And your other habits are  
7 also improving.

8 MR. GUTHRIE: Thank you, Senator --  
9 Chairman. Thank you, Senator Margolis.

10 In 1992, as Mr. Bardos said, the  
11 Legislature passed a legislative joint  
12 resolution of apportionment. It was validated  
13 by the Florida Supreme Court. Subsequently, it  
14 was found to violate Section 5 of the Voting  
15 Rights Act in Hillsborough County. The Justice  
16 Department denied pre-clearance, sent it back  
17 to the Legislature for a fix. The President of  
18 the Senate, Gwen Margolis, and the Speaker of  
19 the House, T. K. Wetherell, wrote a letter to  
20 the Supreme Court saying that it would not be  
21 possible for the Legislature to remedy the  
22 defect that was enunciated by the Department of  
23 Justice, and the Legislature asked the Supreme  
24 Court to come up with a remedy for the  
25 Hillsborough area, and that is how we got the

1 reconfiguration of districts in the Pinellas,  
2 Hillsborough and surrounding areas.

3 SENATOR GAETZ: Madam President?

4 SENATOR MARGOLIS: And since we are having  
5 as much difficulty even having a conversation  
6 about the numbering issue, it would seem to me  
7 that we could -- we could send it over to the  
8 Supreme Court, districts in fact, and say, you  
9 know, we are having much difficulty numbering  
10 and -- and probably it would be -- it would be  
11 logical for you, since you have your own ideas  
12 about what the numbering should be, to go ahead  
13 and put the numbers in the boxes.

14 SENATOR GAETZ: That is certainly one  
15 suggestion, if we all heard it, and that was to  
16 simply defer the numbering question to the  
17 Supreme Court and let them number the  
18 districts. I think there may be -- there may  
19 be a little mumble of dissent from the back  
20 benches here.

21 SENATOR SACHS: Mr. Chairman, sir?

22 SENATOR GAETZ: Senator Sachs, and then  
23 Leader Rich had asked specifically that -- that  
24 we do an explanation of how a random system  
25 might work so that we can cuss it or discuss



1           it, but Senator Sachs, you are recognized.

2                    SENATOR SACHS: Thank you, Mr. Chairman.

3                    I would like some direction from the Chair  
4           as to how we are going to proceed so that we  
5           can begin to move on this issue in terms of are  
6           we going to have amendments, are we going to  
7           have suggestions, are we going to vote on them,  
8           or how do we proceed now that we are discussing  
9           this quite thoroughly?

10                   SENATOR GAETZ: Well, as I mentioned when  
11           we began the meeting, my discussion with the  
12           Minority Leader and the incoming Minority  
13           Leader was that we would have time this morning  
14           for an open discussion. Any Senators who had  
15           points of view, criticisms that they wanted to  
16           share, proposals that they wanted to offer,  
17           that we would have a time for that to occur.  
18           We've had just now a proposal from President  
19           Margolis. There may be others. I have  
20           indicated that also we would certainly ask  
21           professional staff to give us an explanation of  
22           how a random system could work, not the only  
23           way it might work, but how it could work, and  
24           then what I had proposed was that we take up my  
25           amendment, which I have pre-filed, and that

1 amendment simply would remove from the -- from  
2 the bill that is before us any reference to how  
3 the numbering system might be done so that we  
4 could vote on the rest of the bill, and then we  
5 would take up a numbering system amendment on  
6 the floor tomorrow, an amendment that would be  
7 timely filed and based, hopefully, on the  
8 discussion we would have today, but certainly  
9 individual Senators would be welcome to file  
10 their own amendments for their own favorite  
11 methods of doing things, and that would be  
12 consistent with what I described this morning.

13 Leader Rich.

14 SENATOR RICH: Thank you, Mr. Chair.

15 I just suggested that we do that because I  
16 would like to kind of get us off the dime. I  
17 mean, you know, we can just sit here and talk  
18 like this, but it would be productive, I think,  
19 if we hear this. If people don't like it, then  
20 we will know it and then move on to something  
21 else, but at least it would get us started.

22 SENATOR GAETZ: Okay. Well, what we  
23 have -- and we have two Senators who would like  
24 to speak, and we don't want to cut off debate  
25 or discussion, but we are arranging now to have

1 a demonstration of how a numbering system might  
2 work. Chris, are we close?

3 Okay. That might be within a couple of  
4 minutes, and it doesn't -- it is not the only  
5 way, it is not my way, but it is a way.

6 In the meantime, Leader Gardiner and then  
7 Senator Dean.

8 SENATOR GARDINER: Thank you, Mr.  
9 Chairman.

10 Just a couple of questions actually very  
11 similar to Leader Rich, but just so I know,  
12 regardless of what we intend to do based on  
13 your comments, that if you are an odd number,  
14 then you would be a four-year, and then an even  
15 would be a two-year?

16 SENATOR GAETZ: That is what the  
17 Constitution says.

18 SENATOR GARDINER: Okay. I just want to  
19 know what to be praying for, Mr. Chairman.

20 SENATOR GAETZ: Relief.

21 SENATOR GARDINER: The -- the -- and I do  
22 want the shorter one, but neither here nor  
23 there. Actually, question to John, it is along  
24 Leader Rich's point. If we do a lottery, is  
25 there the possibility that as you move your way

1 down the state -- let's say you get to the last  
2 ten districts. There is the possibility that  
3 those could all be even or those could all be  
4 odd. Is that accurate in a lottery system?

5 SENATOR GAETZ: Mr. Guthrie.

6 MR. GUTHRIE: Thank you, Mr. Chairman.

7 It is possible that -- if you flipped a  
8 coin 40 times -- or 20 times, it is possible  
9 that you would get heads 20 times. So it is  
10 possible, it is a very, very low --

11 SENATOR GARDINER: Sure.

12 MR. GUTHRIE: -- probability, but that  
13 outcome would be possible.

14 SENATOR GARDINER: Just to follow up,  
15 Mr. Chairman?

16 SENATOR GAETZ: Of course, Leader.

17 SENATOR GARDINER: Is there any -- because  
18 I think one of the concerns when I hear  
19 individuals talk about the lottery, is there  
20 any way that you can -- and I don't even know  
21 how to do it, is there any way to address that?  
22 Is there --

23 SENATOR GAETZ: If we were in Chicago, we  
24 could do that.

25 SENATOR GARDINER: And I guess that is

1 obviously just part of if we decide to go  
2 random, and I know that legal advice is  
3 probably encouraging that, I mean, that is part  
4 of the process that you may have a lot of even  
5 numbers and located all in one area, that is  
6 correct?

7 SENATOR GAETZ: Mr. Guthrie.

8 MR. GUTHRIE: If you were -- again, we can  
9 do the math and determine -- you will find that  
10 it is a very, very, very low probability that  
11 that sort of a -- of an outcome would occur.

12 A way to address that if you were inclined  
13 to do so would be to pre-set groups of eight or  
14 ten districts to be in a raffle among those  
15 eight or ten. And so you could conduct five  
16 or, you see, or four separate raffles and  
17 assign odds and even numbers evenly in each of  
18 those groups, if your concern was ending up  
19 with a situation where all the even numbers  
20 were in the north and all the odd numbers were  
21 in the south.

22 SENATOR GAETZ: Yes, if we -- I am sure  
23 there are -- I am sure Mr. Guthrie or members  
24 of the staff have a great deal of mathematical  
25 skill. If -- you know, I suppose there is a

1 formula by which we could show the  
2 extraordinarily unlikely odds of that  
3 occurring. If that would be of interest, maybe  
4 we could get somebody to do that, but your  
5 point is well-taken.

6 And Senator Dean and then Speaker  
7 Thrasher.

8 SENATOR DEAN: Mr. Chairman, at what point  
9 -- and we have heard your recommendation twice  
10 now of what you would like to see us do and  
11 your amendment to move forward. At what point  
12 this morning could we design and direct a time  
13 that we could get around to do what you are  
14 suggesting that we do?

15 SENATOR GAETZ: When the words stop  
16 flowing. When everyone has spoken out and has  
17 had an opportunity to articulate their point of  
18 view, then I have filed an amendment which  
19 would remove any reference to the method by  
20 which district numbers would be assigned so  
21 that then we could take up the rest of the map,  
22 if it is your pleasure, and then we could amend  
23 back in, if it is your pleasure, a methodology.  
24 But I want -- I don't want to cut off anybody  
25 who has an idea, a criticism or an observation.

1 We have until two o'clock, but I don't have to  
2 stay here until two o'clock. I can go have  
3 lunch with my wife. I love you all, but I love  
4 her more. So whenever we are all talked out.

5 SENATOR DEAN: If I get inpatient, I will  
6 call you again.

7 SENATOR GAETZ: You -- sheriff, you are  
8 looking a little impatient to me this morning.  
9 Speaker Thrasher.

10 SENATOR THRASHER: Thank you, Mr.  
11 Chairman.

12 I am cognizant of your long-time  
13 admonition about if you can't improve the  
14 silence, you know, don't say much. So all I --  
15 yesterday -- I want to go back to the fact that  
16 we went through the Court's ruling on the  
17 eight, and Senator Simmons said 32 were  
18 accepted. We went through eight. The Court  
19 was very specific about what they said they  
20 wanted us to do, they were pretty specific  
21 about the Lakeland issue, and then they said we  
22 had an invalid numbering system. It would be  
23 helpful, I think, before we actually get into  
24 the detailed explanation of the lottery system  
25 which you are proposing, Mr. Chairman, to have

1 Mr. Bardos or Ms. Tunnickliff actually give us  
2 what the Court said about the numbering system.  
3 What are the specifics in the opinion that  
4 would call us to go one way or the other?

5 I am of the opinion -- I am just going to  
6 say, and this is the last thing I am going to  
7 say, Mr. Chairman, that neutrality, neutrality  
8 is the overriding circumstance, and if we  
9 fail -- and I know my good friend and much more  
10 learned colleague than I am, Senator Simmons  
11 and I probably disagree on this -- I am very  
12 concerned that if we miss on any of the ten  
13 major components of what the Court asked us to  
14 do, that we do run the risk, the high risk, in  
15 my opinion, of having the entire plan thrown  
16 out. So, to me, this issue of neutrality and  
17 this issue of non-protecting incumbent  
18 numbering system is very, very important to the  
19 overall plan.

20 SENATOR GAETZ: Senator Sobel.

21 SENATOR SOBEL: Thank you, Mr. Chair.

22 We started this conversation about  
23 parameters, and I think we are getting there,  
24 and probably what will eventually come out of  
25 this is something that you are suggesting, Mr.



1 Chair.

2 But in the Constitution it says that we  
3 should have eight year -- eight years in the  
4 Senate. There are things in the Constitution  
5 that give us guidelines. It also says not to  
6 favor incumbents, that is the Fair Districts  
7 amendment. It also said -- it says about odd  
8 numbers. So we do have certain parameters and  
9 guidelines in the Constitution, and I believe  
10 the courts want us to follow those guidelines.

11 So in order to abide by the eight-year  
12 term limit, why not have the people who have  
13 served four years like sort of pre-qualify and  
14 get an odd number? So that addresses all the  
15 constitutional issues.

16 SENATOR GAETZ: Any other comments?  
17 Senator Storms, you are recognized.

18 SENATOR STORMS: Thank you, Mr. Chair, and  
19 I respect John Guthrie, but the issue is not a  
20 flip of the coin. The law of probability is  
21 not applicable in the method that is being  
22 proposed in the lottery system, because we are  
23 not flipping a coin. When you have one coin,  
24 you have two sides. You have two sides, that  
25 is all you have. The law of probability is

1           that if you have a 50 percent likelihood every  
2           single time, if the coin doesn't know what it  
3           flipped the last time, every time you flip that  
4           one coin, you have a 50 percent likelihood that  
5           it is going to be either heads or tails every  
6           single time. So while is it statistically  
7           improbable that you would flip it 20 times and  
8           it would come up heads 20 times, that -- you  
9           know, that is entirely irrelevant to the  
10          proposal that we have here, because in the  
11          proposal you have here, you don't have even two  
12          coins. And if you did have two coins, one of  
13          those coins has a 75 percent likelihood that  
14          one combination would come up 75 percent of the  
15          time if you had two coins, but you don't have  
16          two coins.

17                 What you have is 40 balls, 40 numbers.  
18           You would have 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,  
19           11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22,  
20           23, 24, 25, 26, 27, 28, 29, blah, blah, blah,  
21           right? So you have all of that, and then you  
22           have one coin that has two sides to it. The  
23           law of probability is not under those  
24           circumstances 50 percent of the time. You do  
25           have a probability that you would have an

1 occurrence of half of the state coming up with  
2 even numbers, because the law of probability is  
3 not a two-sided -- one two-sided coin.

4 The probability that occurs when you have  
5 40 separate numbers coupled with two balls, a  
6 red ball and a blue ball or whatever it is that  
7 you put it in the lottery system, then you are  
8 talking about a totally different law of  
9 probability.

10 And so I am just saying that if we are  
11 going to be talking about this and you are  
12 going to discount the possible appearance of  
13 impropriety, I want to call your attention to  
14 what the Supreme Court Justice said. The  
15 Supreme Court Justice said in a separately  
16 concurring opinion on page -- I believe it is  
17 Justice Lewis in his separately concurring  
18 opinion, that "The appearance of impropriety is  
19 as bad as the impropriety itself." So -- and I  
20 have lost the page number, but it is -- I  
21 believe that is on -- it could be on page 193.

22 But the point is that if you -- if we are  
23 talking about probability and you are injecting  
24 the law of probability into a lottery system  
25 and the numbering, it is rife with problems.

1           You are not going to be able to create  
2           something that is not going to create the  
3           appearance of impropriety. And I just have to  
4           say that for the record, because I appreciate  
5           what we are talking about flipping a coin, and  
6           we can sit here and discuss flipping the coin  
7           and the law of probability, it is statistically  
8           improbable, but that is not the system that we  
9           have that we are dealing with here, that is not  
10          the proposal under any circumstances. The fact  
11          is we have 40 separate districts, and so that  
12          is important, Mr. Chair.

13                 SENATOR GAETZ: Thank you, and to the best  
14                 of my knowledge, there is not a proposal in  
15                 front of us at the minute. Did you have one in  
16                 mind?

17                 SENATOR STORMS: Well, Mr. Chair, thank  
18                 you for asking, but I was speaking to the  
19                 proposal that you and I spoke about, and I  
20                 suggested what I -- what I thought yesterday,  
21                 and that is that it needs to be -- you need to  
22                 decide -- we need to decide. It needs to be  
23                 specifically in an orderly fashion across the  
24                 state, and -- that is constitutional -- and  
25                 then you announce in advance how you are going

1 to make those terms that you indicated; for  
2 instance, when Mr. Guthrie stood up and tried  
3 to show us the numbering system across, you'd  
4 just say, "Here is how we are going to do it."  
5 You either start at the bottom or start at the  
6 top. You announce in advance how you are going  
7 to do it so that there's no intent that can be  
8 attributed to it, and then you just number in  
9 an orderly fashion across the state. That is  
10 my preference, Mr. Chair, but it doesn't have  
11 to be the one that prevails, but I think you  
12 can do that. That completely removes any  
13 intent and also removes any appearance of  
14 impropriety, in my opinion.

15 SENATOR GAETZ: And we would welcome, and  
16 this Committee has from its beginning welcomed  
17 a proposal that would be described in such a  
18 fashion and that would have no appearance of  
19 impropriety and no subjectivity, and if there  
20 is a way that you might be able to describe  
21 that in writing in an amendment, we would be  
22 pleased to take it up and discuss it here  
23 today.

24 Yes, Senator Gibson.

25 SENATOR GIBSON: Yes, good morning, Mr.

1 Chair.

2 SENATOR GAETZ: Good morning.

3 SENATOR GIBSON: I think my question goes  
4 to Mr. Guthrie for clarity. So the new map  
5 that we submitted already, when you numbered  
6 that map, you looked at the numbers as they are  
7 today, and if someone -- if one area had an  
8 even number, you changed it to odd, and if it  
9 had an odd number, you changed it to even?

10 SENATOR GAETZ: What map are you talking  
11 about, ma'am?

12 SENATOR GIBSON: The map that we  
13 submitted --

14 SENATOR GAETZ: To the Supreme Court? You  
15 would like to know how the numbering was done  
16 on the map we did submit that was -- where the  
17 numbering was rejected? Is that what you would  
18 like, ma'am?

19 SENATOR GIBSON: I am trying to get to --  
20 yes.

21 SENATOR GAETZ: Okay.

22 SENATOR GIBSON: I think you are asking my  
23 question.

24 SENATOR GAETZ: I just want to make sure.  
25 We did discuss that earlier, but we will go --

1           SENATOR GIBSON: I want -- I think I must  
2 have missed it.

3           SENATOR GAETZ: That is okay. We will go  
4 over it again.

5           John, what was the method that was used  
6 that was submitted to the Court that the Court  
7 found invalid?

8           SENATOR GIBSON: Mr. Chair, I think my  
9 question is a little different than that.

10          SENATOR GAETZ: Why don't you rearticulate  
11 your question.

12          SENATOR GIBSON: Thank you, Mr. Chair.  
13 And you may have done this, I am just trying to  
14 get to it.

15          In the map that we submitted to the Court,  
16 did you change the numbers -- for example, my  
17 current number is a 1. Did you change that to  
18 an even number and do that same thing  
19 throughout the state where someone who  
20 currently has -- who currently as we sit today  
21 has an even number, did you change that number  
22 to odd, and if they had an odd number as we sit  
23 today, did you change that number to even --

24          SENATOR GAETZ: Mr. Guthrie.

25          SENATOR GIBSON: -- so it doesn't favor or

1           disfavor anybody?

2           SENATOR GAETZ:   Mr. Guthrie.

3           MR. GUTHRIE:   And the first thing we need  
4           to all bear in mind is what Senator Sachs said  
5           earlier.  All of these districts have been  
6           reconfigured, so --

7           SENATOR GIBSON:   I know.

8           MR. GUTHRIE:   -- none of them are what  
9           they were.

10          SENATOR GIBSON:   Right.

11          MR. GUTHRIE:   But the general rule that  
12          was applied to the map that was submitted  
13          previously to the Supreme Court is that if the  
14          area -- if the Senator from that area, if that  
15          Senator had a short term, less than -- two  
16          years or less prior to redistricting, we gave  
17          that Senator four years after redistricting.  
18          So it wasn't changing odds to evens or evens to  
19          odds.  The rule was looking at who the Senator  
20          might be that would run for reelection in this  
21          newly-configured district.  And I did not know  
22          for sure where the Senators were going to run.  
23          You could choose to run anywhere in the state,  
24          as could -- as could anyone, but we made a  
25          guess of that and applied the numbers based on



1 those Senators who got terms of two years or  
2 less prior to redistricting.

3 Now, there were 23 such Senators who had  
4 short terms prior to redistricting. We  
5 explained in the staff analysis the method we  
6 used for giving some of those Senators -- and  
7 you were one of them -- giving some of those  
8 Senators even numbers.

9 SENATOR GIBSON: Uh-huh.

10 MR. GUTHRIE: And the rule that was used  
11 was that we could avoid giving you multiple  
12 hardships by giving you a two-year -- by  
13 choosing you rather than one of the other ones  
14 among the 23 for the two-year term.

15 SENATOR GIBSON: Follow-up?

16 SENATOR GAETZ: Senator Gibson, now, that  
17 method has been declared invalid, so we can  
18 talk about it for a while longer if you would  
19 like, but it is invalid and it will not be  
20 before this Committee today, but if you have  
21 any follow-up questions, please go ahead.

22 SENATOR GIBSON: Thank you, Mr. Chair, and  
23 even though some of the map has been  
24 reconfigured, how much reconfiguration have we  
25 done where persons -- or not persons, but where

1 districts are totally not contained in lines  
2 that they were previously contained in, because  
3 -- and it may not work maybe -- and I think it  
4 will work towards the bottom.

5 For example, if you look at Santa Rosa and  
6 Okaloosa, they are largely in the same --  
7 obviously they are in the same place on the  
8 map, and they are largely contained within even  
9 a reconfigured district that was formerly a 2.  
10 And so if you change the numbers odd/even, it  
11 takes out the personal person and only goes to  
12 the landscape.

13 MR. GUTHRIE: I --

14 SENATOR GAETZ: Mr. Guthrie, I am not --  
15 would you care to comment on that comment? And  
16 then let's move forward.

17 MR. GUTHRIE: Well, you could apply such a  
18 rule. So you could -- you could look at the  
19 underlying territory of each of the new  
20 districts and you could determine -- give each  
21 of them a priority for getting an odd number  
22 based on the area of the underlying districts  
23 that is -- is either even or odd. You could  
24 use that as a rule.

25 The consequence of applying that sort of a

1 rule though also would be to -- tends to  
2 give -- by switching. If you have an even  
3 before redistricting and you have an even  
4 number after redistricting, the way it works  
5 today, and with the application of the Supreme  
6 Court's opinion in 1982 that Senate terms will  
7 be truncated, what those Senators will get is  
8 an even number is -- ran for election in 2010,  
9 so they got a two-year term, they will run for  
10 election in 2012, get another two-year term,  
11 and then they run for reelection in 2014, they  
12 will get a four-year term, and at the end of  
13 that, their term is up. So during the course  
14 of eight years, they will run three times for  
15 the State Senate. Whereas other Senators,  
16 those who were elected in 2006 -- excuse me,  
17 2008, will get a four-year term prior to  
18 redistricting and a four-year term after  
19 redistricting.

20 If we were not truncating terms and  
21 requiring all Senators to run after  
22 redistricting, then this issue would not  
23 present itself. The rule that the Senate  
24 applied earlier was trying to deal with the  
25 equities of that so that all Senators would

1 have the opportunity to run for, as is provided  
2 in the Constitution, two full four-year terms.  
3 And -- but as the Chairman said, that was  
4 invalid. Applying a rule which switches odds  
5 to evens and evens to odds by land area, you  
6 might want to consider whether that would be  
7 interpreted by the Court as having a systematic  
8 advantage to or disadvantage to incumbents.

9 SENATOR GAETZ: President Margolis, and  
10 then I would like to move into a series of  
11 motions. President Margolis.

12 SENATOR MARGOLIS: The other -- the other  
13 alternative is to make all seats four years  
14 now, and everybody runs every four years.

15 SENATOR GAETZ: I think we would have to  
16 amend the Florida Constitution to do that.  
17 That might be beyond the purview of this  
18 Committee.

19 Let me forecast to you a suggestion. I  
20 suggest that we take up an amendment, which I  
21 have filed, which removes from the PCB that is  
22 before us any reference to the numbering  
23 system. I suggest that we take up such an  
24 amendment and we vote on it, and then if it is  
25 passed, I suggest that we take up the PCB that

1 has the maps and the descriptions that we have  
2 gone through for yesterday and today, and that  
3 we vote on that, if that is your pleasure.  
4 Then, if you would like, we can have a  
5 demonstration of how a random system might  
6 work, Senator Storms might be working on an  
7 amendment that she might like to share with us,  
8 and we would take up, as I mentioned before  
9 this morning, we would take up the -- a  
10 decision on the numbering system as a floor  
11 amendment that would be timely filed by 5:00  
12 afternoon.

13 Is there any disagreement -- yes,  
14 Senator Latvala.

15 SENATOR LATVALA: Thank you, Mr. Chairman.

16 I was out of the room for a couple of  
17 minutes, and so you might have done this, and  
18 if so, I apologize, but before -- I mean,  
19 before we make a decision on taking it out of  
20 the bill, there's a lot of questions about what  
21 your -- what your plan is, what your system is.

22 SENATOR GAETZ: Well --

23 SENATOR LATVALA: It might be something  
24 that 23 of us decide is a great idea and we  
25 went to leave it in the bill, I mean --

1           SENATOR GAETZ: Well, yeah --

2           SENATOR LATVALA: -- couldn't we see that  
3 before we have the vote on the motion?

4           SENATOR GAETZ: You sure can, if that is  
5 your pleasure, absolutely. Mr. Meyer? This is  
6 an example of how a random system could work.  
7 It is not my system, it is not the system, but  
8 it is a system.

9           Mr. Meyer, Craig Meyer, Chief of Staff to  
10 the Senate President, you are recognized.

11          MR. MEYER: Thank you, Mr. Chairman, and  
12 today I am actually in my general counsel hat,  
13 so --

14          SENATOR GAETZ: General counsel, so he is  
15 a lawyer.

16          MR. MEYER: Yes, so there is that.

17          This is a system that is familiar to most  
18 of your constituents. I consulted with the  
19 Lottery after direction from the Chairman and  
20 from the President to think about randomness  
21 all weekend. I came up with your basic bingo  
22 system. There is no other way to describe it.

23          What we have done is we have purchased  
24 from an independent supplier the equipment  
25 here. Everybody is familiar with it. Again,

1 all your constituents will recognize it. In  
2 the cage on the right, we have numbers 1  
3 through 40. In the cage on the left, we have  
4 20 white balls and 20 green balls. We asked  
5 the Minority Leader her favorite color. She  
6 responded between white and green with green.  
7 Green is representing even here for our  
8 demonstration today. White will be odd. All  
9 you will do is rotate the machine, a number  
10 will come out. Simultaneously, we will rotate  
11 the other machine, and it will either be odd or  
12 even. If we were doing this, we would then --  
13 whatever number comes up, and we will do it in  
14 just a moment, then Mr. Guthrie will designate  
15 that as an odd or an even number. We will take  
16 -- we will not replace -- to address Senator  
17 Storms' concern, we will not replace the white  
18 or the green ball in the cage, because there  
19 are now 39 numbers and there will be 39 -- 20  
20 of one and 19 of the other, so that as we go  
21 through, we continually reduce the number of  
22 chances of it being an odd or an even to  
23 reflect the fact that we have a decreasing  
24 population.

25 When we are done with the odds or the

1 evens, then we have two choices, we can go  
2 either way. We can either just allow Mr.  
3 Guthrie to start up here, and if this ends up  
4 being an odd, it stays 1, if it is an even, it  
5 will be 2, and go on and just reflect whether  
6 we've selected odd or even for each one and  
7 renumber.

8 The other way you can do this is you could  
9 just reload the balls in the machine, the one  
10 through 40, and as you pull out a number -- I'm  
11 sorry, I got it backwards. We just do -- and  
12 you just pull out the number and --

13 SENATOR GAETZ: Let's not do two ways.

14 MR. MEYER: Yeah --

15 SENATOR GAETZ: We will have a hard enough  
16 time getting our arms around one way.

17 MR. MEYER: Yeah, the -- my brain is  
18 fried, because it is random --

19 SENATOR GAETZ: Let's just do one way --

20 MR. MEYER: Yes. So, anyway --

21 SENATOR GAETZ: -- to show us as an  
22 illustration.

23 MR. MEYER: -- this is how it will work,  
24 and, again, a couple other little twists that  
25 the Lottery suggested. If we do something like



1           this, we have a procedure manual for you to  
2           adopt that we would then put in the hands of an  
3           independent auditor, CPA, who would observe  
4           every step of the way to make sure that there's  
5           full compliance. This is what the Lottery does  
6           when they conduct a drawing. Every drawing  
7           they have is observed by an outside auditor who  
8           would test that the procedures have been  
9           followed. And so let me just kind of give you  
10          an example here of what we'd do.

11                    SENATOR LATVALA: Mr. Chairman?

12                    SENATOR GAETZ: Senator Latvala.

13                    SENATOR LATVALA: Could we sell  
14           advertising and help plug the hole in the  
15           budget at the same time? We can do this live  
16           on TV like they do on the Lottery.

17                    SENATOR GAETZ: To fund transportation  
18           projects in Pinellas County.

19                    Now, imagine here, because she has already  
20           agreed, that the Attorney General is on the  
21           Senate floor overseeing this. She has agreed  
22           to oversee it. She is the chief law  
23           enforcement officer of the State, and imagine  
24           that Attorney General staff are actually  
25           turning the tumblers. Now, try to pay close

1 attention so that we can show you how this  
2 could work. This is a way.

3 MR. MEYER: We have District 7.

4 SENATOR GAETZ: Okay. So Mr. Guthrie then  
5 goes to District 7 on the map, because we have  
6 plug numbers there now, we have placeholder  
7 numbers there now, so Mr. Guthrie goes to --

8 MR. GUTHRIE: Now, before we put any  
9 stickers on the map, everybody needs to  
10 understand that this is not -- not the lottery.  
11 This will be done again. So don't get attached  
12 to any of these little spots.

13 SENATOR GAETZ: Stay calm, everybody stay  
14 calm now. We are going to find District 7.

15 MR. MEYER: District 7 is odd.

16 SENATOR GAETZ: Okay, District 7 is odd,  
17 you saw how that happened. Okay, whoa, whoa,  
18 whoa, let's stop. Let's make sure everybody  
19 understood what happened. Are there any  
20 questions as to what happened? Senator Diaz de  
21 la Portilla was not sure. You are recognized.  
22 We will take this one step at a time. We are  
23 Senators.

24 MR. GUTHRIE: So 7 is an odd number,  
25 because that is what it is, but what if you

1 would have drawn a green ball?

2 MR. MEYER: It would be even.

3 SENATOR DIAZ DE LA PORTILLA: Seven would  
4 become an even number all of a sudden when it  
5 is an odd number?

6 SENATOR GAETZ: Ah, but wait --

7 SENATOR DIAZ DE LA PORTILLA: That is the  
8 wrinkle.

9 SENATOR GAETZ: The district, the  
10 district, the district that 7 is now would  
11 become an even number when the process is  
12 concluded. In other words, it could become  
13 either a 6 or an 8. So, again, stay steady in  
14 the boat, don't jump.

15 SENATOR DIAZ DE LA PORTILLA: Okay. Well,  
16 thank you, Mr. Chairman for supplying the  
17 missing premise, because that wasn't really  
18 explained that an odd number would shift over.

19 SENATOR GAETZ: Why we're taking it one  
20 step at a time.

21 SENATOR DIAZ DE LA PORTILLA: That was not  
22 explained by Mr. Meyer. Now with the missing  
23 premise that you supplied, we can draw the  
24 right conclusion. Thank you.

25 SENATOR LYNN: I have a question.

1           SENATOR GAETZ:  Let's -- all right, order,  
2           let's do order.  Just a second, just a second,  
3           just a second, just a second.

4           Senator Lynn, your are recognized.

5           SENATOR LYNN:  All right.  You assigned  
6           the even number to 7, but the numbers that --  
7           well, whichever -- but whichever is on this  
8           map, I mean, those numbers wouldn't be there  
9           anymore.

10          SENATOR GAETZ:  That is correct.  Senator  
11          Lynn makes an excellent observation.  Under  
12          this method, when we've finished, and we will  
13          go as far as you would like to show you the  
14          demonstration, when we finish, you would see  
15          that 7, which has now been assigned what on  
16          this system, an odd number, 7 would stay a 7,  
17          but if an even number, as Senator Latvala --  
18          I'm sorry, Senator Diaz de la Portilla raised,  
19          if it had come up with a green ball as opposed  
20          to a white ball, then it would be reassigned at  
21          the end either a 6 or an 8.

22          SENATOR LYNN:  All right.  But that wasn't  
23          exactly my question.

24          SENATOR GAETZ:  Same spot.

25          SENATOR LYNN:  Right now what we have is 8

1 is probably closer to my District 7. That is  
2 the existing number system. Now, as we see  
3 your current proposal, my District 7 basically  
4 becomes a District 8. So I am asking, in doing  
5 this numbering system with the lottery, will  
6 you be losing --

7 SENATOR GAETZ: Let's -- hey, folks,  
8 members, Senators, may we have order? Senator  
9 Lynn is asking a question that may be of  
10 interest to others. If you have a  
11 conversation, take it to an alcove.

12 SENATOR LYNN: You have proposed a map  
13 with numbers on it. They are not necessarily  
14 the numbers that would be closer to some of our  
15 existing districts. My existing district say  
16 is 7. It is now -- has become an 8. That is  
17 as close -- it's as closest to my District 7.  
18 All right. Are we going to use the lottery and  
19 assign to the numbers you have on that existing  
20 map in your proposal, or will those numbers go  
21 to what is closest to our current?

22 SENATOR GAETZ: The former, not the  
23 latter, and the reason is because we've had I  
24 think 23 districts reconfigured, some of them  
25 reconfigured in a rather substantial way. If

1           you look, for example, at District 10 that we  
2           had a great deal of conversation about  
3           yesterday, District 10 is virtually  
4           unrecognizable from its previous shape. Only  
5           18 percent of the population of District 10 as  
6           it exists today would exist in the PCB. So,  
7           therefore, the answer to Senator Lynn's  
8           question would be that we would use as  
9           placeholder numbers, the numbers that you see  
10          on the PCB. Those numbers would then change,  
11          perhaps, to an odd or even number, depending  
12          upon the luck of the draw.

13                 SENATOR LYNN: Thank you.

14                 SENATOR GAETZ: Now, let's try another  
15          number and see if we begin to understand how  
16          this might work. Okay.

17                 MR. MEYER: No. 4 stays even.

18                 SENATOR GAETZ: Okay. Let's see how this  
19          works. Go to District 4, and it stays even.  
20          Are we seeing how this might work? This is  
21          only an example. Shall we do another one?  
22          Senator Simmons.

23                 SENATOR SIMMONS: Mr. Chair, I have a  
24          couple of thoughts. One is I really believe  
25          that your theory is excellent, and the method

1           -- I mean, what you are talking about of having  
2           what can be called a white ball and a green  
3           ball and 20 of each, so, therefore, no matter  
4           what, at the end of the day, there are going to  
5           be 20 which are odd and 20 which are even.

6                     I would suggest that we use a methodology,  
7           however, that is more appropriate for the  
8           decorum of the Senate and it is similar to the  
9           way that lawsuits are logged in as who you get  
10          a judge. I don't believe that this needs to be  
11          so much as like having been a white, watching  
12          us, I suggest that we --

13                    SENATOR GAETZ: It's His Eminence the  
14          Cardinal who uses these.

15                    SENATOR SIMMONS: Yes, and I would suggest  
16          that we simply have the Secretary of the Senate  
17          on any particular day when it gets time for the  
18          allocation to be made, there are multiple kinds  
19          of machines that can be used. It can be  
20          videotaped so that there can be assurance of  
21          propriety -- of total propriety, that it is  
22          simply done, and if it is even one of these  
23          little clicker things that says odd or even,  
24          that the -- that the Secretary do those things,  
25          allocate, there's not this fanfare. The effect

1 is exactly the same. We have assured total  
2 amount of independence and fairness, but we do  
3 not have these balls on the floor of the Senate  
4 chamber and -- but the theory that you have  
5 suggested here, I bet everyone here, speaking  
6 about betting, is that everyone goes along with  
7 what you have suggested. I think your  
8 suggestion is excellent. I just suggest that  
9 we adopt a methodology that is much more  
10 restrained for the Senate. And like I say,  
11 videotaping in today's world assures absolute  
12 integrity to the system. It will happen in a  
13 period of probably less than 15 minutes. If  
14 somebody wants to come and watch, they can, for  
15 those who feel assured that the integrity of  
16 the system will be guaranteed by videotaping  
17 it. I suspect that most people won't show up  
18 and this will be as simple as the allocation  
19 and the fairness the same as is done when we do  
20 allocation of court cases to a particular  
21 judge, and we will not have the fanfare, but we  
22 will have the integrity assured.

23 SENATOR GAETZ: Thank you, Senator  
24 Simmons, and, again, I am not married to the  
25 idea of balls in a cage. What I am married to



1 is the idea of a random selection process. So  
2 I think your idea is a good one. Now, there  
3 may be Senators who for their own reasons might  
4 want to actually see all of this happening.  
5 They may not trust some sort of an electronic  
6 process. They might think that the Secretary  
7 of the Senate has a dog in the fight. Who  
8 knows? That is why, you know, I went to the  
9 Attorney General and I said, "If we have a  
10 random selection process, would you oversee it  
11 as the chief law enforcement officer of the  
12 state?" But I would be pleased as one Senator  
13 to have the Majority Leader and the Minority  
14 Leader develop a system that complies with the  
15 decorum of the Senate, as you have suggested --

16 SENATOR SIMMONS: That is a great idea.

17 SENATOR GAETZ: -- you know, whatever --  
18 whatever you believe would work, but let me --  
19 since Senator Latvala asked, you know, what my  
20 proposal would be, my proposal, it would be  
21 that we take out the section that is in the PCB  
22 now, let me just read what's in the PCB now  
23 that I would suggest taking out, and then I  
24 have a suggestion for language that would work,  
25 and if it is -- if this is agreeable that we

1           might discuss this, then I will offer motions  
2           to do it. Here is what I would take out: What  
3           is in there now says, "Notwithstanding the  
4           district numbers specified in Section 3 of  
5           Senate Joint Resolution 1176 or in this Senate  
6           joint resolution, the 40 Senatorial districts  
7           shall be renumbered based on a random,  
8           incumbent-neutral process of assignment  
9           conducted in public." That got some -- got  
10          into a little trouble yesterday.

11                 What I would suggest we do instead is to  
12          say, "Notwithstanding the district numbers" --  
13          and we will provide this in writing if you want  
14          to consider it; if you don't, that is fine --  
15          "Notwithstanding the district numbers specified  
16          in Section 3 of Senate Joint Resolution 1176 or  
17          in this Senate joint resolution, the 40  
18          Senatorial districts in the state shall be  
19          renumbered as follows: One, after the vote on  
20          final passage of this Senate joint  
21          resolution" -- in other words, the PCB as we  
22          have it -- "but before it is engrossed, the  
23          Attorney General shall oversee an  
24          incumbent-neutral procedure that randomly  
25          assigns Senate district numbers undertaken in

1 the Senate chamber in the presence of Senators  
2 and open to the public." If you don't like  
3 that, we will take it out. "Secondly, the  
4 result of this process shall be district  
5 numbers that are final and irreversible and on  
6 which no further vote will be taken. And  
7 third, that the Secretary of the Senate is  
8 hereby directed to engross the relevant  
9 randomly-selected district numbers into the  
10 appropriate sections of the pending Senate  
11 joint resolution before transmitting it to the  
12 House of Representatives."

13 Now, you know, I don't specify, you know,  
14 cages, I don't specify a procedure. I am happy  
15 to turn that over to the Majority and Minority  
16 Leaders or their designees.

17 Senator Simmons.

18 SENATOR SIMMONS: I think that your idea  
19 is excellent. I think that we ought not do it  
20 on the floor of the Senate. I think it should  
21 be done with the kind of decorum that is  
22 befitting of this highly, highly august body,  
23 and that it can be done in the Secretary's  
24 office, it can be done with simple clicking,  
25 odd/even, it is done in less than five minutes,

1           maybe ten minutes, it is videotaped to assure  
2           that it is done with appropriate integrity, and  
3           no one cares about the numbers after it is odd  
4           or even, because Mr. Guthrie can easily go from  
5           the top left and consecutively number, because  
6           all he needs to know is whether someone is odd  
7           or even. He doesn't care and we don't care  
8           what the numbering is. It therefore becomes --  
9           it could be -- ends up being 1, 3, whatever,  
10          but the point of it is that the numbering is a  
11          simple, what I would call mechanical process  
12          after we have done the allocation of odd or  
13          even.

14                 SENATOR GAETZ: Senator Hays.

15                 SENATOR HAYS: Thank you, Mr. Chairman.

16                 I am sure that Secretary Cindy O'Connell  
17          would be happy to offer the studio of the  
18          Lottery, which is right down Apalachee Parkway,  
19          and it can be televised to the entire state if  
20          that is what they want to do.

21                 SENATOR GAETZ: Sadly, not.

22                 SENATOR HAYS: She has a TV studio set up  
23          right there.

24                 SENATOR GAETZ: We asked her, and sadly,  
25          not.

1           SENATOR HAYS:  Oh, really?

2           SENATOR GAETZ:  Mr. Meyer.  Yeah.

3           MR. MEYER:  Yes, if I may, Mr. Chairman,  
4           because the Florida Lottery is also the host  
5           lottery for the 26-state Powerball, they are  
6           under an intergovernmental agreements relative  
7           to security, and part of those agreements are  
8           that those machines and that studio are  
9           restricted access for only those Lottery people  
10          who can conduct the Lottery.  They are giving  
11          away big bags of money, and they say, "We'd  
12          love to help you, but we are restricted in our  
13          agreements with the 25 other states that are in  
14          the Powerball as to who gets access to these  
15          machines."

16          SENATOR DETERT:  Mr. Chairman?

17          SENATOR GAETZ:  Senator -- excuse me,  
18          Senator Detert has the floor.

19          SENATOR DETERT:  Thank you, Mr. Chair, and  
20          we just keep getting bogged down and the  
21          simplest thing is becoming complex.  I for one  
22          would like to see us complete the process that  
23          you are demonstrating here for all 40  
24          districts, just -- I think it would solve a lot  
25          of questions later on if we see how the entire

1 map would fall out under this system, and then  
2 do we end up odd and even. I would just like  
3 to get a visual of that.

4 SENATOR GAETZ: Are there Senators who  
5 wish to be recognized?

6 SENATOR GIBSON: Yes, yes.

7 SENATOR GAETZ: Senator Gibson.

8 SENATOR LYNN: Mr. Chairman?

9 SENATOR GAETZ: Senator Lynn will be next.

10 SENATOR GIBSON: Thank you, Mr. Chair, and  
11 I certainly concur with Senator Simmons on not  
12 making a mockery out of this, but I don't  
13 understand the electric clicking -- I don't  
14 understand what he is suggesting that we do. I  
15 just -- I didn't hear all of what he said, but  
16 then I don't understand what the electric  
17 clicking -- what is that?

18 SENATOR GAETZ: Senator Simmons --

19 SENATOR SIMMONS: Certainly.

20 SENATOR GAETZ: -- would you please  
21 respond to the question?

22 SENATOR SIMMONS: Certainly. What I said,  
23 Senator Gibson, is that befitting the dignity  
24 of this body, I suggested a more toned-down way  
25 of doing this. I agree that Senator Gaetz has

1 hit upon the -- and arrived at the appropriate  
2 method of doing this in the sense of a theory,  
3 but the implementation of it is not and should  
4 not be as if this is a carnival. This needs to  
5 be done in a very dignified manner. His theory  
6 of approach is, I believe, a valid and viable  
7 method of doing this. All we need to do is it  
8 in an appropriately dignified manner.

9 Now, we can choose. It can be -- Senator  
10 Thrasher has suggested in John Guthrie's  
11 office. It could be anywhere that it is  
12 appropriately -- you know, it is videotaped.  
13 Those who want to appear, it is going to be in  
14 public. It can be in any place other than on  
15 the floor of the Senate with balls. It can be  
16 in a place that is, one, dignified -- I think  
17 the Secretary of the Senate's office is an  
18 example, it can be done there, and the Majority  
19 Leader, the Minority Leader can be there, and  
20 if anybody else wants to show up, they can be  
21 there, but I am looking at this to be done in  
22 the appropriate decorum.

23 SENATOR GIBSON: Mr. Chair --

24 SENATOR LYNN: Mr. Chairman?

25 SENATOR GAETZ: Okay. Let's take it one

1 at a time. Senator Gibson, you will have one  
2 more question --

3 SENATOR GIBSON: Yes.

4 SENATOR GAETZ: -- and then we will go to  
5 other people who like to make comments or ask  
6 questions.

7 SENATOR GIBSON: Yes.

8 SENATOR GAETZ: Senator Gibson, this is  
9 your question.

10 SENATOR GIBSON: Thank you, Mr. Chair.

11 So it is actually to Senator Simmons. You  
12 are saying that the process should be the same,  
13 just conduct it somewhere else?

14 SENATOR GAETZ: Senator Simmons.

15 SENATOR SIMMONS: It should be done in a  
16 very dignified manner, and I don't believe it  
17 should be on the floor of the Senate, I believe  
18 that we should choose a place, and I don't  
19 believe that we need to use white and green  
20 balls. I really believe that there are other  
21 devices that actually, through total  
22 randomness, can go with odd or even. It is  
23 like, you know, many of the little devices you  
24 can see where you click it and it just rolls  
25 over and you get a one or a two, it is either



1           odd or even. And you do that 40 times, you are  
2           going to solve the situation. There are  
3           mechanisms that can be done. The balls don't  
4           have to be in a roller like that. All I am  
5           saying is that Senator Gaetz has hit upon the  
6           appropriate way to do this. Let's do it in a  
7           respectful manner, that's all I'm saying.

8                     SENATOR GAETZ: Okay. We will do one more  
9           speed round of people who would like to make  
10          comments.

11                    SENATOR LYNN: Yes, I had my hand up.

12                    SENATOR GAETZ: And you are next, Senator  
13          Lynn. We will do one more speed round, and  
14          then we will see if we can move a -- move a  
15          motion.

16                    Senator Lynn.

17                    SENATOR LYNN: Yes. As I understand your  
18          amendment, it does not specify exactly how this  
19          will be done?

20                    SENATOR GAETZ: Correct.

21                    SENATOR LYNN: It leaves it up to a  
22          neutral party to make a decision as to how it  
23          will be done, but it basically kind of spells  
24          out that it will be very neutral, whatever  
25          procedure is done?

1           SENATOR GAETZ:  Yes, ma'am.

2           SENATOR LYNN:  Whether we are going ahead  
3           with Senator Simmons' very conservative ideas  
4           or we go with this kind of whatever or wherever  
5           we do it, that is unimportant to your  
6           amendment.  I think your amendment is very  
7           generic.  It basically spells out that we  
8           should have an approach that will be fair, and  
9           whether -- I am sure it will be transparent, I  
10          don't think the press would let us do it any  
11          other way.  And I would like to move that we  
12          consider your amendment, because all of these  
13          other things that we are talking about do not  
14          really pertain to your amendment, they pertain  
15          to many more specific kinds of things, so I  
16          would like to move your amendment.

17          SENATOR GAETZ:  Well, thank you, Senator  
18          Lynn.  If you would permit those who have a  
19          need to speak, and then we will get back to  
20          that.  We have several people who have their  
21          hands up.  We will go to Senator Sobel next,  
22          and then we are going to move to a -- we are  
23          going to move to try to get a motion before  
24          this Committee.

25          SENATOR SOBEL:  Thank you, Mr. Chair.

1           I agree with Senator Lynn, the amendment  
2           is basically very generic, but we were  
3           addressing the process and how to implement  
4           some form of the amendment, and Senator Detert  
5           talked about seeing it out, I think maybe we  
6           should see it out a little bit more. But this  
7           really deals with the concept of neutrality and  
8           randomness, and what Senator Simmons was  
9           saying -- I mean, Senator Gibson had an issue  
10          with it because she didn't understand it, and a  
11          lot of us didn't understand it, and the most  
12          important thing we need to do is to show the  
13          public that we are being fair and neutral and  
14          this is something that everybody understands.  
15          So dignity is one thing, but understanding the  
16          process so there is no question of authenticity  
17          in the process is very obvious. And the  
18          public -- everybody could relate to this. So I  
19          think this is a good idea, I think this is  
20          something that will be historical throughout  
21          the nation, but I do have concerns about also  
22          addressing the term limit issue. I mean, this  
23          addresses neutrality in terms of who gets how  
24          many years, but how do we address the issue of  
25          term limits? And that is why I said people who

1           have served four years should pre-qualify for  
2           a -- I think an even number -- an odd number.

3                   SENATOR GAETZ:   Okay.   Senator Thrasher  
4           and then Senator Dean and then Senator Latvala.  
5           Senator Thrasher.

6                   SENATOR THRASHER:   Well, you know, along  
7           the lines of Senator Simmons, Mr. Chairman, and  
8           we can sit here and debate in details, but I  
9           think he's agreed that your concept is a good  
10          concept, and what I am hearing from the  
11          members, I think they like your concept.   Would  
12          it be appropriate to ask Senator Simmons, the  
13          Majority Leader and the Minority Leader maybe  
14          to get together and work out the details of  
15          such a system outside of the scope of what  
16          Senator Simmons said, outside of the chamber,  
17          in wherever office we determine, but let them  
18          get together, come back with a proposal that we  
19          could -- that we could digest as opposed to  
20          trying to create it here in this Committee,  
21          which we obviously are having difficulty doing  
22          over the last two days.   It seems to me we are  
23          in concurrence on the concept.   Senator Simmons  
24          has raised, I think, a legitimate question  
25          about doing it on the floor of the Senate.   I

1 think the decorum issue is one that is  
2 appropriate to raise, and I think that he has  
3 some great ideas, and I think along with the  
4 Majority Leader and the Minority Leader could  
5 come up with a way of doing this in a fair,  
6 open, transparent way that all the Senators  
7 certainly if they wanted to participate in  
8 could, and certainly it would be transparent to  
9 the public also. So that would be my  
10 suggestion so we could move on to hopefully  
11 getting ready to vote on what we came here to  
12 vote on, and that is the adoption of the plan.

13 SENATOR GAETZ: We will take -- we will  
14 take two more Senators' comments, and then we  
15 will see if we can move a motion.

16 Senator Dean, then Senator Latvala.

17 SENATOR DEAN: Thank you, Mr. Chairman.

18 I think your recommendation is right on  
19 the money of where we need to be. We talk  
20 about transparency, nothing more than the  
21 Sunshine than the folks in the state of Florida  
22 watching us in this Committee roll green balls  
23 or white balls and the numbers. I don't -- and  
24 I really don't believe we need to have any  
25 other smaller group making decisions. I think

1 as the Chairman, you have been more than open,  
2 we are out in the Sunshine and I agree with my  
3 members, let's do move on.

4 SENATOR GAETZ: Senator Latvala, you are  
5 recognized.

6 SENATOR LATVALA: Could I ask a question  
7 before I make a comment?

8 SENATOR GAETZ: Of course you may, sir.

9 SENATOR LATVALA: The motion that you have  
10 before us actually specifies it has to be on  
11 the Senate floor, does it not?

12 SENATOR GAETZ: Yes, but based on the  
13 conversation here, I have struck that already,  
14 and, again, if I -- if I were to offer this  
15 amendment, it would be on the Senate floor, it  
16 would not be here. We are not going to do any  
17 surprise amendments. The only amendment that  
18 has been prefiled for this committee meeting  
19 today is an amendment to strike the language  
20 that folks objected to yesterday so that we may  
21 either vote up or down on a redistricting plan.  
22 If we can agree upon an amendment that  
23 addresses the numbering system, it would be  
24 offered with plenty of notice to all Senators,  
25 the press and the public, and would be timely

1 filed today and taken up on the floor tomorrow.

2 SENATOR LATVALA: Well, then, my comment  
3 is very strongly and vigorously, I believe that  
4 if we are going to go through this process,  
5 which I really don't agree with, and you know  
6 that, I think we can reasonably number the  
7 districts in sequence and without going through  
8 this, whether or not we need to pull the  
9 balls -- the red and green balls out, but it  
10 needs to be done on the floor of the Senate in  
11 front of everyone, every member of the Senate,  
12 in front of the press corps and in front of the  
13 people of Florida. This is an important issue,  
14 much too important. The last time I was in the  
15 Secretary's office, I do not believe the  
16 Secretary's office was big enough for the press  
17 corps and all the members of the Senate.

18 So I understand where Senator Simmons is  
19 coming from with the carnival-like atmosphere  
20 of using lottery balls, and perhaps there is a  
21 different variation of that, but I believe  
22 strongly that whatever we do needs to be done  
23 on the floor of the Senate in front of God and  
24 everybody.

25 SENATOR GAETZ: Okay, thank you very much.

1           Now, here is what I would like to do --  
2           are there -- is there a passionate need to  
3           speak? If not, here is what I would -- does  
4           somebody else have something?

5           Okay. Here is what I would like to do at  
6           this meeting now, if you are agreeable. We  
7           have an amendment that has been prefiled, and  
8           that amendment -- I am going to turn the Chair  
9           over to our Vice-Chair, President Margolis, I  
10          am going to offer my amendment, which only  
11          takes out the section that describes numbering,  
12          so that we may vote on the rest of the plan,  
13          and then when we get back after we do that, if  
14          we do it, then what I will do with -- unless a  
15          majority of the Committee objects, is I will  
16          ask the Majority Leader and the Minority Leader  
17          to meet and to help craft the amendment that I  
18          will offer tomorrow, which would describe how  
19          we would do a random system. That would be my  
20          method of proceeding, unless the Committee  
21          objects.

22                 SENATOR HAYS: Mr. Chairman?

23                 SENATOR GAETZ: Yes, Senator Hays.

24                 SENATOR HAYS: I feel that it is  
25                 imperative that before we leave this



1 extraordinary session, that we, the Senate,  
2 have a complete plan that includes the  
3 numbering. I am not opposed to your proposal  
4 there, but my question is, what happens -- how  
5 soon will those people meet, et cetera, et  
6 cetera? Candidly, I think we need to decide on  
7 the methodology today, and when we come in  
8 tomorrow or Friday to complete our action in  
9 this extraordinary session, it needs to be with  
10 numbers.

11 SENATOR GAETZ: That is exactly what I am  
12 proposing, Senator Hays. We are obliged to  
13 complete our business during the extraordinary  
14 special session. Any plan that we would take  
15 final action on on the Senate floor must  
16 include the numbers in order for us to transmit  
17 a message that is full, complete and legal to  
18 our colleagues in the House of Representatives,  
19 and so I am talking about moving forward very  
20 soon, like now.

21 SENATOR HAYS: Would it be -- would it be  
22 all right to go ahead then and do the deletion  
23 of that language that you spoke of, but then go  
24 ahead right here today on this Committee and  
25 appoint the Majority and Minority Leaders to

1 get that so that tomorrow when they come in,  
2 instead of us authorizing them to do it, they  
3 will have completed this?

4 SENATOR GAETZ: That is exactly what I  
5 have contemplated, if it is the will of this  
6 Committee.

7 SENATOR HAYS: Okay.

8 SENATOR GAETZ: Senator Diaz de la  
9 Portilla for a final comment.

10 SENATOR DIAZ DE LA PORTILLA: Mr. Chair,  
11 it is not really a comment, just a couple of  
12 questions to our counsel just to understand the  
13 issue of the numbering a little further.

14 My understanding and my reading of what  
15 the Supreme Court said was that the methodology  
16 that we used in sending 1176 over to them was  
17 an -- was an improper methodology because it  
18 favored incumbents, and the way they did that  
19 or arrived at that conclusion is they inferred  
20 an intent based on the result that a majority  
21 of the incumbents ended up with potentially  
22 ten-year terms. Obviously they would have to  
23 run for office and get elected, but the  
24 inference was that because the result was that  
25 the majority of incumbents would end

1           potentially with ten-year terms, that,  
2           therefore, they could impute or infer any --  
3           some intent to favor an incumbent.

4           My question of staff is, if we were to use  
5           a purposeful, deliberate method which does not  
6           result in the majority of incumbents  
7           potentially being favored, wouldn't that be  
8           something that we could present where it would  
9           be a lot more difficult to imply or infer or  
10          impute any kind of intent to favor incumbents?  
11          And that is to Mr. Bardos. That is it, I just  
12          want to --

13                 SENATOR GAETZ: Mr. Bardos, any comment?

14                 MR. BARDOS: If there were a rule that did  
15          not involve a random event that produced  
16          results that seemed to be even-handed, I think  
17          that would stand a much better chance than the  
18          one that was previously adopted. But there  
19          could still be allegations that that specific  
20          rule was chosen because the result was known,  
21          and that that result favored particular  
22          members. So there could still be an argument  
23          about that. I think it would be -- it would  
24          stand on better ground than the one that was  
25          previously chosen, but perhaps not. It

1           wouldn't be immune from attack.

2                   SENATOR DIAZ DE LA PORTILLA:   Just a quick  
3           follow-up?

4                   SENATOR GAETZ:   A quick follow-up.

5                   SENATOR DIAZ DE LA PORTILLA:   And so a  
6           totally random method, whether it is balls on  
7           the floor or something else, with more decorum,  
8           is a safer way, because there is absolutely no  
9           chance or would be absolutely no chance of  
10          imputing, implying, inferring any kind of  
11          intent to anyone, but it is not the only way,  
12          because we could purposefully, deliberately,  
13          like we are supposed to make all decisions as  
14          Senators as a deliberative body, we could  
15          purposely and deliberately come up with a  
16          method that isn't random, that would stand  
17          legal muster, as long as the result is one  
18          where it would be very difficult for a court to  
19          impute any kind of improper motive or intent.

20                   SENATOR GAETZ:   Mr. Bardos, any comment?

21                   MR. BARDOS:   I agree with that.   I think  
22          it is more difficult to infer intent when there  
23          is an intervening chance event, but I agree  
24          that there are rules that could be chosen.   The  
25          only question would be was that specific rule

1 chosen because of the results that it produces.

2 SENATOR GAETZ: All right. That being the  
3 case, President Margolis, will you take the  
4 Chair, and I have an amendment?

5 SENATOR MARGOLIS: Certainly. Senator  
6 Gaetz with an amendment.

7 SENATOR GAETZ: Thank you, Madam Chair.

8 Madam Chair, I have amendment which is bar  
9 coded 825072. That amendment simply deletes  
10 from the PCB the reference to numbering which  
11 was there yesterday. The reference which would  
12 be deleted, again, is, "Notwithstanding the  
13 district numbers specified in Section 3 of  
14 Senate Joint Resolution 1176 or this Senate  
15 joint resolution, the 40 Senatorial districts  
16 of the state shall be renumbered based on a  
17 random, incumbent-neutral process of assignment  
18 conducted in public."

19 Madam Chair, if this amendment is adopted,  
20 then it would be my suggestion that we move  
21 forward to take up the redistricting plan, and  
22 then we would move forward, as we have  
23 discussed in the Committee, to ask the Majority  
24 and Minority Leaders to assist in developing a  
25 dignified but -- but integral system that would

1 be open to the public dealing with the  
2 numbering of districts, and I will offer the  
3 amendment that I discussed before timely filed  
4 on the floor. That is the -- that is the  
5 amendment and that would be the effect of the  
6 amendment, Madam Chair.

7 SENATOR MARGOLIS: The immediate amendment  
8 is to remove all of the numbers from the map?

9 SENATOR GAETZ: No, ma'am. The amendment  
10 is to remove from the PCB the following  
11 sentence: "Notwithstanding the district  
12 numbers specified in Section 3 of Senate Joint  
13 Resolution 1176 or in this Senate joint  
14 resolution, the 40 Senatorial districts of the  
15 state shall be renumbered based on a random,  
16 incumbent-neutral process of assignment  
17 conducted in public." The amendment is to  
18 remove those words from the PCB so that we can  
19 vote on the PCB without reference to the  
20 numbering system, and then take up the  
21 numbering system as a separate matter.

22 SENATOR MARGOLIS: Thank you. The  
23 secretary will call the roll on the amendment.

24 THE CLERK: Senator Altman?

25 SENATOR ALTMAN: Yes.

1 THE CLERK: Senator Benacquisto?  
2 SENATOR BENACQUISTO: Yes.  
3 THE CLERK: Senator Braynon?  
4 SENATOR BRAYNON: Yes.  
5 THE CLERK: Senator Bullard?  
6 Senator Dean?  
7 SENATOR DEAN: Yes.  
8 THE CLERK: Senator Detert?  
9 SENATOR DETERT: Yes.  
10 THE CLERK: Senator Diaz de la Portilla?  
11 SENATOR DIAZ DE LA PORTILLA: Yes.  
12 THE CLERK: Senator Evers?  
13 SENATOR EVERS: Yes.  
14 THE CLERK: Senator Flores?  
15 SENATOR FLORES: Yes.  
16 THE CLERK: Senator Garcia?  
17 Senator Gardiner?  
18 SENATOR GARDINER: Yes.  
19 THE CLERK: Senator Gibson?  
20 SENATOR GIBSON: Yes.  
21 THE CLERK: Senator Hays?  
22 SENATOR HAYS: Yes.  
23 THE CLERK: Senator Joyner?  
24 SENATOR JOYNER: Yes.  
25 THE CLERK: Senator Latvala?

1 SENATOR LATVALA: Yes.

2 THE CLERK: Senator Lynn?

3 SENATOR LYNN: Yes.

4 THE CLERK: Senator Montford?

5 SENATOR MONTFORD: Yes.

6 THE CLERK: Senator Negron?

7 SENATOR NEGRON: Yes.

8 THE CLERK: Senator Rich?

9 SENATOR RICH: Yes.

10 THE CLERK: Senator Sachs?

11 SENATOR SACHS: Yes.

12 THE CLERK: Senator Simmons?

13 SENATOR SIMMONS: Yes.

14 THE CLERK: Senator Siplin?

15 SENATOR SIPLIN: Yes.

16 THE CLERK: Senator Smith?

17 SENATOR SMITH: Yes.

18 THE CLERK: Senator Sobel?

19 SENATOR SOBEL: Yes.

20 THE CLERK: Senator Storms?

21 SENATOR STORMS: Yes.

22 THE CLERK: Senator Thrasher?

23 SENATOR THRASHER: Yes.

24 THE CLERK: Senator Wise?

25 SENATOR WISE: Yes.



1 THE CLERK: Senator Margolis?

2 SENATOR MARGOLIS: Yes.

3 THE CLERK: Senator Gaetz?

4 SENATOR GAETZ: Yes.

5 SENATOR MARGOLIS: So the motion passes.

6 SENATOR GAETZ: Thank you, Madam Chair.

7 Now before us is the PCB. We have  
8 discussed it yesterday and today. Is there  
9 further discussion on the PCB? Further  
10 discussion? If not, the secretary will call  
11 the roll on the PCB. There are amendments that  
12 were TP'd. Is there anybody who would like to  
13 bring those amendments back up?

14 SENATOR DIAZ DE LA PORTILLA: Mr. Chair?

15 SENATOR GAETZ: Senator Diaz de la  
16 Portilla.

17 SENATOR DIAZ DE LA PORTILLA: I have an  
18 amendment that was TP'd yesterday, it  
19 specifically wasn't withdrawn, so it is  
20 available today, but I will withdraw it today.  
21 It isn't my intent to bring it up.

22 SENATOR GAETZ: Without objection, show  
23 the amendment by Senator Diaz de la Portilla  
24 withdrawn.

25 Are there any other amenders or proposers

1 of amendments that were with- -- that are TP'd  
2 who would like to comment, bring your  
3 amendments forward? Anybody? I believe that  
4 would be Senator Latvala and Senator Altman.

5 SENATOR LATVALA: Show mine withdrawn.

6 SENATOR GAETZ: Without objection, show  
7 the Latvala amendment withdrawn.

8 SENATOR ALTMAN: Show mine withdrawn.

9 SENATOR GAETZ: Without objection, show  
10 the Altman amendment withdrawn.

11 Now the bill is in proper posture. The  
12 PCB is before you unamended, except for the  
13 amendment which you just adopted. Is there a  
14 further discussion? Is there further  
15 discussion?

16 Senator Gibson.

17 SENATOR GIBSON: Yes, Mr. Chair. I am  
18 wondering, are we able to debate before we  
19 vote?

20 SENATOR GAETZ: Yes, ma'am, I called for  
21 debate three times. This will be the fourth  
22 time I call for it.

23 SENATOR GIBSON: Thank you, I didn't hear  
24 it. So am I recognized?

25 SENATOR GAETZ: Yes, ma'am, you are

1 recognized in debate, of course.

2 SENATOR GIBSON: Thank you, Mr. Chair, and  
3 thank you so much for certainly all of your  
4 patience and fairness in allowing us to ask as  
5 many questions as we needed and also to  
6 certainly make as many comments as we needed  
7 for clarity.

8 And I think what we have before us in some  
9 areas works for the people, and in other areas,  
10 I don't think not so much. I believe that some  
11 changes in the map have unfairly placed some  
12 minorities in a disadvantage to have their  
13 voices heard. Particularly between northeast  
14 Florida and certainly central Florida, there  
15 have been numbers of minorities who were  
16 previously at the table and could have their  
17 voices heard have now been sucked into other  
18 districts where they will not have that  
19 opportunity. And I understand the issue of  
20 compactness that we -- that must be addressed  
21 when we send our map back to the Supreme Court,  
22 but I also believe that the overriding issue,  
23 the Tier 1 issue, was not properly and fully  
24 addressed as it should be to afford everyone a  
25 seat at the table and everyone an opportunity

1 to make sure that their concerns are addressed  
2 in the Legislature.

3 And so that said, I also do not think that  
4 we have provided sufficient opportunities to  
5 increase minority representation in the  
6 Legislature, and so today I will not be able to  
7 support, as I had before, the PCB. Thank you.

8 SENATOR GAETZ: Thank you very much,  
9 Senator Gibson.

10 Further in debate? Further in debate?  
11 Leader Rich.

12 SENATOR RICH: Thank you, Mr. Chair, and I  
13 do want to say that I -- first of all, I  
14 appreciate all the work that the staff has  
15 done, particularly Mr. Guthrie, who I don't  
16 know how many hours of sleep he has had in the  
17 last week, but it can't be too many, and I  
18 think everyone really appreciates the  
19 tremendous commitment to this job that you have  
20 had.

21 Having said that, I think we have  
22 corrected some issues that the Court sent our  
23 way, but I think that the Court made clear in  
24 its opinion that for the purposes of its  
25 constitutionally required review, that this map

1 still, I think, has the effect of protecting  
2 incumbents, and as we all know, that is part of  
3 the new amendments to the Florida Constitution  
4 that prohibit legislative districts from being  
5 drawn with the intent of favoring or  
6 disfavoring an incumbent or candidate. I think  
7 that this map still indicates that it favors  
8 incumbents, and that is clearly what would be  
9 called incumbent protection.

10 So I think, as I said, we have fixed a few  
11 things, but I think the map simply does not fix  
12 a number of the things that the Court suggested  
13 to us that needed to be -- that needed to be --  
14 that needed to be corrected, and,  
15 unfortunately, I will be voting against the  
16 map, because I don't think that it has complied  
17 with what the Court suggested to us.

18 SENATOR GAETZ: Further in debate?

19 Senator Diaz de la Portilla.

20 SENATOR DIAZ DE LA PORTILLA: Mr. Chairman  
21 and members, my intent is to support the PCB,  
22 but I also intend to offer an amendment on the  
23 floor when we meet to address certain issues.

24 Just so that the public and those who are  
25 watching can understand and follow the process,

1 my staff was not able to see a map until late  
2 in the evening on Saturday, so we had very  
3 little time to address what I saw as some  
4 potential inequities in the plan, and so we had  
5 to -- very little time really to put together a  
6 map that addressed those inequities.

7 I believe that there is an opportunity to  
8 create an additional Hispanic seat -- Hispanic  
9 access seat in south Florida. I believe that  
10 the demographics justify it, I believe that the  
11 numbers are there and that they have been there  
12 for a while, and I believe that Hispanics,  
13 which are a language minority, and the first  
14 tier analysis mandates that we draw districts  
15 so as to allow racial and language minorities  
16 to select a candidate of their choice, that  
17 opportunity is there in south Florida, and I  
18 intend to present an amendment on the floor  
19 that addresses that.

20 I think that the key there rather than  
21 having maps that potentially, some could argue,  
22 would favor incumbents, we should draw maps  
23 that allow minorities, language or racial, to  
24 select a candidate of their choice, and there  
25 is such an opportunity justified by the numbers

1 and by the demographics in the south Florida  
2 area, and so I will work with staff today to  
3 try to address those issues in a way that makes  
4 sense.

5 I commend you, Mr. Chair and the staff,  
6 for the terrific job you have done in  
7 addressing the issues that the Supreme Court  
8 found on the eight districts that they felt  
9 were not compliant, but I think that there is  
10 an historic opportunity to enfranchise people  
11 in south Florida. The three so-called Hispanic  
12 seats in south Florida right now have in excess  
13 of 80 percent Hispanic population. The numbers  
14 are there, like I said, to justify an intent to  
15 make the case on the floor when we meet  
16 tomorrow, but I will be supporting this bill,  
17 Mr. Chairman and members, because I think this  
18 is a really, really good start, although there  
19 are some things that I would like to address,  
20 and I just wanted to say that for the record,  
21 Mr. Chair.

22 SENATOR GAETZ: Of course. Thank you,  
23 Senator Diaz de la Portilla.

24 Senator Negron and then Senator Detert and  
25 then Speaker Thrasher.

1           SENATOR NEGRON: Thank you, Mr. Chairman.

2           Florida Supreme Court rulings are not to  
3 be trifled with, and I want to commend you and  
4 the staff and members for this PCB.

5           If you look at an important footnote that  
6 we haven't talked about before, on page 189, it  
7 is footnote 64 of their opinion, it says,  
8 "Accordingly, any ultimate responsibility of  
9 the Court regarding reapportionment would be  
10 limited to the redrawing of the Senate plan,  
11 and this would occur only if the revised Senate  
12 apportionment plan is declared to be invalid,"  
13 and that is clearly this Court stating that if  
14 the Legislature, the Senate in this case,  
15 doesn't address the issues of the eight  
16 districts, then the Supreme Court would redraw  
17 the plan. And the reason I support this PCB is  
18 because I think there was a very logical,  
19 coherent and compliant effort made to go  
20 district by district in the eight districts and  
21 in the affected areas and solve the problems  
22 that the Supreme Court found. They are part of  
23 the process in reapportionment. And the reason  
24 I support this effort is because it was done in  
25 a way that was completely responsive to the



1 Court's ruling. And, you know, courts don't  
2 make suggestions, they make findings, they  
3 issue rulings, they make decisions, and the PCB  
4 in front of us took the eight districts where  
5 there were constitutional issues and it  
6 corrected them.

7 And then secondly, just a process point --  
8 and I certainly respect the right of any  
9 member, including myself, to file an amendment  
10 on the floor to any bill at any time, we all  
11 have that prerogative and there is nothing  
12 wrong with that. I would say, however, that it  
13 is probably not the best practice for all of  
14 us -- and I include myself in this, I am not  
15 lecturing other people, I am talking about all  
16 of us working together as a Senate -- I don't  
17 think it is a good practice to file an  
18 amendment to the only committee that is going  
19 to hear this bill and then withdraw the  
20 amendment and then, "Well, now, I am just going  
21 to do it on the floor." The whole purpose of a  
22 committee is so that an amendment can be  
23 offered and can be discussed, can be voted up  
24 or down, and, of course, a member has a right,  
25 if they get a bad result, to come to the floor.

1 No one is saying they should waive that right.  
2 But I just think that for all of us, if you  
3 file an amendment in a committee to a bill, you  
4 should either be in or you are out. And I have  
5 had amendments voted down this session in  
6 committee, and, you know, that is the way it  
7 goes, you didn't meet your burden of proof on  
8 that day, your amendment got voted down, but  
9 there is no dishonor in that. And so I would  
10 hope that we can, when amendments are filed,  
11 particularly to important bills like this and  
12 the only committee, that we can have a  
13 discussion, have an up-or-down vote and not  
14 have the floor used as the -- as the initial  
15 place to resolve amendments, because I don't  
16 think that's the best practice.

17 SENATOR GAETZ: Thank you, Senator Negron.  
18 Senator Detert.

19 SENATOR DETERT: Thank you, Mr. Chair.

20 I would just like to speak in support of  
21 the maps. I followed it from beginning to end,  
22 went around the state, heard the public input,  
23 I had one of my aides work on this pretty much  
24 full-time from day one, we have a huge notebook  
25 on it, and when these maps came out Saturday,

1 she kept saying, "Isn't it beautiful, isn't it  
2 beautiful," because the progress that we have  
3 had to make and it is like walking through  
4 Jello, unfortunately, and painful to watch, but  
5 to make sure everyone is included, that is the  
6 process.

7 This is the second time I have been  
8 through this process, and I really think there  
9 could be no disagreement with the fact that  
10 this is the most transparent, inclusive system  
11 ever in the history of the State of Florida.  
12 And those of us that have been through this  
13 before know how it was done, and thanks to  
14 technology, thanks to leadership, this is truly  
15 the most open and transparent, and the staff  
16 has done did a great job to try to answer  
17 everyone's questions and to bend over  
18 backwards, and I think we have a very -- this  
19 is as good a product as you can possibly get.  
20 You're never going to have a thousand percent  
21 buy in, but I wholeheartedly support the work  
22 of the Committee, and thank you very much.

23 SENATOR GAETZ: Thank you, Senator Detert.  
24 Speaker Thrasher.

25 SENATOR THRASHER: Thank you, Mr.

1 Chairman.

2 First of all, I want to start out, too,  
3 congratulating you and the staff. I don't  
4 think any of us can appreciate, I know I can't,  
5 the number of hours that you and they have put  
6 in on this incredible project. And, you know,  
7 a little bit of help that any of us have been  
8 able to give you is probably very de minimis  
9 and should have been a lot more probably as we  
10 have gone through the process, and for that, I  
11 almost apologize to you and to the staff for  
12 not us being more readily available to you.  
13 But you have done a great job, John and its  
14 team, and after many, many years of doing this,  
15 you are still as good as always, and I  
16 appreciate it very much.

17 Mr. Chairman, I just want to reiterate one  
18 thing while we are here, remind everybody why  
19 we are here. Why we are here is because the  
20 Supreme Court took our plan under the  
21 Constitution, they looked at it and they  
22 basically said there were basically ten areas  
23 that were of concern to them. And methodically  
24 yesterday I believe we went through every one  
25 of those areas, and today, particularly the

1 districts that they found that were in  
2 violation of the constitutional requirements.  
3 I think we went through every one of them. I  
4 think we -- at the end of that process, we are  
5 satisfied that we had done our best efforts to  
6 respond to the concerns raised by the Supreme  
7 Court, whether it was compactness or  
8 geographical districts or however the numbering  
9 was done, all of those things. I think we went  
10 through it in a way that I am very, very  
11 comfortable with. We also addressed the City  
12 of Lakeland, and I think you did a great job in  
13 doing that. And lastly, today, we have  
14 certainly spent enough time, I believe, on the  
15 numbering process, and I think have come up  
16 with a plan that will make everybody  
17 comfortable, you know, and I think Senator  
18 Simmons had a great idea about how to address  
19 that.

20 So I am -- I am totally comfortable with  
21 where we are in responding to what the Supreme  
22 Court asked us to do, and that is why we are  
23 here, we are responding to those very specific  
24 things that they asked us to do.

25 And I don't mean to pile onto Senator Diaz

1 de la Portilla either what Senator Negron had,  
2 but, you know, I would remind the members we  
3 are -- we are really halfway through the  
4 special session. We have another whole week.  
5 We could go to the President and ask for more  
6 time in this Committee if we want to address  
7 additional plans that potentially could be  
8 offered on the floor tomorrow. And I agree  
9 with Senator Negron that when we take the bold  
10 step to have gone through this process,  
11 withdraw a committee -- a particular amendment  
12 and then offer it on the floor when we won't  
13 have the benefit perhaps of the professional  
14 staff to do the kind of analysis that we have  
15 done in every single aspect of this process, I  
16 think is doing a disservice to the members of  
17 this Committee and the other members of the  
18 Senate who will be there to vote on this. So I  
19 guess I would say to Senator Diaz de la  
20 Portilla, certainly you have the right,  
21 Senator, to do that, but we do have another  
22 week left in this special session, and,  
23 frankly, if we need more time to look at  
24 additional maps, we ought to take the time to  
25 do it. And I would -- I would be more than

1 willing to stay here tomorrow, Friday and  
2 through the weekend until next Wednesday to  
3 make sure we get the job done and get it  
4 completed appropriately, particularly if there  
5 are going to be new maps addressed on the floor  
6 of the Senate tomorrow.

7 SENATOR GAETZ: Thank you very much,  
8 Senator.

9 And, Leader Smith, what I wanted to do,  
10 Leader, was to give you and Senator Rich the  
11 final word, but, Leader, you are recognized.

12 SENATOR SMITH: My comment, I guess, is  
13 for procedurally for when we are on the floor.  
14 Being that this is an extraordinary session  
15 once every ten years, is there a way -- and I  
16 guess this is for the Rules Chair also -- that  
17 we can allow staff on the floor to answer  
18 questions, because I think because this is an  
19 extraordinary situation, we have professional  
20 staff with the numbers and the capability, if  
21 there is a way through the rules that we can  
22 allow staff on the floor to address any  
23 amendments or things that are filed and have  
24 the -- our professional staff be available on  
25 the floor during this extraordinary session?

1           SENATOR GAETZ: Mr. Rules Chair.

2           SENATOR THRASHER: Certainly like any  
3 other major piece of legislation, the staff is  
4 available to be on the floor. But my point,  
5 Senator Smith, I don't think the staff is there  
6 to sit in front of us like this and address,  
7 you know, as we are in a committee today. I  
8 think that is the responsibility of the  
9 individual Senator to bring whatever process he  
10 has or questions they have to the Senate floor.  
11 Certainly the staff can assist in whoever is  
12 responding to that, i.e., Senator Gaetz, since  
13 it is his proposed committee bill, but to have  
14 the staff there to analyze anything that goes  
15 on on the floor of the Senate as we are doing  
16 here today, I don't think would be appropriate  
17 to do.

18           SENATOR GAETZ: Leader, did you wish to  
19 follow up?

20           SENATOR SMITH: I guess you answered in  
21 the tail end of your explanation the opposite  
22 of, I guess, what I would like to see, because  
23 during normal session, staff is on the floor if  
24 there is a big bill, and they are giving the  
25 answers to the bill sponsor. I wanted to take



1 the extraordinary step and have staff be able  
2 to answer questions on the floor as we do in  
3 committee. I think that would be appropriate  
4 being that this is an extraordinary situation.

5 SENATOR GAETZ: Leader Smith, if I might,  
6 Rules Chair, I think you have raised a rules  
7 question as well as a decorum question for the  
8 floor. I can tell you this, that I am not  
9 going on the Senate floor tomorrow unless --  
10 unless John Guthrie and Andy Bardos are in good  
11 health and unless they are there on the floor  
12 sitting next to me so that they can advise me  
13 and I can give accurate answers. But as to  
14 whether they would have the ability to respond  
15 themselves on the floor of the Senate, may I  
16 ask the Rules Chair to take that under  
17 advisement and get back to Senator Smith on  
18 that?

19 And I believe that Senator Latvala was  
20 next. Senator Latvala, sir.

21 SENATOR LATVALA: Mr. Chairman, the  
22 members of the Senate and the members of this  
23 Committee have been operating under a schedule  
24 that you, as the Chairman, put together and  
25 that we adopted on the floor last week, and

1           that schedule had -- you know, it had a  
2           deadline for amendments for the floor today.  
3           We didn't put out a schedule that said there  
4           couldn't be any amendments after committee. We  
5           put out a schedule that said there were going  
6           to be floor amendments. We -- and you and I  
7           had a conversation last week about the time  
8           frame between when your amendment came out,  
9           which -- you know, which the staff had, you  
10          know, about eight days to work on after the  
11          Supreme Court decision came out, and of an  
12          adequate amount of time between when your  
13          amendment came out and when other people's  
14          amendments would be allowed, and your amendment  
15          came out at noon on a Saturday --

16                 SENATOR GAETZ: 10:20 a.m.

17                 SENATOR LATVALA: Okay, a Saturday, an  
18          hour and 40 minutes before noon on Saturday,  
19          and then the amendment deadline was Monday  
20          morning at noon. And there was a lot of -- for  
21          those people working on amendments, we were  
22          scurrying around, we had people helping us like  
23          Senator Simmons working with the staff over the  
24          weekend, and even with the staff-prepared  
25          amendments, we had glitches in them, you know,

1           because of, you know, really three or four  
2           hours of office time on the Senate schedule on  
3           Monday morning to get them together before the  
4           deadline. And we have heard from you several  
5           times about how close we were to adhering to  
6           that deadline when we really only had four  
7           working hours for the staff, you know, from  
8           eight o'clock in the morning until noon on  
9           Monday to get those amendments ready.

10                   Now today we are hearing a drum beat of we  
11           shouldn't have any amendments tomorrow that  
12           hadn't been vetted before the Committee. You  
13           know, I think that effectively disenfranchises  
14           all the members of the Senate that are on this  
15           Committee, number one, and number two, there  
16           are issues that have come up during the week,  
17           like, for instance, in Senator Storms' district  
18           with the nipple that was put on Hillsborough  
19           County from Lakeland and Plant City that I have  
20           had a lot of local feedback about from the  
21           county commissioner from out there and the city  
22           commission and the Mayor and the Chamber of  
23           Commerce, that it has taken a couple of days to  
24           assimilate this week to get that local input,  
25           and, you know, very well may have an amendment

1 on that tomorrow. And, you know, I don't think  
2 it is fair to be starting a drum beat of  
3 because we couldn't get an amendment in by noon  
4 two days ago, we can't have it considered or we  
5 shouldn't have it considered or there is  
6 something wrong with having it considered.  
7 And, you know, this is the Florida Senate, and,  
8 you know, individual Florida Senators who want  
9 to submit amendments, who want to be involved  
10 in this process, should be allowed to be  
11 involved in this process without fear or  
12 intimidation. And, you know, I just -- I just  
13 think it is -- this drum beat of no amendments  
14 for tomorrow is -- I guess it is peremptorily  
15 in nature to try to discourage people from  
16 filing amendments, but I think it is  
17 unfortunate. And, you know, with this -- we  
18 are dealing with the schedule that you set up,  
19 Mr. Chairman, and we're trying our best to deal  
20 with -- to work within that schedule, and we  
21 all have a limited amount of time up here,  
22 there is a limited amount of staff and we are  
23 going to do the best we can on it.

24 SENATOR GAETZ: Thank you, Senator  
25 Latvala, and since you raised a couple of

1 points, let me respond just procedurally.

2 First of all, you have heard opinions from  
3 different Senators today. You haven't heard a  
4 drum beat, unless you wish to characterize it  
5 that way. You have heard opinions from  
6 different Senators about the approach that they  
7 use or that they feel is appropriate when an  
8 amendment is discussed and then withdrawn in a  
9 committee. You have not heard the Chair state  
10 that amendments would not be welcomed on the  
11 floor. You have heard the Chair say that in  
12 order for amendments to be proper and to be  
13 technically correct, please give us those  
14 amendments in advance so that we can make sure  
15 that this professional staff can help.

16 Let me say as well that contrary to what  
17 was said earlier, maybe some Senator didn't see  
18 the map until late on Saturday, but the map was  
19 published. The proposed -- the Chair-- -- what  
20 was styled as the Chairman's amendment, which  
21 is the PCB, was published at 10:20 a.m. on  
22 Saturday, not Saturday night. Number two,  
23 there weren't just four hours, working hours,  
24 to work on the amendatory process. I can tell  
25 you because I was here that this professional

1 staff worked virtually around the clock during  
2 those weekend days to assist Senators who were  
3 contacting them, who were discussing amendments  
4 with them as late as ten and eleven o'clock at  
5 night. So it wasn't four working hours.

6 And this is the Florida Senate, and  
7 everybody is entitled to offer an amendment  
8 according to the rules, but let's not -- let's  
9 not get, you know, too emotional here on any  
10 side of this issue. You can offer amendments.  
11 The amendment deadline is five o'clock today.  
12 We ask that you get your amendments in, if  
13 possible, by 3:00 or earlier so that we can  
14 make sure that they are technically correct.  
15 You will not see me on the floor tomorrow  
16 saying that people should not offer amendments.  
17 You will see me saying that if there is a  
18 wholesale change in the map, if suddenly we  
19 discover a whole new plan, fully grown, sprung  
20 from the brow of Zeus, suddenly at the end  
21 after a year of waiting, you might have me lift  
22 my eyebrows rather rhetorically at that. But  
23 amendments of the kind that you are describing,  
24 Senator Latvala, for the area that you -- that  
25 you mentioned, absolutely, you will see no

1 criticism from me now or then. This is the  
2 Florida Senate.

3 Other comments? You have already spoken  
4 in debate. Other comments in debate? If not,  
5 we will go to the Majority Leader and the  
6 Minority Leader to close -- I'm sorry?

7 A VOICE: You addressed your comments to  
8 me?

9 SENATOR GAETZ: I addressed no comment to  
10 you. We will be in order. Is there a Senator  
11 back there who wished to speak? Senator Dean.

12 SENATOR DEAN: Mr. Chair, I want to  
13 reiterate what you said and about the fact that  
14 everybody has a chance to present amendments,  
15 but also they remember that we have a chance to  
16 vote those amendments up or down, and it just  
17 didn't start today or on a time clock on  
18 Saturday or on Friday or Thursday. We have  
19 been a year in this process. And I feel it is  
20 important to take all the time necessary to  
21 expose any good idea, but we as a Senate have a  
22 right to vote those amendments up or down. And  
23 I want to commend you on the process so far,  
24 and let's keep moving on. Thank you.

25 SENATOR GAETZ: Thank you very much.

1           Other Senators in debate who have not had  
2 a chance to speak? If not, Leader Gardiner,  
3 and then we will go to Leader Rich.

4           SENATOR GARDINER: Mr. Chairman, is this  
5 in debate or in regards to what we talked about  
6 for the --

7           SENATOR GAETZ: We are in debate on the  
8 PCB, and then we --

9           SENATOR GARDINER: Okay.

10          SENATOR GAETZ: If there's no further  
11 debate on the PCB, we will call the roll.

12          SENATOR GARDINER: Thank you, Mr.  
13 Chairman, and I want to thank you, I want to  
14 thank John Guthrie and his team. There were a  
15 few of us that have spent a lot of time trying  
16 to understand every aspect, and I got a real  
17 lesson last week as to how difficult it truly  
18 is to draw a map. You know, you can have an  
19 idea, and, you know, people talk about  
20 appendages, some of these appendages are a  
21 hundred sixty, 180,000 people. That is the  
22 size of a House district. And while people  
23 talk about appendages, you look around the map,  
24 there are some appendages, and that is just the  
25 way it is, but those are real people and those



1           are constituents and those are communities that  
2           have a history that deserve to have the best  
3           map put forward that represents all interests.  
4           And Senator Gaetz, Chairman, I want to thank  
5           you for your openness to ideas and suggestions  
6           from all of us. I think every one of us can  
7           say at one time or another that we have come in  
8           with an idea.

9                        We have been very specific that the  
10           Florida Supreme Court picked out eight areas  
11           that they felt as though we needed to address,  
12           and we have focused on those eight areas, and I  
13           think we are bringing forward a very good,  
14           comprehensive plan that we can be proud of.  
15           And, Chairman, I want to thank you, and again,  
16           John, thank you to you and your team, and I  
17           look forward to supporting this good amendment.

18                        SENATOR GAETZ: Thank you, Leader.

19                        Leader Rich, I know you have spoken in  
20           debate, but out of courtesy, we will allow you  
21           to close debate.

22                        SENATOR RICH: Thank you, Mr. Chair.

23                        I am not going to repeat what I said  
24           before, but I do just have one comment. It is  
25           kind of how fast we forget.

1           I remember when we were closing on the map  
2           the original time, that I had an amendment, and  
3           the amendment I actually TP'd because of the  
4           fact that there were some errors in it, through  
5           no fault of anybody here. And I don't know if  
6           some of you remember the conversation at the  
7           committee meeting, because Senator Thrasher  
8           thought that I might be looking to put it in on  
9           the floor the next day, and Senator Lynn and  
10          others commented very strongly about the fact  
11          that they thought that that was inappropriate,  
12          especially if it were, as you kind of stated, a  
13          wholesale map, because we have had a process  
14          that has gone on for months and months and  
15          months, we have had people all over this state  
16          commenting, coming to our reapportionment  
17          hearings, we have had ours, and I took that  
18          into consideration at that time. And I think  
19          that the kinds of amendments that were being  
20          discussed here today are fine, and I certainly  
21          believe that any Senator can put in any map at  
22          any time up until, you know, the time that we  
23          vote on this, but I think that there has to be  
24          a respect for the people that we come up here  
25          to serve, and accountability to them, because

1 we have promised them, and I believe we have  
2 lived up to that throughout this entire  
3 process, to keep it open and transparent to  
4 them through these hearings and through other  
5 mechanisms that you have used. So I, for one,  
6 would be very distressed to see maps come in  
7 here to go onto the floor tomorrow that were  
8 entirely new and maps which nobody has seen and  
9 nobody could comment on other than the 40  
10 Senators on the floor. Thank you.

11 SENATOR GAETZ: Thank you, Leader Rich,  
12 and let me just thank you. You and I have  
13 voted differently on this issue, but you  
14 have -- you have been -- you have played by the  
15 rules that we helped to develop and you have  
16 been extraordinarily courteous and thoughtful  
17 and fair in this process, as has your caucus.

18 There being no further debate, the  
19 secretary will call the roll on the PCB.

20 THE CLERK: Senator Altman?

21 SENATOR ALTMAN: Yes.

22 THE CLERK: Senator Benacquisto?

23 SENATOR BENACQUISTO: Yes.

24 THE CLERK: Senator Braynon?

25 SENATOR BRAYNON: No.

1 THE CLERK: Senator Bullard?  
2 Senator Dean?  
3 SENATOR DEAN: Yes.  
4 THE CLERK: Senator Detert?  
5 SENATOR DETERT: Yes.  
6 THE CLERK: Senator Diaz de la Portilla?  
7 SENATOR DIAZ DE LA PORTILLA: Yes.  
8 THE CLERK: Senator Evers?  
9 SENATOR EVERS: Yes.  
10 THE CLERK: Senator Flores?  
11 SENATOR FLORES: Yes.  
12 THE CLERK: Senator Garcia?  
13 Senator Gardiner?  
14 SENATOR GARDINER: Yes.  
15 THE CLERK: Senator Gibson?  
16 SENATOR GIBSON: No.  
17 THE CLERK: Senator Hays?  
18 SENATOR HAYS: Yes.  
19 THE CLERK: Senator Joyner?  
20 SENATOR JOYNER: No.  
21 THE CLERK: Senator Latvala?  
22 SENATOR LATVALA: Yes.  
23 THE CLERK: Senator Lynn?  
24 SENATOR LYNN: Yes.  
25 THE CLERK: Senator Montford?

1           SENATOR MONTFORD:  Yes.

2           THE CLERK:  Senator Negron?

3           SENATOR NEGRON:  Yes.

4           THE CLERK:  Senator Rich?

5           SENATOR RICH:  Yes.

6           THE CLERK:  Senator Sachs?

7           Senator Simmons?

8           SENATOR SIMMONS:  Yes.

9           THE CLERK:  Senator Siplin?

10          SENATOR SIPLIN:  Yes.

11          THE CLERK:  Senator Smith?

12          SENATOR SMITH:  No.

13          THE CLERK:  Senator Sobel?

14          SENATOR SOBEL:  Yes.

15          THE CLERK:  Senator Storms?

16          SENATOR STORMS:  Yes.

17          THE CLERK:  Senator Thrasher?

18          SENATOR THRASHER:  Yes.

19          THE CLERK:  Senator Wise?

20          SENATOR WISE:  Yes.

21          THE CLERK:  Senator Margolis?

22          SENATOR MARGOLIS:  Yes.

23          THE CLERK:  Senator Gaetz?

24          SENATOR GAETZ:  Yes.  Senators Sachs, the

25          roll call is still going on.  Did you wish to

1 be recorded yes or no on the PCB?

2 SENATOR SACHS: I wish to be recorded no.

3 SENATOR GAETZ: Senator Sachs shall be  
4 recorded no. The PCB passes by your action,  
5 and it will be reported to the Senate.

6 Now, I would like to just forecast what  
7 might happen next. It will be my intention to  
8 file an amendment by three o'clock today that  
9 everyone will have the opportunity to see,  
10 which will comport with the conversation that  
11 we have had here having to do with a random and  
12 incumbent-neutral selection of -- for assigning  
13 Senatorial districts.

14 I would ask that the Minority Leader and  
15 the Majority Leader meet now after we break in  
16 order to determine the specific methodology  
17 that would be used under that amendment should  
18 it pass on the Senate floor tomorrow.

19 Leader Rich, do I -- is that acceptable to  
20 you, ma'am?

21 SENATOR RICH: Yes, Senator Gardiner and I  
22 have already met --

23 SENATOR GAETZ: Okay.

24 SENATOR RICH: -- and we -- what we have  
25 determined is that we will ask in about an

1 hour, or whatever time you set, we would come  
2 back here, and Debbie Brown, Secretary of the  
3 Senate, would come and she would do the drawing  
4 and the numbers would be put on the map and it  
5 would be over with, finished and not done in  
6 the chamber, which we all agree is not  
7 appropriate, and then it could be -- the  
8 numbers would be able to be used and engrossed  
9 into the bill, if that is --

10 SENATOR GAETZ: Senator Gardiner, is that  
11 your understanding?

12 SENATOR GARDINER: Yes, Mr. Chairman, and  
13 one of the ideas of why we wanted to go ahead  
14 and do that, that way, we have a product that  
15 is going to the floor, that everybody not only  
16 knows where the lines are, but they also know  
17 where the numbers are, and it gives members  
18 through the amendment process by five o'clock  
19 today to file alternative ideas if they choose  
20 to on a numbering system. So I am in complete  
21 agreement with Leader Rich.

22 While I may have some reservations about a  
23 lottery system, I do think that it is important  
24 that what goes to the floor is the full  
25 package, and this gives us the opportunity to

1 do that. So at your request, Chairman, and  
2 when you would like us to come back, I would  
3 suggest that the -- we have enough time so that  
4 everything can be tested and everybody can be  
5 ready and everybody can be notified of when to  
6 come back and actually, if they choose to sit  
7 here, personally I probably will not, but if  
8 somebody feels like they need to, they can have  
9 plenty of time to get here.

10 SENATOR GAETZ: Let me be sure that I  
11 understand how you want to proceed. So you  
12 intend to use the material that is here, the  
13 baskets and so forth, is that correct, Leader?

14 SENATOR RICH: Yes, that is correct.

15 SENATOR GAETZ: Okay. And then just  
16 procedurally, and I ask the Rules Chair to help  
17 us here a little bit if we are straying far  
18 afield, it is your intent, then, to have these  
19 numbers developed and assigned today so that  
20 they can go into the PCB, and if that is the  
21 case, Mr. Rules Chair, does this Committee need  
22 to go back into session this afternoon and then  
23 adopt an amendment that would go into the PCB,  
24 a late-filed amendment?

25 SENATOR THRASHER: It would, Mr. Chairman.



1 I think we have -- we are scheduled until two  
2 o'clock.

3 SENATOR GAETZ: Okay.

4 SENATOR THRASHER: Obviously before noon,  
5 on a two-hour notice if we needed additional  
6 time, we could ask the President for additional  
7 time, but it seems to me, based on what I have  
8 heard from Senator Rich and Senator Gardiner,  
9 that that could be accomplished by two o'clock  
10 today, and if it is accomplished by two o'clock  
11 today, we could, I think, finish our business.

12 SENATOR GAETZ: Is there any objection by  
13 any -- yes, sir, Leader Smith.

14 SENATOR SMITH: One question about the  
15 numbering system I don't think that has even  
16 come up. It was mentioned briefly. Has it  
17 been determined that we are going to do a north  
18 to south in the numbering, or is it a  
19 possibility to do south to north?

20 SENATOR GAETZ: The -- it could be -- it  
21 could be either way, but the conversation up to  
22 this point and my proposed amendment would be  
23 to follow along with what Senator Altman and  
24 Senator Latvala had originally suggested, and  
25 that is to go from north to south and use the

1 numbers that are on the map now as placeholder  
2 numbers. That is our intention at this point,  
3 unless it is the will of the Committee to  
4 operate differently.

5 And I believe that Senator Diaz de la  
6 Portilla was reserving the right to object to  
7 the process, is that right? Please state your  
8 objection.

9 SENATOR DIAZ DE LA PORTILLA: My objection  
10 is that I don't agree with having a random  
11 lotto here today before two o'clock. I just  
12 think that we had a discussion on how we were  
13 going to do the numbering. There was an intent  
14 expressed to have an amendment by yourself, Mr.  
15 Chairman, expressed to have an amendment  
16 regarding how to go about the numbering  
17 tomorrow on the floor. I think that tomorrow  
18 on the floor, as you said you intended to do  
19 initially, is the right way to go, and I don't  
20 believe that this last-minute quick pick that  
21 we are intending to do here today is the right  
22 way to do it, and that is -- and I reserve the  
23 right to make that objection as a Senator.

24 I mean, I would also like to clarify that  
25 what I was referring to when I talked about

1 receiving the map at six o'clock was a physical  
2 map that you could actually feel and touch, not  
3 when it was posted on the website and in  
4 microprint. So that is my objection to the  
5 quick pick. Thank you.

6 SENATOR GAETZ: Okay. Thank you very  
7 much, Senator Diaz de la Portilla. Your  
8 objection is noted.

9 We will go to Senator Storms, and then we  
10 will go to Leader Gardiner, then we are going  
11 to take a vote on the Gardiner/Rich proposal.

12 Senator Storms.

13 SENATOR STORMS: Thank you, Mr. Chair, and  
14 on behalf of the many citizens of the State of  
15 Florida who I believe feel the exact same way  
16 that I do, I object to casting lots. I object  
17 to casting lots for making a decision, I object  
18 to casting lots on the floor of the Senate. At  
19 the very least, I am glad that we are not  
20 casting lots on the Florida Senate, but I  
21 object to casting -- to the usage of casting  
22 lots, and I believe that there are grave --  
23 there are people all across the state of  
24 Florida that will be very, very deeply offended  
25 by the Florida Senate casting lots to make a

1 decision, and I feel like those decisions and  
2 those words have to be said here today.

3 Thank you, Mr. Chair.

4 SENATOR GAETZ: Leader Gardiner.

5 SENATOR GARDINER: Thank you, Mr.  
6 Chairman, and just to address the comments from  
7 Senator Diaz de la Portilla, I think it is  
8 important to realize that I think we fully went  
9 into this Committee with an understanding that  
10 there would be an amendment to draw the numbers  
11 out and that there would be some type of a  
12 proposal to the floor, or potentially a lottery  
13 or whatever we want to call it, but this  
14 particular recommendation and suggestion is not  
15 from the Chairman, it is actually from me as  
16 the Leader of the Republicans, and, of course,  
17 Leader Rich. And the concept behind it -- it  
18 is important to me that we go to the floor and  
19 every member know everything about that map,  
20 they know the changes that we have made, they  
21 know the numbering that we made, and then they  
22 can determine if by five o'clock today they  
23 have an objection to the numbering system, how  
24 it is done, that they can draft an amendment to  
25 do that.

1           So, again, I want to thank Leader Rich for  
2 working together. I think this is about as  
3 open as it can be, that we go ahead and put  
4 something in place. And I actually agree with  
5 Senator Storms, I have some personal  
6 convictions and reservations about casting  
7 lots, but this would at least give us an  
8 opportunity for those that want to come up with  
9 something different, that they could do it by  
10 five o'clock. So, you know, there's always a  
11 process in the Committee that you have to just  
12 understand the will of the majority, and here  
13 is where we are.

14           Mr. Chairman, I -- at your recommendation,  
15 but I would suggest just to Chairman Thrasher's  
16 point, if there is a need to meet longer than  
17 two o'clock, that you would need to do that  
18 prior to noon, I believe, according to Chairman  
19 Thrasher. So I think if we are going to move  
20 forward, we probably need to set some time,  
21 maybe 11:30-ish, to give everybody time, and  
22 then if there is any issues and we feel like we  
23 need more time for committee, then we can do  
24 that prior to noon, but that would be my  
25 recommendation going forward.

1           SENATOR GAETZ: Thank you, Leader.

2           Senator Evers. Just a second, we will get to  
3           you.

4           SENATOR EVERS: Mr. Chairman, members of  
5           the Committee, you know, we were elected to  
6           come up here to represent the people, to be  
7           fair in our representation of the people in the  
8           State of Florida. I cannot believe that we  
9           would get down to as, quote Senator Storms,  
10          Senator Gardiner, of casting lots on districts.  
11          I feel like that, you know, there should be  
12          equal proposal of addressing left to right,  
13          north to south and just numbering the  
14          districts.

15          What my concern is is if the Panhandle or  
16          south Florida or Jacksonville area were to get  
17          all even numbers or all odd numbers, it would  
18          interfere in those areas -- those particular  
19          areas that wound up with that would lose some  
20          experience in this process because of term  
21          limits itself, and with that, I cannot support  
22          the idea of just casting lots and -- when our  
23          Constitution says that we shall use consecutive  
24          numbers. And, to me, using consecutive numbers  
25          are numbers that are in order, and our map

1 makes some sense, whether it be north to south,  
2 south to north or east to west. And with that,  
3 I cannot support this idea. Thank you.

4 SENATOR GAETZ: Thank you very much,  
5 Senator Evers.

6 Senator Sobel and then Senator Latvala.

7 SENATOR SOBEL: Thank you, Mr. Chair.

8 I believe with the extensive discussion  
9 that we have had, we haven't really come up  
10 with an alternative process. And the lottery  
11 is legal in the state of Florida, so there  
12 shouldn't be any hesitation on our parts  
13 whether it is legal or not legal.

14 Senator Smith brought up a good point  
15 about starting with the south in terms of  
16 choosing the numbers, and I think we should do  
17 a coin toss with that regard so it is totally  
18 random and there's no preconceived notions.

19 In addition, I would like to again address  
20 the issue of people who were term limited. It  
21 was not addressed in your process -- I mean,  
22 the process we are going to go through. In  
23 some way, we need to address that. Thank you.

24 SENATOR GAETZ: Thank you very much,  
25 Senator Sobel.

1           Senator Latvala.

2           SENATOR LATVALA: Thank you, Mr. Chairman.

3           I think Senator Storms makes a very cogent  
4 point for me, the example that this sets for  
5 the rest of the state, and so I join her in  
6 opposing this idea.

7           SENATOR GAETZ: Thank you, Senator  
8 Latvala. Is there further debate? Is there  
9 further debate?

10          SENATOR DIAZ DE LA PORTILLA: Mr. Chair?

11          SENATOR GAETZ: You have already been  
12 heard in debate.

13          SENATOR DIAZ DE LA PORTILLA: It's not  
14 debate, it's a point.

15          SENATOR GAETZ: A point? Please state  
16 your point.

17          SENATOR DIAZ DE LA PORTILLA: Mr. Chair, I  
18 would like to state a point of order. I think  
19 this motion is in the form of an amendment. It  
20 would be a late-filed amendment since it wasn't  
21 on our agenda, wasn't submitted beforehand that  
22 we would have the quick pick today, and so I  
23 would say -- I would object and raise that  
24 point, Mr. Chair, this is a last-minute,  
25 late-filed amendment that would require a



1 two-thirds vote.

2 SENATOR GAETZ: That is an excellent  
3 observation, except that this is not an  
4 amendment. This is simply a request by the  
5 Chairman of the Committee to the Majority and  
6 Minority Leaders that they provide input to an  
7 amendment that would be offered on the floor  
8 tomorrow. The amendment that would be voted on  
9 tomorrow would be -- would lay out the results  
10 of what is being done today. And so,  
11 therefore, your point is not well taken.

12 Are there further comments? Yes, Senator  
13 Montford.

14 SENATOR MONTFORD: I just want to make  
15 sure -- we have not decided to do the lotto  
16 thing yet, we haven't voted on that, correct?  
17 Or that is --

18 SENATOR GAETZ: We have not --

19 SENATOR MONTFORD: Has that decision been  
20 made?

21 SENATOR GAETZ: Senator Montford, here is  
22 my understanding of where we are from a  
23 parliamentary standpoint, and I am sure the  
24 Rules Chair will correct me if I am wrong: I  
25 have indicated that I intend to file an

1 amendment, a timely-filed amendment, tomorrow.  
2 The Minority and Majority Leaders have, at my  
3 -- I have asked them if they would assist in  
4 determining the methodology and how that  
5 timely-filed amendment would be laid out. They  
6 have indicated that they have already met and  
7 that they would -- that they intend to  
8 undertake to provide through a -- through a  
9 random system the numbers that they would  
10 advise me to put in that amendment that would  
11 be voted on tomorrow.

12 What we will vote on in this Committee now  
13 is an advisory vote on the -- on the  
14 Gardiner/Rich motion, which is to, within the  
15 next hour, bring the Secretary of the Senate to  
16 this room, and through a random process as  
17 described by Craig a few moments ago, assign  
18 those numbers. The numbers would then go into  
19 my amendment. You can vote my amendment up or  
20 down tomorrow on the floor. You can offer an  
21 alternative to my amendment. As Senator Evers  
22 indicated, this should -- you know, there ought  
23 to be an opportunity for alternatives. So if  
24 Senator Evers has an alternative system that he  
25 would like to propose to the amendment that I

1 would offer using the input from the Minority  
2 and Majority Leaders, he is welcome to do so,  
3 as is Senator Storms or any other member of  
4 this Committee. That is where we are from a  
5 parliamentary standpoint.

6 SENATOR MONTFORD: May I ask a question,  
7 please?

8 SENATOR GAETZ: Yes, you certainly may.

9 SENATOR MONTFORD: So, Mr. Chair, your  
10 amendment tomorrow then would incorporate  
11 whatever -- the numbers that were generated  
12 today?

13 SENATOR GAETZ: Yes, sir, yes, sir, and if  
14 you don't like that system, if you don't like  
15 those numbers, if you are just having a bad  
16 day, you can vote no or you can offer an  
17 alternative.

18 SENATOR MONTFORD: Voting -- but we will  
19 vote -- it makes me nervous that we got this  
20 far down the road, and you have worked harder  
21 than anybody up here, and your staff, to get  
22 this far, almost a year, and then, you know,  
23 think -- have the potential of falling apart at  
24 the very end, and that is what -- that is what  
25 makes me really nervous.

1           SENATOR GAETZ:  What do you think is  
2 falling apart, Senator Montford?

3           SENATOR MONTFORD:  Well, if we get --

4           SENATOR GAETZ:  We have already passed the  
5 PCB.

6           SENATOR MONTFORD:  Well, if we get to the  
7 floor tomorrow and your amendment is voted  
8 down, then we will be subjected tomorrow, I  
9 assume, to amendments on the floor which hasn't  
10 had the value of this discussion that we have  
11 had today.

12           SENATOR GAETZ:  Well, but we -- that is  
13 true, but as Senator Latvala properly points  
14 out, amendments are allowed, and I am sure  
15 there are Senators who have already said they  
16 don't like the idea of random selection, they  
17 like the idea of a different system, I am  
18 confident that there will be amendments filed  
19 that will be timely filed and that will be  
20 properly debated and discussed on the floor of  
21 the Senate tomorrow, just as we have indicated  
22 in the schedule that the Senate agreed to and  
23 that we have published and adhered to.

24           SENATOR MONTFORD:  Thank you.

25           SENATOR GAETZ:  Senator Sachs for what

1           purpose?

2                   SENATOR SACHS: Mr. Chairman, I would just  
3           like to say -- comment on the procedure that  
4           you are conducting today, and I think that it  
5           is a good procedure, because I think that there  
6           are 40 Senators, this numbering system affects  
7           every Senator in the state, whether they are in  
8           this Committee or not. You have given every  
9           Senator in this state ample opportunity to file  
10          amendments tomorrow on the floor. This is an  
11          issue that should be openly discussed amongst  
12          all the members, all the Senators, all 40  
13          districts, and I think that this is a proper  
14          procedure to move forward on, and I just wanted  
15          to make that comment, because I think even  
16          though I might have voted no on the PCB, I  
17          think the procedure that we are following today  
18          is that which will give everyone an opportunity  
19          to weigh in on a numbering system that affects  
20          not only the 40 Senators, but 40 Senators for  
21          the next ten years. I think it is very, very  
22          important, and I absolutely agree with the  
23          procedure and I would like to move forward,  
24          sir.

25                   SENATOR GAETZ: Okay. Leader Rich, so

1           that we will all know what you and Leader  
2           Gardiner are proposing, would you please state  
3           your motion? It is not in the form of an  
4           amendment. It is in the form of a motion as to  
5           a procedure we would use for filling in what  
6           will be a Chairman's amendment tomorrow. And,  
7           Leader Rich, would you please make your motion?

8                    SENATOR RICH: If you would just tell me  
9           what time you would like us to reconvene to do  
10          this, I will make the motion.

11                   SENATOR GAETZ: Mr. Rules Chair, what  
12          would you suggest?

13                   SENATOR THRASHER: I didn't hear the  
14          question.

15                   SENATOR GAETZ: The question is what time  
16          should we reconvene.

17                   SENATOR RICH: What time do we reconvene  
18          to do this drawing?

19                   SENATOR GAETZ: One hour, or 11:30?

20                   SENATOR THRASHER: 11:30.

21                   SENATOR GAETZ: 11:30 a.m., ma'am.

22                   SENATOR RICH: Okay. I move that at 11:30  
23          the Reapportionment Committee reconvene for the  
24          purpose of determining the numbers that will be  
25          affixed to the districts in the form of a

1 random drawing -- in the form of a random  
2 drawing.

3 SENATOR GAETZ: The numbers that would be  
4 affixed in the Gaetz amendment tomorrow?

5 SENATOR RICH: In the Gaetz amendment  
6 tomorrow, correct.

7 SENATOR GAETZ: And, Leader Gardiner, do  
8 you co-sponsor that motion?

9 The motion is before you. Is there  
10 further debate? Is there further debate?  
11 Senator Simmons.

12 SENATOR SIMMONS: I am raising a question,  
13 and I am -- and this is because I am just  
14 thinking, and that is that -- which is  
15 dangerous, it is scary.

16 SENATOR GAETZ: Senator Simmons, when you  
17 are thinking, we need to pack our lunch.

18 SENATOR SIMMONS: That is right. And that  
19 is that the Constitution requires that we  
20 number consecutively. The process that we are  
21 talking about doing could result in the  
22 numbering, I am just going to give you a  
23 theoretical, using even/odd, is that from the  
24 northwest, it would be 2, 4, 6, 8, 10, 12, 14,  
25 16, 18 --

1           SENATOR GAETZ: Pass those down, please.

2           SENATOR SIMMONS: -- and 20, and then all  
3 of the south Florida would be odds, which is a  
4 possibility. And the question then becomes,  
5 does that meet the constitutional requirement  
6 of consecutive numbering of the districts? And  
7 I am just raising a question as we move into  
8 this that needs to be thought out and probably  
9 analyzed as we -- as we discuss this.

10           SENATOR GAETZ: That is an excellent point  
11 and excellent question. What you are being  
12 handed out now, and I think there are copies  
13 for the press, is simply a couple of historical  
14 maps, the '82 and '92 maps governed by this  
15 Constitution. And you will notice, for  
16 example, in the '92 map, which was used until  
17 2002, the districts, looking at northwest  
18 Florida, for example, go from 1 to 7 to 3 to 4  
19 to 5 to 6 to 2 to 8 to 11 to 16 to 14. In the  
20 old Senate and in the old way of doing business  
21 and in the constitutional method, there has  
22 never been -- there has been consecutive  
23 numbering, but there has not been precise  
24 numbering that has districts that are exactly  
25 next to each other. And so I think the answer



1 to your question is that we are on fairly solid  
2 ground with that.

3 Mr. Bardos.

4 MR. BARDOS: The Florida Supreme Court in  
5 its decision in '82 or '92, I don't remember  
6 which, decided that consecutive numbers -- the  
7 consecutive numbering requirement does not mean  
8 that adjacent districts must have consecutive  
9 numbers. So as long as there are consecutive  
10 numbers somewhere on the map, they don't need  
11 to be -- the districts don't need to be  
12 abutting each other.

13 SENATOR SIMMONS: Mr. Chairman, Mr.  
14 Chairman -- all I was doing is raising --

15 SENATOR GAETZ: A very good point.

16 SENATOR SIMMONS: -- the issue so that we  
17 will have deliberated that in the process of  
18 doing this, and I feel comfortable, based upon  
19 Mr. Bardos' statements and your statements, Mr.  
20 Chair, that we have analyzed that and  
21 deliberated on it.

22 SENATOR GAETZ: Thank you very much.

23 Are there further comments on the  
24 Rich/Gardiner motion?

25 SENATOR DIAZ DE LA PORTILLA: I have a

1 question.

2 SENATOR GAETZ: President Margolis. Just  
3 a moment, we will get to you, Senator Diaz de  
4 la Portilla.

5 SENATOR MARGOLIS: I am trying to -- if  
6 the people are not here, they are not the ones  
7 that are choosing these little balls, are they?  
8 I mean --

9 SENATOR GAETZ: The intent, I think, and  
10 Leader Rich and Leader Gardiner can correct me,  
11 my belief is the intent is that this will be  
12 conducted by the Secretary of the Senate --

13 SENATOR MARGOLIS: And it will be her --

14 SENATOR GAETZ: -- but it will be -- yes,  
15 ma'am.

16 SENATOR MARGOLIS: She will say in  
17 District 1 --

18 SENATOR GAETZ: Yes, ma'am.

19 SENATOR MARGOLIS: In listing this  
20 District 1, the number will -- this will be odd  
21 or this will be even?

22 SENATOR GAETZ: Yes, ma'am, just as was  
23 shown in the demonstration by Mr. Meyer.

24 Senator Diaz de la Portilla.

25 SENATOR DIAZ DE LA PORTILLA: Thank you,

1 Mr. Chairman.

2 Just a question to Mr. Bardos. Is there  
3 anything in -- you just mentioned that, in  
4 response to Senator Simmons' question, that the  
5 numbering doesn't need to -- while the  
6 numbering has to be sequential, it does not  
7 require -- case law does not require that  
8 districts be adjacent to each other in  
9 sequence. Is there anything that could  
10 potentially change that with the Fair Districts  
11 amendment, because I think that -- that  
12 predates Fair Districts, or the case that you  
13 may have mentioned?

14 SENATOR GAETZ: Mr. Bardos.

15 MR. BARDOS: I don't believe so. The  
16 requirement that districts be consecutively  
17 numbered is in Article III, Section 16(a), I  
18 believe, and that was not amended by the Fair  
19 Districts amendment, and the Fair Districts  
20 amendment doesn't otherwise speak to numbering,  
21 except to the extent that it is involved in the  
22 prohibition against an intent to favor or  
23 disfavor.

24 SENATOR GAETZ: A good question, and good  
25 that we should know that prior to taking any

1 further action.

2 Any other comments or questions, points of  
3 procedure, debate on the Rich/Gardiner motion?

4 If not, the secretary will call the roll.  
5 I'm sorry, did I miss someone? The secretary  
6 will please call the roll.

7 THE CLERK: Senator Altman?

8 SENATOR ALTMAN: No.

9 THE CLERK: Senator Benacquisto?  
10 Senator Braynon?

11 SENATOR BRAYNON: Yes.

12 THE CLERK: Senator Bullard?  
13 Senator Dean?

14 SENATOR DEAN: Yes.

15 THE CLERK: Senator Detert?

16 SENATOR DETERT: Yes.

17 THE CLERK: Senator Diaz de la Portilla?

18 SENATOR DIAZ DE LA PORTILLA: No.

19 THE CLERK: Senator Evers?

20 SENATOR EVERS: No.

21 THE CLERK: Senator Flores?

22 SENATOR FLORES: Yes.

23 THE CLERK: Senator Garcia?

24 Senator Gardiner?

25 SENATOR GARDINER: Yes.

1 THE CLERK: Senator Gibson?  
2 SENATOR GIBSON: Yes.  
3 THE CLERK: Senator Hays?  
4 SENATOR HAYS: Yes.  
5 THE CLERK: Senator Joyner?  
6 SENATOR JOYNER: Yes.  
7 THE CLERK: Senator Latvala?  
8 SENATOR LATVALA: No.  
9 THE CLERK: Senator Lynn?  
10 SENATOR LYNN: Yes.  
11 THE CLERK: Senator Montford?  
12 SENATOR MONTFORD: Yes.  
13 THE CLERK: Senator Negron?  
14 SENATOR NEGRON: Yes.  
15 THE CLERK: Senator Rich?  
16 SENATOR RICH: Yes.  
17 THE CLERK: Senator Sachs?  
18 SENATOR SACHS: Yes.  
19 THE CLERK: Senator Simmons?  
20 SENATOR SIMMONS: Yes.  
21 THE CLERK: Senator Siplin?  
22 SENATOR SIPLIN: No.  
23 THE CLERK: Senator Smith?  
24 SENATOR SMITH: Yes.  
25 THE CLERK: Senator Sobel?

1 SENATOR SOBEL: Yes.

2 THE CLERK: Senator Storms?

3 SENATOR STORMS: No.

4 THE CLERK: Senator Thrasher?

5 SENATOR THRASHER: Yes.

6 THE CLERK: Senator Wise?

7 SENATOR WISE: Yes.

8 THE CLERK: Senator Margolis?

9 SENATOR MARGOLIS: Yes.

10 THE CLERK: Senator Gaetz?

11 SENATOR GAETZ: Yes. And by your action,  
12 the motion passes, and I would ask the Minority  
13 and Majority Leaders then to take the action  
14 which is described in the motion. I would ask  
15 Mr. Meyer to call for the Secretary of the  
16 Senate and her staff to come forward and to be  
17 here at 11:30.

18 This Committee stands in recess until  
19 11:30 a.m.

20 (Brief recess taken.)

21 SENATOR GAETZ: The Committee will be in  
22 order, please. Members of the Committee,  
23 please take your seats. Members of the press  
24 and the public, please find a place to be.

25 We welcome Secretary of the Senate and

1 members of her staff, able members of her  
2 staff. And, Madam Secretary, would you please  
3 explain what you are about to do? And do we  
4 have all members of the Committee, if you will  
5 give the Secretary your attention.

6 Madam Secretary.

7 SECRETARY BROWN: Thank you, Mr. Chairman.

8 We are prepared with 40 balls, numbered  
9 consecutively from 1 to 40. We are prepared  
10 with 20 green and 20 white. They will be  
11 loaded into these two machines. The staff will  
12 take simultaneously rotations to mix and drop a  
13 ball from each machine, which I will then  
14 present to the Committee, outlining whether it  
15 is a -- the Senate district and what color, at  
16 which time Mr. Guthrie will place the  
17 appropriate sticker to the map and we will  
18 place that in this tray for your review as we  
19 proceed through the 40 districts.

20 SENATOR GAETZ: Okay. Have the Majority  
21 Leader and Minority Leader satisfied themselves  
22 that there are indeed 40 balls up here, that  
23 there are 20 green and 20 white? Are you  
24 satisfied, Madam Minority Leader?

25 SENATOR RICH: Yes.

1           SENATOR GAETZ: Mr. Majority Leader, are  
2 you satisfied? Senator Dean, you have a  
3 question?

4           SENATOR DEAN: White and green, which  
5 one's odd and which one's even?

6           SENATOR GAETZ: There is a sign -- there  
7 is a sign at the front of the podium, in front  
8 of the Secretary, that says green are even and  
9 white are odd.

10           Are there any questions as to the  
11 procedure as to what is going to occur?

12           SENATOR THRASHER: Mr. Chairman?

13           SENATOR GAETZ: Yes, of course, Mr. Rules  
14 Chair.

15           SENATOR THRASHER: I suggest a quorum and  
16 call the roll of the members.

17           SENATOR GAETZ: The Rules Chair suggests  
18 the absence of a quorum. Please call the roll.

19           THE CLERK: Senator Gaetz?

20           SENATOR GAETZ: Here.

21           THE CLERK: Senator Margolis?

22           SENATOR MARGOLIS: Here.

23           THE CLERK: Senator Altman?

24           SENATOR ALTMAN: Here.

25           THE CLERK: Senator Benacquisto?



1 SENATOR BENACQUISTO: Here.

2 THE CLERK: Senator Braynon?

3 SENATOR BRAYNON: Here.

4 THE CLERK: Senator Bullard?

5 Senator Dean?

6 SENATOR DEAN: Here.

7 THE CLERK: Senator Detert?

8 SENATOR DETERT: Here.

9 THE CLERK: Senator Diaz de la Portilla?

10 SENATOR DIAZ DE LA PORTILLA: Here.

11 THE CLERK: Senator Evers?

12 SENATOR EVERS: Here.

13 THE CLERK: Senator Flores?

14 SENATOR FLORES: Here.

15 THE CLERK: Senator Garcia?

16 Senator Gardiner?

17 SENATOR GARDINER: Here.

18 THE CLERK: Senator Gibson?

19 SENATOR GIBSON: Here.

20 THE CLERK: Senator Hays?

21 SENATOR HAYS: Here.

22 THE CLERK: Senator Joyner?

23 SENATOR JOYNER: Here.

24 THE CLERK: Senator Latvala?

25 SENATOR LATVALA: Here.

1 THE CLERK: Senator Lynn?  
2 SENATOR LYNN: Here.  
3 THE CLERK: Senator Montford?  
4 SENATOR MONTFORD: Here.  
5 THE CLERK: Senator Negron?  
6 SENATOR NEGRON: Yes, here.  
7 THE CLERK: Senator Rich?  
8 SENATOR RICH: Here.  
9 THE CLERK: Senator Sachs?  
10 Senator Simmons?  
11 SENATOR SIMMONS: Here.  
12 THE CLERK: Senator Siplin?  
13 SENATOR SIPLIN: Here.  
14 THE CLERK: Senator Smi- --  
15 SENATOR SMITH: Here.  
16 THE CLERK: Senator Sobel?  
17 SENATOR SOBEL: Here.  
18 THE CLERK: Senator Storms?  
19 Senator Thrasher?  
20 SENATOR THRASHER: Here.  
21 THE CLERK: Senator Wise?  
22 Quorum is present.  
23 SENATOR GAETZ: A quorum being present,  
24 the Committee is in order.  
25 Are there any questions of procedure that

1 anyone has at this point?

2 If not, Madam Minority Leader,  
3 Mr. Majority Leader, are you pretty ready to  
4 proceed with your process?

5 Okay. Madam Secretary, please proceed and  
6 do whatever it is you do.

7 SECRETARY BROWN: We will now load the  
8 bins with the appropriate balls.

9 SENATOR GAETZ: Yeah, district numbers.  
10 You're going to pull the district number out  
11 and then pull the red and green. They pull the  
12 district number out, and then if that is the  
13 district, it is determined to either be odd or  
14 even, and then they put odd or even on the map.

15 Sergeant Severance, would you make sure  
16 the front of the room is secured, please,  
17 during this time?

18 SECRETARY BROWN: Mr. Chairman, we will be  
19 drawing for State Senate Plan S000S9016.

20 SENATOR GAETZ: That is correct.

21 SECRETARY BROWN: Okay. We are ready.  
22 Three to mix and one to draw.

23 District 18 is green.

24 District 27 is white.

25 District 22 is green.

1           SENATOR STORMS: Point of order. Point of  
2 order.

3           SENATOR GAETZ: What is the point?

4           SENATOR STORMS: The point is this is a  
5 violation of Florida Statutes 849.08, and I  
6 would like an Attorney General's opinion  
7 whether or not this is gambling. According to  
8 849.08, Florida Statutes, "Whoever plays or  
9 engages in any game at cards, keno, roulette,  
10 faro or other game of chance at any place by  
11 any device whatever for money or other thing of  
12 value shall be guilty of a misdemeanor of the  
13 second degree, punishable as provided in  
14 775.082 or 775.083."

15           The other thing of value is the difference  
16 between two years and four years, a difference  
17 in salary between two years and four years,  
18 that is my point, and I would like an Attorney  
19 General's opinion. Thank you.

20           SENATOR GAETZ: Thank you, Senator Storms.  
21 Your point will be referred to the Attorney  
22 General.

23           Please continue, Madam Secretary.

24           SENATOR STORMS: Mr. Chair, point of  
25 order. Point of order.

1           SENATOR GAETZ: Excuse me, stop, stop.

2           Yes, Senator Storms.

3           SENATOR STORMS: The person who is  
4           subjected to the point and who is guilty of the  
5           misdemeanor are the three people standing in  
6           front of us, the Secretary and the two helpers,  
7           and so they are the persons who will be guilty  
8           of the misdemeanor and not us.

9           SENATOR GAETZ: Thank you, Senator Storms,  
10          for your legal opinion. This is being referred  
11          to the Attorney General, as you asked.

12          Please continue.

13          SECRETARY BROWN: District 26 is white.

14          District 20 is green.

15          District 32 is green.

16          District 13 is green.

17          District 37 is green.

18          SENATOR GAETZ: Stop, please. What is  
19          your question?

20          A VOICE: My question is, are the green  
21          balls from the factory in that color, or are  
22          the green balls painted, therefore, making them  
23          heavier than the white balls so that they will  
24          fall to the bottom more than the white?

25          SENATOR GAETZ: We asked the Minority

1 Leader and Majority Leader to satisfy  
2 themselves as to the fairness of the method  
3 that they had suggested. I would suggest you  
4 contact your Leader and inquire as to that  
5 question.

6 Please continue.

7 SENATOR RICH: Mr. Chair? My  
8 understanding is now from the General Counsel  
9 that they were ordered in that color.

10 SENATOR GAETZ: Thank you very much,  
11 Leader.

12 Please continue.

13 SECRETARY BROWN: District 19 is white.

14 District 17 is green.

15 District 24 is green.

16 District 30 is white.

17 District 16 is white.

18 District 11 is white.

19 District 34 is white.

20 District 10 is white.

21 District 28 is green.

22 District 33 is green.

23 District 2 is white.

24 District 15 is white.

25 District 4 is green.

1           District 14 is green.  
2           District 29 is white.  
3           District 36 is white.  
4           District 25 is green.  
5           District 39 is white.  
6           District 38 is green.  
7           District 6 is white.  
8           District 23 is green.  
9           District 21 is green.  
10          District 12 is green.  
11          District 3 is white.  
12          District 5 is white.  
13          District 8 is green.  
14          District 31 is white.  
15          District 35 is white.  
16          District 1 is green.  
17          District 40 is white.  
18          District 7 is white.  
19          District 9 is green, and that completes  
20          your random selection process, Mr. Chairman.

21                 SENATOR GAETZ: Thank you very much.

22                 Let me forecast for the Committee what we  
23                 will do next. I will work with the Majority  
24                 and Minority Leaders to craft an amendment,  
25                 which will be offered on the floor tomorrow,

1           which will follow the numbering system that --  
2           I'm sorry, the odd/even system that has been  
3           laid out here in this random selection.

4           Mr. Guthrie, now that numbers mean less in  
5           this random selection than do the odds and the  
6           evens, Mr. Guthrie will in front of the  
7           Committee go through and number the districts,  
8           starting in northwest Florida and moving to the  
9           south. And, again, I point out that there is  
10          no relevance now to the numbers unless you have  
11          a favorite number, and my favorite number,  
12          unfortunately, is not possible for me to get,  
13          but then we will take that amendment to the  
14          floor. We will timely file that amendment  
15          today by three o'clock so that it is available  
16          for the press, the public and other Senators,  
17          and I will -- then, of course, we will welcome  
18          any counter-proposals that also might be filed.

19          Mr. Guthrie, under everyone's watchful  
20          eye, why don't you place numbers on the  
21          districts?

22                 SENATOR HAYS: Mr. Chairman?

23                 SENATOR GAETZ: Yes, sir.

24                 SENATOR HAYS: Would you please reiterate  
25          once again what the Constitution calls for in



1 two-year terms versus four-year terms?

2 SENATOR GAETZ: Mr. Guthrie -- I'm sorry,  
3 Mr. Bardos, could you recall for Senator Hays  
4 on the Committee what the Constitution calls  
5 for?

6 MR. BARDOS: Members elected from  
7 odd-numbered districts will run for four years,  
8 and members elected from even numbers will run  
9 for two years.

10 SENATOR HAYS: We can't hear you.

11 MR. BARDOS: So odd is four years, and  
12 even is two years.

13 SENATOR GAETZ: Did everyone hear that?  
14 Please continue, Mr. Guthrie.

15 These then become the new numbers assigned  
16 to the districts, and it has already been  
17 determined by random selection whether those  
18 districts are even-numbered or odd-numbered  
19 districts.

20 MR. GUTHRIE: You keep track of evens,  
21 Jay, you keep track of odds, so I am going to  
22 -- so tell me the next one.

23 SENATOR GAETZ: While we are waiting for  
24 Mr. Guthrie to finish taking the numbers onto  
25 the map and offer the map onto the documents

1           that will be used in preparation of the  
2           amendment, I am prepared to rule on the point  
3           of order raised by Senator Storms. Senator  
4           Storms has raised a point of order that the  
5           procedure followed this morning in selecting  
6           State Senate districts and assigning numbers  
7           constitutes gambling, and as such, violates  
8           state law. The purpose of the process followed  
9           this morning achieves a legislative purpose and  
10          applies a procedure based on a decision by the  
11          Committee. Insofar as legislative rules are  
12          established to accomplish a purely procedural  
13          purpose, there is no violation of law. No  
14          member stands to gain or lose more than any  
15          other member under the random process agreed to  
16          this morning by the Committee. Furthermore,  
17          there is nothing in the rules of the Senate  
18          that contradict the process agreed to this  
19          morning, and consequently, Senator Storms'  
20          point is not well-taken. However, Senator  
21          Storms has every right, just as any Senator  
22          does, or any citizen of Florida does, to  
23          request an opinion of the Attorney General.

24                    Are there any questions as to that?

25                    SENATOR THRASHER: Mr. Chairman, I assume

1           you then would rule the point out of order?

2           SENATOR GAETZ: The point is out of order,  
3           the point is not well-taken.

4           And following -- as soon as we adjourn, I  
5           would ask the Majority Leader, Senator  
6           Gardiner, and the Minority Leader, Senator  
7           Rich, and also I would ask Senator Smith if he  
8           could remain just for a moment so that here we  
9           might just make sure we are all together on the  
10          styling of the amendment for timely filing.

11          I would point out to the Committee that  
12          neither yesterday nor today did any member of  
13          the public turn in a speaker card, so we did  
14          not have any requests for appearance before the  
15          Committee, and consequently, there was no  
16          public testimony. However, I would mention  
17          again that we did send out e-mails to all of  
18          those who gave us their e-mail addresses in our  
19          public hearings, as well as those who contacted  
20          us in various ways and left their e-mail  
21          addresses, and we have gotten some feedback,  
22          and we would urge you to go to the  
23          redistricting website, with which you are all  
24          familiar, and look at that feedback that we  
25          have gotten from those with -- for whom we work

1 before we cast any votes tomorrow on the floor.

2 Are you concluded with your work, Mr.  
3 Guthrie?

4 MR. GUTHRIE: Almost.

5 SENATOR GAETZ: All right. I know some of  
6 those districts are hard to write numbers into  
7 because they're small on the map.

8 Yes. Senator Hays will now sing.

9 Are we concluded with our business? Okay.  
10 We have a record of the meeting, obviously,  
11 that was the signal part of the meeting, and we  
12 have concluded, I believe, all of the other  
13 business. And, again, to let the committee  
14 members know what will happen next, I will ask  
15 the Majority Leader and the Minority Leader and  
16 Senator Smith to remain afterwards, and right  
17 here we will make sure that we are together on  
18 what the amendment will state tomorrow. Any  
19 member of the Senate may file an amendment for  
20 a counter-proposal or may amend the amendment  
21 in any way, as long as they are within the  
22 rules of the Senate.

23 Is there further business to come before  
24 the Senate Committee on Reapportionment? If  
25 not, with great thanks to Leader Rich and

1 Leader Gardiner, Senator Montford moves we  
2 rise.  
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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 2 through 165 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.

Dated this 26th day of March, 2012.

\_\_\_\_\_

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014