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SENATE REAPPORTIONMENT COMMITTEE

ROOM KN 412

NOVEMBER 15, 2011

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: This is the Senate
3 Committee on Reapportionment.

4 THE CLERK: Senator Gaetz?

5 SENATOR GAETZ: Here.

6 THE CLERK: Senator Margolis? Senator
7 Altman? Senator Benacquisto?

8 SENATOR BENACQUISTO: Here.

9 THE CLERK: Senator Braynon? Senator
10 Bullard?

11 SENATOR BULLARD: Here.

12 THE CLERK: Senator Dean?

13 SENATOR DEAN: Here.

14 THE CLERK: Senator Detert?

15 SENATOR DETERT: Here.

16 THE CLERK: Senator Diaz de la Portilla?

17 SENATOR DIAZ DE LA PORTILLA: Here.

18 THE CLERK: Senator Evers?

19 SENATOR EVERS: Here.

20 THE CLERK: Senator Florez? Senator
21 Garcia?

22 SENATOR GARCIA: Here.

23 THE CLERK: Senator Gardiner? Senator
24 Gibson?

25 SENATOR GIBSON: Here.

1 THE CLERK: Senator Hays?
2 SENATOR HAYS: Here.
3 THE CLERK: Senator Joyner?
4 SENATOR JOYNER: Here.
5 THE CLERK: Senator Latvala?
6 SENATOR LATVALA: Here.
7 THE CLERK: Senator Lynn?
8 SENATOR LYNN: Here.
9 THE CLERK: Senator Montford?
10 SENATOR MONTFORD: Here.
11 THE CLERK: Senator Negrón?
12 SENATOR NEGRÓN: Here.
13 THE CLERK: Senator Rich?
14 SENATOR RICH: Here.
15 THE CLERK: Senator Sachs?
16 SENATOR SACHS: Here.
17 THE CLERK: Senator Simmons?
18 SENATOR SIMMONS: Here.
19 THE CLERK: Senator Siplin?
20 SENATOR SIPLIN: Here.
21 THE CLERK: Senator Sobel?
22 SENATOR SOBEL: Here.
23 THE CLERK: Senator Storms? Senator
24 Thrasher?
25 SENATOR THRASHER: Here.

1 THE CLERK: Quorum present.

2 SENATOR GAETZ: Thank you very much.

3 Please show Leader Gardiner present, he just
4 walked in, Senator Altman as well, he just
5 walked in. Excused absences today are Senate
6 Florez, Senator Storms, Senator Braynon and
7 President Margolis. And I spoke with President
8 Margolis, she sends her best wishes. She is in
9 rehabilitation following successful orthopedic
10 surgery. She says she is stir crazy and
11 anxious to get back here and get to work. She
12 was in very good humor and good fettle when I
13 spoke with her, and she thanks all Senators who
14 have sent their good wishes and their prayers
15 for her recovery. She expects to be back for
16 our December meeting.

17 Today, Senators, we will continue moving
18 through the state, region by region, discussing
19 scenarios for drawing congressional and state
20 legislative districts based on the input that
21 we have received from the public. Today we
22 will focus on the southwest Florida region from
23 Tampa Bay south to Naples, and as far east as
24 Lake Okeechobee.

25 Our next meeting, Senators, will be on

1 Tuesday, December 6 -- Tuesday, December 6.
2 And I would ask you to please bear the
3 following dates in mind which conform with our
4 unanimous consent agreement. A week prior, on
5 Monday, November 28, professional staff will
6 publish the proposed committee bills that will
7 be on our agenda for December 6th. The full
8 set of maps, statistics and downloads for the
9 proposed committee bills will be posted
10 prominently on the Senate redistricting
11 website, and citizens will have several
12 innovative and convenient ways to comment on
13 the plans, first by recording video messages
14 and posting them on the Committee's YouTube
15 page, by calling 1-855-FLA-MAPS toll free and
16 recording a voice message, by sending an e-mail
17 to redistrictflorida@flsenate.gov, by sending a
18 Tweet to @redistrict2012, or by attending our
19 December 6th committee meeting in person.

20 We looked hard, our professional staff
21 did, to find a way to host another round of
22 public meetings at locations across the state,
23 and to do so, unfortunately, would have set our
24 schedule off and would have, I think, made us
25 subject appropriately to criticism by those who

1 believe that we need to move this process along
2 deliberately, but without any delays. I was
3 not willing to settle for a small sample of
4 locations. If we would have had scheduled
5 hearings in Miami and Orlando, the question
6 would have been why not Palm Beach, why not
7 Tampa, why not Ft. Myers or Jacksonville or
8 Pensacola. And it just wasn't feasible to set
9 up a round of hearings unless we wanted to lose
10 a month.

11 So, as an alternative, professional staff,
12 in consultation with members of this Committee
13 and with The Florida Channel, came up with what
14 I hope you will agree is an easier, more
15 accessible and more efficient way for
16 Floridians to comment on the proposed committee
17 bill.

18 For our December 6th meeting, The Florida
19 Channel will produce video segments composed of
20 YouTube videos, voice mail messages, e-mail and
21 Twitter. If time permits, we will listen to
22 them all, but if we get more public comment
23 than we have time to hear, which is my hope,
24 then we will listen to what we have time for,
25 and we will post the entire collection,

1 100 percent of all input, on the Senate
2 redistricting website and encourage all
3 Senators to review that website prior to taking
4 any votes on the proposed committee bill.

5 Now, Senators, our primary focus on
6 December 6th will be on getting the
7 redistricting plans into the proper posture and
8 hearing public input. There will be two
9 proposed committee bills on the agenda
10 December 6th, one for congressional districts
11 and the other for state legislative districts.
12 I would remind Senators that the two bills are,
13 by Constitution, separate bills. One is on a
14 different track than the other, although so far
15 we have been fortunate as we have moved through
16 our process to be able to maintain a similar
17 track with both the congressional and the
18 legislative discussions that we have had.

19 We will take up the proposed committee
20 bills, the congressional and the state
21 legislative, as regular agenda items, just like
22 any other committee. Professional staff will
23 introduce and explain the proposed committee
24 bills, and most of the meeting will then be
25 devoted to listening to public testimony as I

1 have described, the second bite at the apple
2 that we are inviting people around the state to
3 participate in, as well as any testimony that
4 we might be fortunate enough to hear in person.

5 Before adjourning our meeting on
6 December 6th, the Chair will entertain motions
7 to introduce the congressional and legislative
8 redistricting plans as committee bills, and
9 then the bills would be filed and we would
10 expect them to be referred by our Rules Chair
11 back to the Reapportionment Committee when we
12 return for regular session following the
13 Hanukkah/Christmas break.

14 During that break, professional staff may
15 incorporate any suggestions and feedback from
16 the public into a proposed committee
17 substitute, if that turns out to be necessary.
18 Any proposed committee substitute will be
19 published at least seven days in advance of the
20 Reapportionment Committee's January meeting.

21 All of these publishing dates, all of
22 these public notice times are done in
23 conformance with the Unanimous Consent
24 Agreement that we developed originally to make
25 sure that there are not any midnight surprises,

1 to make sure that members of this Committee and
2 members of the public know exactly what would
3 be presented for a vote on a proposed committee
4 bill.

5 That is our long-range plan for reporting
6 these bills that are our responsibility out of
7 this Committee, so they can be available for
8 our Rules Chair and our providing officer to
9 place on the calendar at their pleasure early
10 in the session.

11 Let me stop here and ask if there are any
12 questions about our process or our timeline so
13 far? Any questions? Any comments?

14 Yes, sir, Leader.

15 SENATOR GARDINER: Thank you,
16 Mr. Chairman. I believe we had discussed this,
17 but I wanted to make sure we're on the same
18 page. If there is a proposed change from a
19 legislator from the amendment process, that
20 they could not just pick out one little -- one
21 specific area or region, they have -- would
22 have to file something that would indicate
23 districts for the entire state, is that still
24 correct?

25 SENATOR GAETZ: Yes, Leader Gardiner.

1 Because -- because of the interlocking nature
2 of districts, one cannot propose a change in
3 district lines in one area without affecting
4 the district lines elsewhere. And, so,
5 therefore, as a practical matter -- and this is
6 critical, and thank you, Leader, for bringing
7 this up -- as a practical matter, any amendment
8 proposed by a member of this Committee would
9 really take the form of a strike-all, because
10 you are going to have to show the consequences.
11 This was part of our Unanimous Consent
12 Agreement, that any of us who propose an
13 amendment need to show the consequences of that
14 amendment for every other part of the state
15 determining -- depending upon what those
16 consequences are. They might be substantial
17 for neighboring districts, they might be --
18 they might be marginal for districts further
19 away. So, yes, Leader, your understanding is
20 correct.

21 Are there any other questions at this
22 point? If not, let's talk about -- about the
23 amendatory process.

24 Senators who want to file amendments to
25 the proposed committee bill -- and, remember,

1 the proposed committee bill will be published
2 on the 28th of November, the 28th of November,
3 we will take up the proposed committee bill on
4 the 6th of December, and any Senator who wishes
5 to file an amendment, which as we have
6 discussed as a practical matter takes the form
7 of a strike-all, may do so as soon as the
8 proposed committee bills are published. So
9 when the proposed committee bill comes out, if
10 you say, "I have an amendment, I believe, that
11 would make the PCB a better bill, more in
12 conformance with the legal requirements, more
13 in conformance with the public testimony that
14 we have received," you can file it that day or
15 you can file it as we go forward toward the 6th
16 of December.

17 But please keep three things in mind:
18 First, recall that this Committee's Unanimous
19 Consent Agreement was to avoid last-minute
20 surprises and to turn down -- to turn down
21 amendments filed less than 48 hours prior to
22 the noticed committee meeting time. So for
23 December 6th -- and I beg you to note this
24 down. For December 6th, the 48-hour mark will
25 fall on a Sunday afternoon. Now, the Senate

1 traditionally moves deadlines falling over the
2 weekend to the previous Friday at five o'clock
3 p.m., and unless there is objection, I would --
4 I would recommend to the Committee that we
5 follow this practice. In other words, if we
6 are going to have a true 48-hour rule and not
7 have any midnight surprises, then we can't have
8 a late Sunday afternoon surprise when nobody is
9 around, when the press may not be covering what
10 is happening around here on a Sunday afternoon
11 and when the public is not watching. So the
12 48-hour rule would take us back to the close of
13 business, five o'clock p.m., Eastern time, on
14 Friday. Is there any objection to that
15 understanding of the 48-hour rule?

16 Senator Latvala.

17 SENATOR LATVALA: Well, there's no
18 objection to that on the proposed committee
19 bill, but the question occurs as we get into
20 session, are we going to -- you know, in other
21 words, if it is a Monday meeting and you use a
22 seven-day advance for the filing of the
23 committee amendments, which is done on a
24 calendar basis, then does that mean that the
25 deadline for amendments would like then be on

1 Wednesday?

2 SENATOR GAETZ: Senator Latvala, as we
3 discussed when we arrived at our Unanimous
4 Consent Agreement, we will ask the Senate Rules
5 Chair to honor this Committee's request that a
6 48-hour no surprises rule be in effect on the
7 Senate floor as well. So it is not a seven-day
8 rule for a proposed com- -- you know, it is a
9 seven-day rule for a proposed committee bill,
10 but if you wish to offer an amendment on the
11 floor, we simply would ask that you follow a
12 48-hour rule.

13 SENATOR LATVALA: Well, once we get to the
14 session and we get into a proposed committee
15 substitute, what would the -- what would the
16 deadline be on that?

17 SENATOR GAETZ: Seven days.

18 SENATOR LATVALA: Seven calendar days?

19 SENATOR GAETZ: Yes, bearing in mind that
20 we want to avoid the Sunday afternoon surprise.

21 SENATOR LATVALA: Okay. Well, is --
22 again, in the instance of a Monday committee
23 meeting or a Monday floor vote or whatever it
24 might be, when would the deadline be?

25 SENATOR GAETZ: John, can you help us

1 unscramble this for Senator Latvala?

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

3 Using the same rule that the Chairman
4 proposed for the meeting on December 6th, we
5 would back up 48 hours from Monday afternoon,
6 say. That would be Saturday afternoon.
7 Because that is during a weekend, we would
8 extend the period to five o'clock p.m., the
9 close of business, on the prior Friday.

10 SENATOR LATVALA: That is great. Thank
11 you.

12 SENATOR GAETZ: Is that satisfactory, sir?

13 SENATOR LATVALA: Thank you.

14 SENATOR GAETZ: Are there further
15 questions at this point?

16 Getting amendments filed and posted on the
17 website before the close of business on the
18 Friday is important to let your fellow Senators
19 and the media and the public know what you
20 would propose.

21 The second thing I would ask you to keep
22 in mind is the process for amending
23 redistricting legislation is different -- is
24 different from what we are used to for other
25 bills. Each amendment, as noted by Leader

1 Gardiner, must refer to a complete statewide
2 plan. That is the only way that we and the
3 public can be assured that the legal
4 description, the maps, the stats, all relate to
5 the same plan. So even if you are moving one
6 neighborhood or one block with an amendment,
7 the proposed plan will have a unique name, and
8 the legal description of all districts, all
9 districts, will be incorporated in the
10 amendment.

11 So the way you do that -- you don't have
12 to be a metes and bounds expert for the whole
13 state of Florida -- the way you do that is to
14 coordinate with staff when drawing or
15 submitting or filing an amendment, and allow
16 yourself and them plenty of time to work up the
17 amendment. If it is afternoon on Friday,
18 December 2nd, and you are not engaged in a
19 two-way communication with professional
20 committee staff and you intend to file an
21 amendment, the likelihood of meeting our
22 agreed-to deadline is probably not in your
23 favor. So back yourself up a little bit, and
24 if you intend to file an amendment, understand
25 that it has to be an amendment that takes into

1 account the consequences across the state and
2 shows all the technical descriptions.

3 We have the technical descriptions. This
4 is exactly what Mr. Guthrie has been showing us
5 in meeting after meeting after meeting. Our
6 software is extraordinarily useful here.

7 Leader, did you have something, ma'am? I
8 apologize. Leader Rich? I'm sorry.

9 Okay, and third, the third thing I would
10 ask you to keep in mind as to the amendatory
11 process is for the meeting on December 6, the
12 December 6 meeting, we are only moving to
13 introduce proposed committee bills. We are
14 still at that point in the beginning of the
15 process, and there will be plenty of
16 opportunity to discuss and debate amendments
17 when the bills come back to committee. So you
18 don't have to feel obliged, you certainly can,
19 but you don't have to feel obliged as if it
20 were your last opportunity to offer an
21 amendment on December 6th. You can offer an
22 amendment at the next meeting as well.

23 Now, let me stop again and ask if there
24 are any questions about the schedule and about
25 the procedures that we have adopted by

1 unanimous consent and how the Chair is
2 interpreting our Unanimous Consent Agreement.

3 Mr. Rules Chair, do you anticipate that we
4 will have any difficulty in gaining your
5 support for these procedures when we are on the
6 Senate floor?

7 SENATOR THRASHER: No, sir.

8 SENATOR GAETZ: Do you have any comment or
9 guidance for us?

10 SENATOR THRASHER: The thing I would add,
11 Mr. Chairman, it seems to me that we ought to
12 have a formal consensus at least on the
13 procedures that you have outlined. I think
14 that would help us all. And maybe even have --
15 if the professional staff could do that, to
16 outline those procedures in writing so that
17 every member would have them available.

18 SENATOR GAETZ: Thank you very much,
19 Speaker Thrasher.

20 Is there any objection to the explanation
21 that I have given, which I believe is faithful
22 to the agreements that we have already reached?

23 If not, then, Mr. Guthrie, would you
24 please follow the Rules Chair's guidance and
25 provide on a single sheet of paper the schedule

1 and the rules of engagement for the proposed
2 committee bill process and the amendatory
3 process and the process when we have reached
4 the floor.

5 All right. Today we will consider
6 scenarios for southwest Florida, and we will
7 begin with a presentation from professional
8 staff summarizing some of the scenarios and
9 themes for drawing districts in this part of
10 the state, scenarios and themes that are drawn
11 directly from the public testimony that we have
12 received and from the now, I guess, over 150
13 maps that we have received and from the
14 guidance that this Committee has received from
15 those of you who have had the opportunity to
16 visit with committee staff.

17 Then following Mr. Guthrie's explanation
18 of those scenarios, we will take any testimony
19 from those who have come to address the
20 Committee today, and after we have heard public
21 testimony, we will go into discussion and we
22 will seek guidance from the Committee to the
23 professional staff for the various scenarios
24 that have been presented. It has been our
25 practice in each of the committee meetings that

1 we have had to reserve time for discussion of
2 statewide plans submitted by Senators, civil
3 rights organizations and the public. Now, our
4 deadline for public submissions, as you know,
5 was November 1st. That was the deadline for
6 Senators, for interest groups, for the public
7 to submit plans. And, Mr. Guthrie, how many
8 plans have we had submitted, sir?

9 MR. GUTHRIE: Thank you, Mr. Chairman.
10 The slide on the screen here shows that a total
11 of 157 plans have been submitted to the House
12 or Senate committees. Seventy-five of those
13 relate to congressional districts, 39 relate to
14 Senate districts and -- bad math there -- forty
15 -- 39 are House and Senate is 43. I apologize
16 for my bad math there.

17 SENATOR GAETZ: All right. For members
18 who have kept track of each of the plans that
19 have been submitted, I would like to announce
20 with gratitude that plans 154, 155 and 156 were
21 submitted by the National Association for the
22 Advancement of Colored People, the NAACP, the
23 Florida State Conference of the NAACP, and this
24 is in response to the formal request that this
25 Committee has made and that the House committee

1 has made to interest groups, civil rights
2 groups and others to submit maps if they want
3 their ideas considered, ideas that we have
4 earnestly solicited.

5 Is a representative of the NAACP here
6 today who would like to speak to those maps?
7 Any representative of the NAACP here?

8 Okay. The maps do speak for themselves,
9 but we certainly wanted to give any NAACP
10 representatives an opportunity, since they
11 responded to our specific request.

12 Let's turn, if we may, to -- yes, Senator
13 Gibson.

14 SENATOR GIBSON: Thank you, Mr. Chairman,
15 and that we have this packet of maps from the
16 NAACP and any other civil rights organizations
17 speaks to a question that I had last time we
18 met, I think, and that is if the maps -- if we
19 have already reviewed -- since now we are down
20 to the last area, southwest, we have already
21 reviewed all of the other areas, yet we have
22 this new plan of maps, and the way I understood
23 it is once we finished with an area, we would
24 just continue to move on regardless of what
25 other maps came in. So today we will look at

1 the maps submitted by the NAACP as it relates
2 to southwest Florida, but we will not be able
3 to go back and look at any of the areas that we
4 have already by consensus turned over to staff
5 to start to draw maps, is that correct?

6 SENATOR GAETZ: I apologize, Senator
7 Gibson, if I have in any way led you to that
8 conclusion. Instead, it is certainly in order
9 for you, during the period of Senator
10 discussion following public testimony, to raise
11 any question that you wish to raise. We have
12 by agreement gone through the state, region by
13 region, and we need to discuss southwest
14 Florida today and give some direction to
15 committee staff, but we certainly may discuss
16 the NAACP maps as they pertain to any part of
17 the state during the part of our meeting today
18 that is reserved for your comments. Yes,
19 ma'am, we certainly can do that.

20 Any other questions at this point? If
21 not, are there any Senators who wish to offer
22 any specific plans today or highlight any
23 specific plans that you have not indicated to
24 professional staff that you would like to bring
25 up? Any Senators who would like to dip into

1 the 157 plans and lift any up that were not on
2 the agenda?

3 If not, then let's turn to tab four, and
4 we will recognize Mr. Guthrie, who is our
5 professional staff director, and he will
6 present scenarios for congressional districts
7 in southwest Florida. Mr. Guthrie. Mr.
8 Guthrie, could you help us understand, are you
9 moving our screens or only your screen?

10 MR. GUTHRIE: I believe that if you are
11 signed into the meeting place event on your
12 calendar, the screen that is on the overhead
13 also appears on your laptop computer.

14 SENATOR GAETZ: And if there is any
15 Senator who wishes to have any technical
16 assistance in getting to the -- to the meeting
17 portion so that you can follow along with Mr.
18 Guthrie on your screen as well as the screen in
19 front of us, please, please let us know, and we
20 will get you any kind of technical assistance
21 you need.

22 Mr. Guthrie.

23 MR. GUTHRIE: Okay. So we are going to
24 start today with congressional scenarios in
25 southwest Florida. Before I delve into the

1 current congressional districts, let's take
2 just a brief moment to look at the overall
3 demographics of southwest Florida.

4 Last week we looked at this same chart.
5 The most interesting and salient point for
6 redistricting in southwest Florida is that your
7 urban areas of Tampa, St. Petersburg,
8 Clearwater, Bradenton, Sarasota, and a lesser
9 extent, Ft. Myers, Naples, did not keep pace
10 with the state's 18 percent population growth,
11 but the suburban areas immediately to the east
12 of those urban areas grew substantially faster
13 than the statewide growth. So what we are
14 going to see in southwest Florida is that the
15 urban districts will need to grow in order to
16 gain population, whereas the suburban districts
17 will become a little bit geographically smaller
18 to make up for that. So that is the overall
19 trend.

20 The other thing that is -- that looms very
21 large when we are talking about redistricting
22 in southwest Florida is that the counties of
23 Hillsborough, Hardee, Hendry, Collier and
24 Monroe all are covered by Section 5 of the
25 Federal Voting Rights Act as amended. What

1 that means is that any change affecting voting
2 in those counties must be approved by federal
3 authorities before the change can take effect.
4 The standard of review of such plans, whether
5 it is by the U.S. Department of Justice or a
6 Federal District Court for the District of
7 Columbia, will be does the change in voting
8 practice or does the new redistricting plan
9 have the effect of causing a retrogression or a
10 diminishment in the opportunity of minority
11 voters to elect candidates of their own
12 choosing. So Section 5 looms very large --

13 SENATOR GAETZ: Just a moment, Mr.
14 Guthrie. Senator Bullard.

15 SENATOR BULLARD: Thank you, Mr. Chairman.
16 Mr. Guthrie, I -- according to Amendment 5 and
17 6, those counties that you just named, they
18 cannot be in the planning of the drawing of any
19 district, is that what you are saying? I need
20 to understand, and maybe you can just clarify
21 it for me.

22 SENATOR GAETZ: The application of Section
23 5 to congressional districts in this part of
24 the state, and maybe while you are at it, the
25 application of Section 5 to Senate and House

1 districts.

2 MR. GUTHRIE: Right. So your question is
3 how does the new -- the changes, the recent
4 changes, Sections 20 and 21 of the Florida
5 Constitution as they relate to the diminishment
6 of opportunities of minority voters, apply to
7 the federal law requirements under Section 2
8 and Section 5 of the Voting Rights Act relating
9 to minority voting opportunities? And the
10 answer is that the redistricting plans that the
11 Legislature passed -- passes must meet all
12 federal, state -- federal, constitutional and
13 legal standards and all state constitutional
14 standards. So both apply. And the requirement
15 of not diminishing the opportunities of
16 minorities to elect candidates of their own
17 choosing by virtue of the voters of Florida
18 putting Sections 20 and 21 into the state --
19 Article III into the State Constitution is that
20 the non-diminishment requirement now applies
21 statewide and will be scrutinized legally
22 statewide.

23 SENATOR BULLARD: Mr. Chair?

24 SENATOR GAETZ: Yes, you may follow up,
25 Senator Bullard.

1 SENATOR BULLARD: So, therefore, any map
2 that is drawn, if that map shows that one of
3 the counties or any of the counties you just
4 mentioned are -- have been redrawn or people
5 are taken from that particular county to go
6 into the map changed, the drawing of the map
7 changed, that would definitely be a
8 constitutional violation, is that what I hear?

9 SENATOR GAETZ: Mr. Guthrie.

10 MR. GUTHRIE: That would be -- the answer
11 is yes, but let me -- let me explain.

12 SENATOR BULLARD: Yes.

13 MR. GUTHRIE: That would be a violation of
14 the Federal Voting Rights Act, Section 5, as it
15 applies to the covered counties: Hillsborough,
16 Hardee, Hendry, Collier and Monroe.

17 SENATOR BULLARD: Uh-huh.

18 MR. GUTHRIE: It may also be a violation
19 of the -- independently, or under the State
20 Constitution. So there are reviews that will
21 occur by the U.S. Department of Justice or a
22 Federal District Court for the District of
23 Columbia where they will look at those five
24 counties, but also a circuit court in Florida
25 may look at -- at any county in the state and

1 the effect of districting on opportunities of
2 racial minorities.

3 SENATOR BULLARD: Thank you.

4 SENATOR GAETZ: Thank you, Senator
5 Bullard.

6 Senator Detert.

7 SENATOR DETERT: Well, just to put it in
8 simplistic terms, just because you have a
9 current minority district doesn't mean you are
10 totally exempt from any changes, correct?

11 SENATOR GAETZ: Mr. Guthrie. Would you
12 repeat the question, please, Senator Detert?

13 SENATOR DETERT: The question is, just
14 because you hold a current minority -- if you
15 have a current minority district, it doesn't
16 mean you are exempt from any changes?

17 MR. GUTHRIE: I am not a lawyer. My
18 layman's review of redistricting standards
19 would lead me to believe that any dismantling
20 of an existing minority district would be
21 problematic.

22 SENATOR GAETZ: And --

23 SENATOR DETERT: But wouldn't the caveat,
24 though, Mr. Chair, wouldn't the caveat be as
25 long as the numbers remain what they were, but

1 if your numbers changed as to the composition
2 of that minority district, then the lines could
3 change, correct?

4 SENATOR GAETZ: I think the answer to that
5 question is yes, but not being an attorney, why
6 don't we turn to committee counsel, and Mr.
7 Bardos, could you take a crack at that, please,
8 sir?

9 MR. BARDOS: I think that is correct. The
10 lines can change as long as the district
11 retains undiminished ability that it previously
12 had for minority voters to elect the candidates
13 of their choice. So the districts -- the
14 district lines are not frozen and immovable,
15 but what is essential is that there be
16 districts in which the minority's voting
17 strength is not diminished.

18 Now, within the Section 5 counties, you
19 have less discretion to move those district
20 lines because -- because those are the only
21 voters that are protected within Florida under
22 Section 5 of the Voting Rights Act. So, for
23 example, if a district is within those five
24 counties today, and it were moved outside of
25 those five counties, it might satisfy our

1 constitutional provision in Florida, because
2 you still have a district with the same
3 minority voting strength, but it might fail
4 under Section 5 because you have moved it
5 outside of the five protected counties. So
6 there are limitations under Section 5 that
7 apply specifically to the performing minority
8 districts within the five protected counties
9 that restrict the choices that the Legislature
10 can make.

11 SENATOR GAETZ: Is that satisfactory,
12 Senator Detert?

13 SENATOR DETERT: Yes.

14 SENATOR GAETZ: Mr. Guthrie, why don't you
15 proceed and see if we can -- we can be
16 deliberate, but not drag our feet as we get
17 through the congressional districts in
18 southwest Florida.

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

20 So with that as our background, let's take
21 a look at the existing congressional map. The
22 first district that I want to focus in on is
23 this Congressional District 11 in the Tampa Bay
24 area. That includes parts of Hillsborough,
25 Pinellas and Manatee Counties. The district

1 currently is 26.8 percent black VAP and 25.8
2 percent Hispanic VAP. Because it includes
3 portions of Hillsborough County, the district
4 is subject to pre-clearance.

5 The other district -- there is another --
6 there is a majority-minority black district in
7 south Florida, District 23, which is
8 principally in Palm Beach and Broward County on
9 the east coast, but also stretches over to
10 include a portion of Hendry County, which is a
11 Section 5 jurisdiction. So Congressional
12 District 23, which is currently 54 percent
13 African-American voting age population, is
14 subject to Section 5 pre-clearance.

15 And then Congressional District 25, which
16 is in Miami-Dade and Collier Counties, is
17 72 percent Hispanic VAP, one of three Hispanic
18 voting age majority districts in the current
19 congressional map. And so that, too, because
20 it is in Collier and Monroe Counties, two
21 Section 5 jurisdictions, is worthy of special
22 attention.

23 Another point I would like to point out
24 for the Committee based on what we heard at the
25 public hearings, particularly in southwest

1 Florida, was that District 16 includes most of
2 Charlotte County and some of the counties
3 surrounding Lake Okeechobee, then it extends
4 east to include parts of St. Lucie, Martin and
5 Palm Beach County. One of the themes that we
6 heard at the public hearings was to try to
7 avoid districts -- urban districts that stretch
8 across the state, include urban areas on either
9 side of the state. So that is the main
10 take-aways from the existing map.

11 The first map that we wanted to highlight
12 for the Committee's consideration today is the
13 NAACP map, which is map number 154.

14 SENATOR GAETZ: And, Mr. Guthrie, Senator
15 Simmons will take the Chair.

16 SENATOR SIMMONS: Go ahead.

17 MR. GUTHRIE: The -- a salient point about
18 the NAACP congressional map is that it
19 preserves the cores of your minority districts.
20 In this case, District 11 is 26.7 percent black
21 VAP and 25.5 percent Hispanic VAP, very similar
22 to the benchmark district. And District 23
23 continues to extend into Hendry County. It
24 still principally is a Palm Beach/Broward
25 County district, but that district in the new

1 configuration is over 50 percent black VAP.

2 So those are the key features in southwest
3 Florida of the plan proposed by the NAACP.

4 SENATOR LATVALA: Can I ask a question?

5 SENATOR SIMMONS: Yes, Senator, you are
6 recognized.

7 SENATOR LATVALA: And this is brushing on
8 the same question that Senator Detert answered
9 -- asked, I think. In the case of a --
10 preserving a minority seat, such as the one
11 that is currently District 11 in the
12 Tampa/lower St. Petersburg area, does the --
13 does the need to preserve the district extend
14 to when there is not a minority elected to
15 represent the district? In other words, when
16 we are -- when we are -- when we are trying to
17 look at the minority districts and preserving
18 those, which the Committee has already, by
19 consensus, decided to do, does that apply to a
20 district that is not currently represented by a
21 minority?

22 SENATOR SIMMONS: Go ahead, Mr. Guthrie,
23 or would you like counsel to answer that?

24 MR. GUTHRIE: Let's defer to legal counsel
25 on this question.

1 MR. BARDOS: Under both Section 5 and our
2 amendments, what matters is whether that person
3 who has been elected is the candidate of choice
4 for the minority voters. And so, for example,
5 the Department of Justice looks back at the
6 last five general elections to see -- since the
7 last redistricting to see whether the person
8 who has been elected is the candidate of choice
9 for minority voters.

10 Now, there is an academic debate which has
11 been -- which is actually a very practical
12 question, which has been discussed frequently,
13 which is does that mean that it is -- and this,
14 I think, is your question -- does that mean
15 that the candidate who is successful must him
16 or herself be a minority. And I think the
17 better answer is probably if the successful
18 candidate is not a minority, but that person
19 was the preferred candidate of minority voters,
20 then that continues to be considered, that
21 district is considered a district in which
22 minorities have the ability to elect. But that
23 would require a close examination of whether
24 that candidate who was elected is, in fact, the
25 candidate of choice. And so you would look at

1 primary elections in that district, within each
2 party, to see whether the candidate who
3 ultimately prevailed was the minority preferred
4 candidate.

5 SENATOR LATVALA: Thank you.

6 MR. GUTHRIE: Okay. So the next map that
7 we want to look at is proposal number 104
8 submitted by Mr. John Libby. This is an
9 example of what you might get if your focus in
10 redistricting of congressional lines was on
11 minimizing the number of county and city
12 breaks, or following county boundaries to the
13 extent practicable.

14 We see that the extension of a
15 majority-minority African-American district
16 into Hendry County is not retained in this map.
17 That potentially could raise questions or
18 issues on Section 5 review. Also, Collier
19 County, which in the benchmark district is part
20 of a Hispanic majority district, is no longer
21 part of the Hispanic district, and the
22 Hillsborough districts, none of them cross the
23 bay. District 13 has the highest percentage of
24 African-American voting age population, but it
25 is at -- it is -- District 13 is at 17.6

1 percent African-American VAP versus 26 percent
2 in the benchmark. So a number of issues that
3 we would have to contend with with a map such
4 as this one, which focuses more on Tier 2 than
5 on Tier 1 requirements.

6 SENATOR SIMMONS: Senator Siplin, you are
7 recognized.

8 SENATOR SIPLIN: Thank you, Mr. Chair, and
9 I apologize, John, before you get too far down,
10 you were referring a moment ago to the NAACP
11 map. Was that map only for the southwest, or
12 was that -- did they submit a complete map?
13 Because as I look at the breakdown, I don't see
14 but maybe 15 or 20 seats.

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

16 The map submitted by the NAACP is zero
17 deviation for all 27 congressional districts.
18 For this meeting, we are focusing on just the
19 southwest Florida districts, but if you go to
20 the Senate -- the Senate website, and the way
21 we do this is from the Senate site, click on
22 "Redistricting," then "Submitted Plans," and we
23 will pick "submitted by NAACP" and hit
24 "Return," and we get a list of the three plans
25 that were submitted by the Florida State

1 chapters of the NAACP. If we look at the
2 congressional map here and view it in District
3 Explorer, we see the entire map, and all the
4 stats -- statistics and downloads for this plan
5 are available for everyone to take a look at at
6 the Senate website.

7 So even though we are focusing on
8 southwest Florida today, as the Chairman said,
9 the entire map is available for your review.

10 SENATOR LATVALA: Mr. Chairman?

11 SENATOR SIMMONS: Yes, Senator Latvala,
12 you are recognized.

13 SENATOR LATVALA: This is starting to
14 bring to mind some of the testimony that we had
15 at the hearing in Pinellas County, in Largo.
16 And correct me if I am wrong, but wasn't the
17 bulk of the testimony, if not the unanimous
18 testimony of the people who came, who live in
19 the -- the seat that is connected -- is that
20 currently District 11 or 13?

21 MR. GUTHRIE: Congressional District 11
22 crosses Tampa Bay.

23 SENATOR LATVALA: Tampa and south St.
24 Petersburg?

25 MR. GUTHRIE: Yes.

1 SENATOR LATVALA: Did we not have a
2 significant amount of testimony from people who
3 live in District 11, in St. Petersburg, saying
4 they did not feel they were served well by
5 being in District 11?

6 MR. GUTHRIE: It's been a while since I
7 have reviewed that transcript. The transcript
8 is available on-line and speaks for itself. I
9 don't recall that specific testimony, but it --
10 if you were there and if you heard it, then --

11 SENATOR LATVALA: I do recall that, and I
12 think that, you know, goes into the question
13 of, you know, in the interpretation of the
14 Voting Rights Act and, you know, the ability to
15 elect a candidate of their choice and so forth.
16 If I am not mistaken, virtually everyone from
17 south Pinellas that came criticized being in
18 that particular congressional district. And so
19 I just -- I just raise that point for your
20 consideration, that maybe you want to go back
21 and look at that testimony as we are doing the
22 drafting of the committee bill on that.

23 SENATOR JOYNER: I have a question,
24 Mr. Chair.

25 SENATOR GAETZ: Senator Joyner.

1 SENATOR JOYNER: My question is, are you
2 going to go back and listen, as Senator Latvala
3 suggested? Because I was there, and recalling
4 what -- you know, after going to so many, you
5 really do have to check the record, for the
6 best recollection is the written record.

7 SENATOR GAETZ: I think Leader Rich gave
8 us the answer to that question in an earlier
9 meeting, and that is that we all need to go
10 back and check the record and not be the victim
11 of the last thing we heard, but be the victim,
12 or at least the beneficiary of the bulk of
13 testimony that we heard. So I would encourage
14 us all to go back and check the record.

15 SENATOR JOYNER: Mr. Chair, and not --

16 SENATOR GAETZ: Yes, Senator Joyner.

17 SENATOR JOYNER: Notwithstanding what we
18 heard, we still have to abide by the
19 constitutional standards, is that correct?

20 SENATOR GAETZ: I hate to keep quoting
21 Leader Rich, but she also said that. I don't
22 hate to keep quoting her. She was right.

23 MR. GUTHRIE: And in preparing the
24 proposed committee bill, the professional staff
25 of your Committee and I will consult the

1 extensive public hearing record that is
2 available to all on the Senate website. I
3 brought it up on the screen here. You see that
4 for each of the hearings, we have the hearing
5 report prepared by professional staff, we have
6 handouts and displays that were presented to
7 the public at the meeting. For many of the
8 hearings, most of them at this point, we have a
9 hearing transcript. Click on that, and it
10 opens up in your browser, so a verbatim
11 transcript prepared by a court reporter of
12 exactly what was said at those -- at those
13 meetings.

14 We have a podcast. You can put it on --
15 on your device and take it with you jogging or
16 in the car, and a video that you can watch at
17 your -- at your leisure. So an extensive
18 amount of public testimony available through
19 the Senate website there.

20 SENATOR GAETZ: And also I would recommend
21 that members have a look at a House document,
22 which was developed by House professional staff
23 and which we shared with Senators, and that
24 was, my phrase, and I don't mean to be
25 pejorative, a kind of CliffsNotes version of

1 the themes that were echoed in each of the
2 hearings. So please do go back and refresh
3 yourself, particularly before we debate on a
4 proposed committee bill.

5 Mr. Guthrie.

6 MR. GUTHRIE: So we have covered the
7 current congressional districts. We looked at
8 the NAACP proposal for congressional districts.
9 This is a -- we spent a bit of time on plan 104
10 by Mr. Libby, which focuses on keeping county
11 lines intact and what the impacts of that were.

12 The next proposal that -- that staff
13 selected for focus today is plan number 77 by
14 Mr. Miller. We thought that this was a good
15 example of tracing district boundaries around
16 city lines. Again, the consequence of that was
17 to undermine the opportunities for racial
18 minorities in some of those districts. So a
19 second proposal, which in this case focused on
20 following city boundaries to the detri- -- or
21 as a higher priority than the Tier 1 standards.

22 Plan number 31 by Sean --

23 SENATOR THRASHER: Mr. Chairman? That
24 raises --

25 SENATOR GAETZ: Speaker.

1 SENATOR THRASHER: Thank you, Mr. Chair.

2 The point that I think Senator Joyner was
3 making, and I think it is important to remind
4 ourselves as we go back and look at testimony,
5 and testimony is fine, or look at any
6 individual map, that is fine, it is also good
7 to have right next to it what we think and what
8 we have agreed to are the priorities under the
9 Constitution under Amendments 5 and 6 for
10 drawing these districts. I don't think you can
11 do it in isolation, I think you have to remind
12 yourself what those priorities are. And I
13 think this map is a good example of that,
14 somebody who is obviously well-intentioned, but
15 certainly wasn't looking at Amendments 5 and 6
16 when they drew the plan.

17 SENATOR GAETZ: You are right, Speaker
18 Thrasher, and it is not just a matter of which
19 way the testimony was blowing on a particular
20 day. I believe that Speaker Thrasher
21 articulated and this Committee adopted a
22 template that allows us to look at testimony
23 and plans with a view toward faithfulness with
24 Amendments 5 and 6 and the Voting Rights Act,
25 and that is a point well taken.

1 Leader Rich.

2 SENATOR RICH: Thank you, Mr. Chair.

3 I just kind of want to follow up in that
4 line of thinking, but going back to the NAACP
5 map, because when I look at that map, that map
6 really pretty closely is drawn based on the
7 current district lines. So I guess the
8 question I would have there also goes back to,
9 you know, we then need to look, when we look at
10 those maps, were the maps that we drew ten
11 years ago when we didn't have Amendments 5 and
12 6 -- you know, they were drawn to preserve
13 incumbency and political parties and so forth.
14 So I am not sure how a map like that, you know,
15 now can comport with the amendments that we
16 have in the Constitution. That would be my
17 question about that map. Although you didn't
18 mention that, I am just curious, because, I
19 mean, these other maps don't comport, I think,
20 in ways, and I think the NAACP maps don't
21 comport either, because I don't think anyone
22 would say that the current districts that we
23 have are in line with the amendments that are
24 now -- the standards that are now in our
25 Constitution.

1 SENATOR GAETZ: Mr. Guthrie, any comment?

2 MR. GUTHRIE: The newly-inserted standard
3 relating to incumbency and political parties is
4 that districts not be drawn with that as their
5 intent. So if the Legislature were to adopt
6 districts with the intent of favoring
7 incumbents or favoring political parties, that
8 would be in violation of the Constitution.

9 SENATOR GAETZ: Or disfavoring them, I
10 think. Favoring or disfavoring?

11 MR. GUTHRIE: Favoring or disfavoring,
12 that is correct, yes.

13 SENATOR GAETZ: But Leader Rich makes a
14 very good point, and, of course, we -- in order
15 to be faithful to the -- to Amendments 5 and 6
16 and to the agreements that we have made here
17 thus far, we can't be slavish devotees to the
18 way the districts were drawn ten years ago, we
19 have to be mindful of where people live, and if
20 minorities live in certain areas, we need to be
21 mindful of that, but there is -- and I would
22 just certainly ask for any disagreement, but I
23 think Leader Rich makes an excellent point, and
24 that is the way district lines were drawn ten
25 years ago should not be -- should not bear any

1 preponderance of -- there shouldn't be any
2 preponderance of proof there or any bias there,
3 that's just the way it was, it's not the way it
4 is.

5 SENATOR RICH: Right.

6 SENATOR GAETZ: Is that a fair statement,
7 Leader?

8 SENATOR RICH: I think that is a fair
9 statement, and I just want to add also, I mean,
10 it is not only about incumbents and political
11 parties, but, I mean, if you look at the --
12 kind of the list of the standards, I mean, we
13 are talking about other things that were not
14 taken into account then either in terms of
15 compact districts or using existing geographic
16 or political boundaries. I mean, there are so
17 many things, so many standards, that were not
18 there ten years ago, that, you know, I think we
19 need to factor in if we are going to be loyal
20 to, you know, what was just said by Senator
21 Thrasher about making sure that we, you know,
22 look at the new amendments and make sure that
23 we take them into account as we draw the
24 districts.

25 SENATOR GAETZ: Thank you, Leader.

1 Senator Simmons.

2 SENATOR SIMMONS: Thank you, Mr. Chair.

3 I would like to point out that as we do
4 this -- and this is just my views on this, and
5 that is that there is a distinction between our
6 existing districts that are minority access,
7 minority districts, and creating new districts.
8 And as we go through this process, we have to
9 be mindful not only of the -- our Amendments 5
10 and 6. Amendments 5 and 6 require us not to
11 diminish the ability of minorities to in fact
12 be able to elect a candidate of their choice.
13 This follows a lot of the language that is in
14 the Voting Rights Act, and we have to be very
15 mindful about retrogression. And the reason
16 that an existing district has at least the
17 importance that it has is because we cannot
18 diminish the ability of those minorities to
19 elect the candidate of their choice.

20 And so there is a serious question, I
21 submit to you, Senator Rich, about doing a
22 retrogression. If you start trying to take one
23 of those districts and dividing it into two,
24 and if you've got a 50 percent minority access
25 district -- 50 percent district, and you try to

1 divide it into two districts that are, for
2 example, 30 percent African-American, that you
3 have a serious question about retrogression
4 under the -- our Constitution as we've got it
5 right now, under Amendments 5 and 6 and under
6 the Voting Rights Act. And the cases that have
7 dealt with this particular issue have said,
8 number one, you are not supposed to have race
9 as your dominant motive in creating a district,
10 but at the same time, you cannot retrogress
11 from an existing district, you cannot diminish
12 an existing district, and that is the reason
13 that there is a rationale for looking at the
14 existing districts right now and building upon
15 them, working from those districts, and that
16 the -- the cases that have dealt with this have
17 said that while the race, if it is going to be
18 a primary or dominant motivation with respect
19 to districting, if you are talking about the
20 kind of compelling state interest that is
21 necessary to pass constitutional muster, that
22 what constitutes a compelling governmental
23 interest to do this, one of them is remedying
24 past discrimination, another one is avoiding
25 retrogression in violation of Section 5 of the

1 Voting Rights Act and avoiding a violation of
2 Section 2 of the Voting Rights Act.

3 So we are really looking at a very, very
4 important distinction here. One of them is
5 creating new districts that are minority
6 access, and the other one is preserving
7 existing minority rights. And there is
8 apparently -- as far as I am aware, the U.S.
9 Supreme Court has assumed, without deciding,
10 that avoiding retrogression in violation of
11 Section 5 of the Voting Rights Act constitutes
12 a compelling state interest.

13 So what I am saying to you is there is a
14 rationale behind the -- you know, the
15 importance of looking at existing -- existing
16 districts, particularly minority access
17 districts. But at the same time, I concur with
18 our Chairman in that anytime that we use race
19 as a dominant factor, we've got to be very
20 careful, and the way we need to assure that we
21 are doing this the right way is that we -- in
22 addition to considering race, which is
23 appropriate, we also make sure that that is
24 tempered by looking at the traditional
25 considerations that are undertaken in

1 redistricting, such as compactness, such as
2 communities of interest and things like that.
3 So I would just point out in response to what
4 Senator Rich said, that there are
5 qualifications on her assumptions.

6 SENATOR GAETZ: Senator Bullard, and then
7 we will return to the maps.

8 SENATOR BULLARD: Thank you, Mr. Chairman.

9 Senator Simmons, you gave a great
10 presentation in terms of what you -- because
11 you are a white man, okay, let's get -- you
12 know, I know you know that, right?

13 SENATOR SIMMONS: The last time I looked.

14 SENATOR BULLARD: And if he says I don't
15 like them, don't believe him.

16 I want to say that in all -- there is a
17 time and there will be a time in this process
18 that we are going to definitely look at not
19 maybe race as a dominant factor, but the seats
20 that are as we draw -- and I know that -- I
21 don't want you to follow that process they had
22 ten years ago. It was not good. So -- but I
23 am saying that I do believe that in this state,
24 as we move in the southernmost district, you
25 will find that we are having a difficult time

1 holding onto any white or black seats. I mean,
2 you may not want to -- want to say that -- that
3 we don't use that in the -- in the state of
4 Florida, we have predominantly white, and I
5 believe that blacks are the second in terms of
6 percentage, and you can correct me if I am
7 wrong, Mr. Guthrie, but we -- something has to
8 happen to give some recognition to those
9 individuals who in some areas are losing all
10 seats. And you are sitting there and say -- we
11 say -- it is reality. How do we move this
12 thing around? How do we do this? We've got to
13 be realistic about it. If you have -- you
14 know, you have John Cosgrove, you had all those
15 -- Art Simon, all of those -- I mean, these are
16 white males once, but you don't have that
17 anymore. You have -- you had some blacks, you
18 don't have that anymore. And I am very
19 concerned about it, and I am just speaking my
20 opinion on this. And I believe it is very
21 important that we recognize that, yes, we don't
22 want to use it at this point, but at some point
23 we may need to sit down and recognize the
24 reality and not play games with the people in
25 terms of their representation and who will be

1 representing them in this legislative body.
2 And I do -- I do appreciate your -- what you
3 said, but I think that we need to be realistic.

4 SENATOR GAETZ: Thank you, Senator
5 Bullard. We are going to do what the -- what
6 they do in the United States Senate, we are
7 going to invoke cloture. We will have brief
8 comments from Senator Detert and Senator
9 Simmons, and then we will return to the regular
10 order.

11 Senator Detert.

12 SENATOR DETERT: I would just like to
13 remind us that to keep the law and to keep the
14 rules that the voters passed, we cannot favor
15 or disfavor incumbents, period. So we will
16 certainly keep minority districts, but we don't
17 have to keep the same Representatives. It is
18 where the chips -- and that is where favor or
19 disfavor comes in. So it is really not the
20 Incumbent Protection Act, it is all about the
21 people and who lives in the district. So
22 that's my only personal opinion.

23 SENATOR GAETZ: Senator Simmons for a
24 brief comment.

25 SENATOR SIMMONS: Thank you, Mr. Chair.

1 Senator Bullard, what I am pointing out is
2 that the goal that we must follow is the one
3 that I have seen our Chairman lead us through,
4 and that is that we are going to do that which
5 the Constitution and the laws of the State of
6 Florida and the United States require of us,
7 and that is what we are going to follow in
8 every way. And in doing so, it may be a
9 situation where it may violate what your
10 personal opinion is, or my personal opinion,
11 but we must follow the rules that are given to
12 us by district -- by Amendments 5 and 6, as
13 well as the federal laws that control all of
14 this. And that is what I have seen this
15 Committee doing, and that is what I think we
16 are headed towards as we prepare these. And we
17 are going to have to deal with the issue that
18 we cannot have a diminution of existing rights
19 of voters who are African-American or Hispanic.

20 At the same time, in creating new
21 districts, the point that I am making is that
22 we must assure that in creating any new
23 district, that we cannot have the dominant
24 cause or concern being race in doing that,
25 although we've got to deal with Amendments 5

1 and 6 that say we shall not abridge the rights
2 of minorities with respect to their access
3 to -- you know, to the political system.

4 So we have got to weigh these two things
5 together, but at the same time assure we do not
6 violate equal protection under the United
7 States Constitution that prohibits us from --
8 you know, if we are going to have any kind of
9 race consideration in a new district, we've got
10 to also take into consideration the traditional
11 concepts that are inherent in redistricting.

12 SENATOR GAETZ: Okay. Leader Rich, can
13 you -- Leader Rich, we are going to let you
14 bring us back to the campfire here, and then we
15 are going to proceed.

16 SENATOR RICH: I just want to make sure
17 that, you know, some people have understood
18 what I said. I believe that we have lots of
19 things to balance with the Voting Rights Act
20 and with Amendments 5 and 6. And my remarks
21 previously about the NAACP map were just simply
22 to say that, in my opinion, if we passed a map
23 that was almost the same in every district as
24 we had ten years ago, which are what those maps
25 do, we would not be able to balance the -- and

1 I admit -- competing interests with regard to
2 the amendments, the Voting Rights Act and
3 everything. But that was the point, that I
4 don't believe that 63 percent of the voters of
5 the state of Florida decided to vote for
6 Amendments 5 and 6 so that we could come back
7 with a map that was what it was ten years ago.

8 SENATOR GAETZ: Okay. Senator Siplin,
9 now, are we on point here? We -- you know, we
10 have a time certain to end, but I will
11 certainly recognize you.

12 SENATOR SIPLIN: Thank you, Mr. Chair.

13 Most respectfully, Mr. Chair and members,
14 all of our seats that we represent today were
15 approved by the court system and they were all
16 based upon the federal Voting Rights Act. And
17 we had seven black Senators and 19 black
18 Representatives, and you had three Hispanic
19 Senators and I think nine Hispanic Senators
20 based upon the federal law to allow minorities
21 to represent and to vote for people of their
22 choice, and that is the basis of the seven
23 black Senators and the 19 black Reps, and also,
24 accordingly, the three black -- three Hispanic
25 Senators and the nine black -- I mean the nine

1 Hispanic Senators.

2 So, most respectfully, all the seats that
3 exist today, they were based upon the Voting
4 Rights Act to allow minorities to elect and
5 represent people of their choice. And today we
6 have six black State Senators because the
7 Supreme Court and the 11th District Court of
8 Appeals approved what we did. I was a part of
9 that process in 2000. What we did was approved
10 by the Constitution and by the appellate
11 courts, okay.

12 So when Fair Districts decided to do what
13 they wanted to do, which is fair, they ate what
14 the appellate court said, that we must not
15 dilute the seven black State Senators, the
16 constituents who elected us and the three
17 Hispanic Senators. So that is why Fair
18 District included that in the process.

19 So my point is, Mr. Chairman, is that, you
20 know, we already have the constitutional basis
21 to maintain the seats that we have to represent
22 and reflect the minorities and the racial
23 minorities in the state of Florida, okay. I
24 believe that we can, based upon the law, expand
25 on that, but I think we do have a

1 constitutional basis to justify the six black
2 State Senators, the 19 black Reps and the three
3 Hispanic Senators and the nine Hispanic
4 Representatives.

5 Okay. So my point is, most respectfully,
6 Leader Rich, that we can have pretty much
7 basically the same diagram that we had ten
8 years ago, because it has already been
9 confirmed by the U.S. Court of Appeals and the
10 Voting Rights Act, and, of course, Fair
11 District encompassed those concepts in 5 and 6.

12 So I just want to make sure that we make
13 that point clear, Mr. Chairman and members,
14 that we do have the basis -- if it does ape the
15 2002 maps then, hey, it's already been approved
16 by the Supreme Court that it does allow
17 minorities to represent and to vote for people
18 who they want to have them represented, and we
19 exist today. So I wanted to make that point
20 clear as a foundation, a predicate, for us, and
21 a springboard to move on in the future, that we
22 consider that the maps and the seats that exist
23 today are constitutional, are constitutional.
24 They were passed by legal muster. And then, of
25 course, Fair Districts added onto it and

1 maintained that core precept and concept that
2 we must have minority representation. So I
3 just want to make sure that point was known.

4 SENATOR GAETZ: Thank you.

5 Senator Gibson, we have reached the point
6 where everything has been said, but not by
7 everybody. So -- Senator Gibson, you are up.

8 SENATOR GIBSON: Thank you, Mr. Chair, and
9 I appreciate not being called everybody.

10 And I think to both Senator Rich's and
11 Senator Siplin's point I would simply add that
12 in addition to maybe the standards that Senator
13 Siplin referenced, we actually do have 5 and 6
14 and we have standards that we also have to
15 utilize moving forward. And I don't -- I don't
16 think staff or anyone else can come up with
17 anything that is counter to all of the
18 necessary pieces to the puzzle that must be
19 included to come up with an end result.

20 SENATOR GAETZ: Thank you, Senator Gibson,
21 and I think that is a good segue, because we
22 will have the opportunity, when there is a
23 proposed committee bill, to closely question
24 professional staff as to the derivation of each
25 and every district and as to the legal defense

1 that would be made for each and every boundary
2 decision. That is an excellent point, Senator
3 Gibson. And unless there is something else
4 exactly on point -- briefly, Senator Bullard.

5 SENATOR BULLARD: Thank you, Mr. Chairman.

6 I want to thank you, Senator Simmons, for
7 responding to my statement, and I want to say
8 that I am listening, but I just want to be
9 certain that the end result is going to be
10 actually fair. Thank you.

11 SENATOR GAETZ: Thank you, Senator
12 Bullard.

13 Mr. Guthrie.

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

15 As to the question of what the -- what the
16 voting age percentages are in the state,
17 22 percent of Floridians self-identified
18 themselves as voting age Hispanic, and
19 16 percent as African-American. So those are
20 the statewide percentages.

21 There's just one more congressional plan
22 that we had in your meeting packet there. That
23 is plan number 31. It is, again, an example of
24 following county boundaries. An exception to
25 following county boundaries is this District

1 14, which includes Section 5, covered
2 Hillsborough County, crosses over to Pinellas
3 County, but it does so in a way that does not
4 enhance and, in fact, diminishes the
5 opportunity of racial minorities in that
6 district. The benchmark district is 27 percent
7 black VAP. The proposed new district is --
8 that crosses the bay is 17 percent black VAP.
9 This is an example of the sort of change that
10 very well may get scrutiny by federal
11 authorities on review. So that is the last of
12 our congressional plans that we wanted to look
13 at this afternoon.

14 SENATOR GAETZ: Let us stop here, and now
15 we need to provide any guidance that you would
16 like to as to congressional plans to the
17 professional staff as they begin to prepare the
18 proposed committee bill. We have had some
19 excellent guidance already through the
20 discussions today, but other guidance, Senator
21 Detert.

22 SENATOR DETERT: This is strictly just a
23 technical question. The last map on my screen,
24 it says 7970, and you said it was 31 or 41 or
25 --

1 MR. GUTHRIE: The plan that is on the
2 screen right now is 31.

3 SENATOR DETERT: But -- oh, I see. I was
4 looking -- at the top, it says a different
5 number. All right, fine. Thank you.

6 SENATOR GAETZ: All right. Certainly
7 entertain any specific guidance, any statements
8 that you might like to make, any summation of
9 principles that you would like to have
10 professional staff follow. I think we've well
11 articulated as we have gone through the state,
12 and I believe that Speaker Thrasher had laid
13 out and we adopted a hierarchy of
14 considerations and requirements, but are there
15 additional comments or questions? We will
16 entertain them from any member of the
17 Committee.

18 Senator Detert.

19 SENATOR DETERT: Just to comment, and
20 whatever current map you have up now, which
21 just disappeared -- I am trying to find your
22 31. It is not on my map, but it says "7970" at
23 the top.

24 SENATOR GAETZ: Are we --

25 SENATOR DETERT: We keep flipping here.

1 SENATOR GAETZ: Are we together here on
2 thirty -- are you wanting us to be on 31,
3 Senator Detert?

4 SENATOR DETERT: That would be good.

5 SENATOR GAETZ: Okay. That is where we
6 are, ma'am.

7 SENATOR DETERT: Congressional.

8 SENATOR GAETZ: That is where we are on
9 the screen.

10 SENATOR DETERT: Okay. That -- that does
11 not keep what we heard in our county regarding
12 -- well, that is a Senate district. I was
13 looking at the one that was the congressional
14 for that area.

15 SENATOR GAETZ: Yes, ma'am, that is the
16 congressional map, 31 is a congressional map,
17 ma'am.

18 SENATOR DETERT: Okay. That does not keep
19 the spirit of what we heard in my community,
20 which was to keep Sarasota and Manatee
21 together. We don't really have a big, you
22 know, minority presence there. There was a
23 better map that kept them together that we
24 flipped through somewhere.

25 SENATOR GAETZ: Could you go backwards,

1 please, Mr. Guthrie, and could you --

2 SENATOR DETERT: That's not it either.

3 SENATOR GAETZ: There it is.

4 SENATOR DETERT: That is the one. The one
5 that you have up now, that would meet the
6 standards of what we heard in my community.

7 SENATOR GAETZ: And, Mr. Guthrie and Mr.
8 Bardos, could you just comment with respect to
9 this map, are there any -- are there any
10 outstanding legal issues or remarkable issues
11 associated with this map?

12 MR. GUTHRIE: It is remarkable that it is
13 current law, so --

14 SENATOR GAETZ: Oh.

15 SENATOR DETERT: Well, that is what -- I
16 guess we are old-timers and that's what we are
17 used to and --

18 SENATOR GAETZ: My, my. The first shall
19 be last, and the last shall be first.

20 SENATOR DETERT: -- as long as the numbers
21 come out, we are satisfied to keep it --
22 District 13 the way it is.

23 SENATOR GAETZ: So, Senator Detert, are
24 you -- are you suggesting that we direct
25 professional staff to maintain Manatee and

1 Sarasota in one congressional district?

2 SENATOR DETERT: Yes, sir, as long as
3 their numbers come out, and the Hardee and
4 DeSoto, that's been the makeup historically.
5 There was -- well, this should be -- this is a
6 little different, because they also had
7 Charlotte County in there, and I don't know
8 with that map if District 13 would still have
9 Charlotte in it, but I -- or if they had to
10 lose numbers, but that looks pretty
11 satisfactory to what I think we heard at the
12 meetings.

13 SENATOR GAETZ: Thank you, ma'am. Are
14 there other comments or questions,
15 observations, recollections from the hearings,
16 direction for the staff?

17 All right. Then, Mr. Guthrie, we will
18 wrap up with some takeaways on this later, but
19 why don't you, please, if you would, turn to
20 tab five, Senators, and Mr. Guthrie will walk
21 us through scenarios for Senate districts in
22 southwest Florida. Mr. Guthrie, you are
23 recognized.

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

25 On your screen now, we have the current

1 Senate map. Remarkable features about this
2 map, number one, we have the existing District
3 18, in Section 5 covered Hillsborough County,
4 plus portions of Pinellas and Manatee County.
5 District 18 is 39.5 percent black VAP,
6 23 percent Hispanic VAP. The district today is
7 under-populated by about 65,000 people. So in
8 order to come up to the one person, one vote,
9 requirement of 470,000 people, we need to add
10 about 65,000 more people to District 18.

11 Also covered by Section 5 of the Voting
12 Rights Act is District 39, which is in Hendry,
13 Collier and Monroe Counties. It also includes
14 portions of Palm Beach, Broward and Miami-Dade
15 Counties. District 39 today is 29 percent
16 black voting age population and 43 percent
17 Hispanic voting age population.

18 Other noteworthy aspects of the existing
19 plan, we have currently District 27, Senate
20 District 27, which extends from the Ft. Myers
21 area in Lee County across the state to the West
22 Palm Beach area. We did hear a lot of
23 testimony on both coasts that that was not the
24 desire of citizens to have an urban district
25 that stretches across the state. And District

1 21, which wraps around District 23, is another
2 interesting aspect of the existing map that
3 some folks at our public hearings tended to
4 question. So those are the some of the salient
5 features about the existing map. Many of the
6 districts in this area, as we talked about
7 earlier, in your urban areas are
8 under-populated and in your suburban areas are
9 overpopulated.

10 The first alternative map that we wanted
11 to take a look at is plan 155 that was
12 submitted by the Florida State Chapter of the
13 NAACP. The map does a good job of not
14 diminishing opportunities for racial minorities
15 to elect candidates of their choice. District
16 18, still in the Tampa/St. Pete/Bradenton area
17 in this proposal, is 38.7 percent
18 African-American voting age population and
19 22 percent Hispanic voting age population. And
20 District 39 in Collier, Monroe and Palm Beach,
21 Broward and Miami-Dade Counties is 35 percent
22 black voting age population, actually a six
23 percent increase in the black voting age
24 population, and 39.6, almost 40 percent
25 Hispanic VAP, a slight decline in the Hispanic

1 voting age population.

2 SENATOR GAETZ: And, for the record,
3 Senators, I believe if you examine this map
4 presented by the NAACP, you will find that in
5 contrast perhaps to previous maps that we
6 looked at in the congressional discussion, that
7 this map is not -- is not a reflection of
8 current districts, that there are material
9 differences between the Senate map presented by
10 the NAACP and current Senate districts. There
11 are some similarities to be sure, but there are
12 also some very substantial material
13 differences.

14 Go ahead, Mr. Guthrie.

15 MR. GUTHRIE: Thank you, Mr. Chairman, and
16 the next map that we wanted to look at is plan
17 number 147 by Remzey Samarrai. That map, too,
18 strives to focus on the Tier 1 requirement of
19 not diminishing opportunities for racial
20 minorities to elect candidates of their own
21 choice.

22 In this case, the district in the Tampa
23 Bay area is District 20. It crosses from Tampa
24 to St. Petersburg and down to Bradenton.

25 District 20 is 35.8 percent black VAP and 31.9

1 percent Hispanic. District 34 is in Hendry,
2 Collier and Miami-Dade Counties. What this
3 plan does is converts those counties from a
4 district that is plurality Hispanic to a
5 district that is a high majority Hispanic, it
6 is 73.7 percent. So it takes a district that
7 is -- has a coalition today of African-American
8 and Hispanic voting age population, and puts in
9 its stead a high percentage Hispanic district.

10 Those are the key points that I wanted to
11 bring out regarding --

12 SENATOR GAETZ: Before you leave that map,
13 Mr. Guthrie, I draw your attention to proposed
14 Senate District 35 in -- in -- you call it the
15 Samarrai map, Mr. Samarrai?

16 MR. GUTHRIE: Yes, sir.

17 SENATOR GAETZ: What -- is there a logic
18 to the tail of that district which moves along
19 418? Is that -- as far as you can divine, is
20 that in order to achieve any particular legal
21 compliance, or is that to pick up population so
22 that you have equity, which, of course, is also
23 a legal criterion? And I realize that you
24 can't go inside this author's mind, but based
25 upon any notes that that person may have

1 provided, or your own view, any logic to that?

2 MR. GUTHRIE: He didn't -- Mr. Samarrai
3 did not submit a written explanation of why his
4 districts were proposed the way they were. I
5 would presume that he was searching to equalize
6 the populations, and the map, in fact, does a
7 good job of equalizing district populations.
8 But why it heads to the eastern border of Lee
9 County rather than picking up additional
10 territory in Ft. Myers, I am not certain. It
11 is -- perhaps we are skirting the northern
12 boundary of Ft. Myers, but I really don't know
13 in this case.

14 SENATOR GAETZ: Okay. Senator Detert.

15 SENATOR DETERT: Well, since this is my
16 area, and, frankly, I will be perfectly blunt,
17 on this map I would be District 24, and I don't
18 really care, I mean, I go where they put me.
19 But the other -- what used to be 21 -- this map
20 splits up Manatee County, and I think it
21 unnecessarily splits up Manatee County. So I
22 would think that is not the best way to go.
23 And I think the people in Hendry County would
24 be shocked to find out that they have a lot in
25 common with Miami-Dade. So I don't see where

1 that would work either, unless the folks in
2 Miami-Dade, you know, want to go to the rodeo
3 in Arcadia on occasion. So I would reject this
4 map as, frankly, we can do better.

5 SENATOR GAETZ: Other comments? Senator
6 Latvala.

7 SENATOR LATVALA: Yes, thank you,
8 Mr. Chairman.

9 I am sure the folks in Tampa Bay area
10 appreciate all of the interest, because the
11 last day of submitting maps there was a
12 multitude of maps submitted from folks in the
13 Gainesville area that did a lot of different
14 things with the Tampa Bay area, and I don't
15 know why, but --

16 SENATOR GAETZ: Gainesville is an
17 intellectual mecca. We found that out during
18 the Gainesville hearing.

19 SENATOR LATVALA: I guess so, but this
20 particular map, since this is the one that we
21 have in front of us, you know, I just -- I just
22 feel it incumbent upon myself to make a few
23 comments about it, you know. In using Senator
24 Thrasher's, you know, four-point test, which we
25 kind of adopted, I guess, by consent as a way

1 we are going to look at these, you know, I
2 guess this map passes muster, at least my
3 opinion, with Senate District 20 on the first
4 tier. On the second tier of, you know, whether
5 it takes care of incumbents or whether it takes
6 care of political parties, I guess the jury
7 would be to the eye of the beholder on that.

8 But when we get into the third tier of
9 compactness, I think it fails miserably, both
10 in terms of District 19 and in terms of
11 District 21. I don't see any really rhyme nor
12 reason to the shape of either one of those
13 districts. It is true that the Supreme Court
14 of Florida established the precedent of putting
15 southern Pinellas County and southern Tampa
16 together. In 1992 they drew that original
17 district that has been maintained through these
18 days, and, you know, that -- which would be,
19 you know, the southern part, the green in 21
20 and 22, that -- if you are going to look at a
21 compactness standard and if you are going to
22 split the county, that would certainly look to
23 be the -- you know, the preferable way to do
24 it.

25 On the standard of both compactness and

1 county/city boundaries, political boundaries, I
2 am sure you are going to be shocked, those of
3 us that represent Hillsborough County would be
4 shocked to see Hillsborough County split five
5 ways. A county that has almost a million three
6 in population only would have -- out of those
7 five districts, only two of them would be
8 dominated by the people in that county. So
9 whereas there's four Senators that represent
10 Hillsborough County now, there would be five
11 Senators that would represent Hillsborough
12 County in the future.

13 And then when you get up into the Pasco
14 County part that is projected there for Senate
15 District 19, that would completely violate the
16 testimony that we had at the hearing about the
17 split -- the preference of the folks in -- you
18 know, east Pasco County is retirees basically,
19 not all that well-to-do either. Central Pasco
20 County, the middle of Pasco County, is people
21 who work in the City of Tampa, very much
22 aligned with the City of Tampa; in fact, the
23 only thing that really separates the City of
24 Tampa and Pasco County is a road called County
25 Line Road. There's buildings on one side of

1 County Line Road that are homes and so forth
2 that are in Pasco County, and the other side of
3 County Line Road, they are in Hillsborough
4 County. And then in the eastern portion of
5 Pasco County is all agriculture. The Dade City
6 area, you know, the San Antonio and so forth,
7 is a completely different breed of cat up there
8 from the City of Tampa.

9 And just a little historical perspective
10 about how that plays into history: When I had
11 the pleasure of representing Pasco County my
12 last time in the Senate, we had an issue come
13 up with the need to split area codes because we
14 got too many phone numbers and they used to all
15 be one area code, Tampa, St. Petersburg, Pasco,
16 it was all one area code, it was all 813. And
17 the people rose up when the phone company
18 recommended going to ten-digit dialing, because
19 a lot of them have trouble dialing seven
20 digits. And so what we did is I got involved
21 in it and we came up with a plan to split the
22 area codes, and we got a 727. Well, the people
23 in west Pasco feel a lot more akin to Pinellas,
24 so they wanted the 727 area code that Pinellas
25 County has. The people who live in the middle

1 part of Pasco, which is Land O' Lakes, Lutz,
2 Wesley Chapel where the Speaker Designate
3 lives, they wanted -- they felt like they were
4 in tune with Tampa, and so they wanted the 813
5 area code. And the people in Dade City have
6 the same area code as Hernando and Sumter
7 County, which is the 352 area code. So that,
8 as much as anything I could say, illustrates
9 the way that region perceives itself. And, you
10 know, this really doesn't -- this map ties west
11 and middle and east along a horizontal approach
12 rather than a vertical approach, and I think
13 that would be a real disservice to the people
14 in -- that live in Pasco County in that lower
15 tier.

16 So I just -- this particular map, although
17 I am sure well-intentioned by these folks in
18 Gainesville to try to help us out down there,
19 really I think misses the boat.

20 SENATOR GAETZ: As soon as we are finished
21 with the PCB on Senate, House and congressional
22 redistricting, we are going to start on area
23 codes and ZIP codes.

24 Senator Negrón.

25 SENATOR NEGRÓN: Thank you very much,

1 Mr. Chairman.

2 I just wanted to recall the testimony --
3 you remember the hearing we had in Lehigh Acres
4 at the veterans' gymnasium? It was one of the
5 best-attended hearings that we had on the tour,
6 and I just wanted to recall that the residents
7 in the southern part of Lee County -- you
8 remember literally several dozen folks either
9 testified or talked to us about their desire to
10 remain in the Lee County Senate seat, and also
11 specifically the residents of Bonita Springs
12 and Estero talked about how they wanted to
13 remain in the Senate seat that was
14 predominantly a Lee County seat. So that made
15 an impression on me from that hearing, and I
16 just want to make sure that we are mindful of
17 that public input.

18 SENATOR GAETZ: Senator Simmons.

19 SENATOR SIMMONS: Thank you, Mr. Chair.

20 In -- pursuant to your request about what
21 I think or what we think might be the
22 instructions given to staff --

23 SENATOR GAETZ: Yes, sir.

24 SENATOR SIMMONS: -- the first
25 instruction, as I understand it, is in fact

1 that pursuant to Amendments 5 and 6, that there
2 shall be no diminution in the ability of
3 minorities to have access to the election of
4 those candidates of their choice, and in doing
5 that, we are not supposed to favor incumbents
6 or political parties, and that while Senator
7 Latvala spoke about a four-tier analysis, or
8 four different things, that is qualified by the
9 fact that non-diminution of access by
10 minorities is to be treated equally with not
11 favoring incumbents or political parties,
12 because the last subsection of Amendments 5 and
13 6 specifically state that within each of the
14 two tiers, we are not supposed to give any kind
15 of greater weight to either one of the
16 instructions.

17 So under Tier 1, which is non-diminution
18 of the access of minorities and not favoring or
19 not intending to favor incumbents or political
20 parties, those would be treated equally.

21 With respect to Tier 2, there are two of
22 the main issues. We are always going to meet
23 the requirements of the number of people in
24 each one of the districts, that compactness and
25 using existing political and geographic

1 boundaries will be treated equally, one not
2 given more emphasis than the others. So we
3 have a two-tier analysis, and within those two
4 tiers, we have the subsets.

5 And so in deciding non-diminution of a
6 minority access district, the I think
7 overriding concern that one might have is two
8 times 25 percent does not equal 50 percent when
9 you are dealing with minority access districts.
10 And somebody would say, "What do you mean?"
11 That means that the existing minority access
12 districts that we have cannot be divided into
13 two subdistricts of 25 percent so that if we
14 previously had a minority district of
15 50 percent, let's say African-American or
16 Hispanic speaking, that -- and I use that
17 Hispanic minority together, a racial minority
18 or a language minority, that if it is
19 50 percent now, I don't believe that it can be
20 broken into two districts of 25 percent,
21 because I believe that the constitutional
22 amendments prohibit that, because they prohibit
23 diminution of access. And in doing so, I also
24 rely upon the existing language of the Voting
25 Rights Act, which I interpret myself to

1 prohibit such a diminution.

2 And there was one case, Ashcroft versus
3 Georgia, in which the suggestion was by the
4 U.S. Supreme Court that you could
5 constitutionally break two -- a district such
6 as that, a minority district, into two of less
7 percentages, but what happened is that after
8 that, Congress amended the Voting Rights Act to
9 make it clear that that could not happen.

10 And so it is my own interpretation that it
11 is not possible for us to go ahead and take a,
12 for example, 50 percent African-American
13 district and then divide it into two, for
14 example, 25 percent African-American districts.
15 I think that we must follow the letter and the
16 spirit of Amendments 5 and 6, and I agree with
17 what Senator Siplin has said, and that is that
18 we cannot diminish the access, the rights of
19 minorities to elect those who are of their
20 choice.

21 SENATOR GAETZ: Thank you very much.

22 SENATOR LATVALA: May I respond to that?

23 SENATOR GAETZ: Of course you may, Senator
24 Latvala.

25 SENATOR LATVALA: It seemed to appear by

1 Senator Simmons' reference to me that I had
2 suggested to doing that, and I don't remember
3 suggesting any way, shape or form doing that,
4 and if I did, I misspoke, but, you know, I
5 didn't refer at all to splitting minority
6 districts into two 25s.

7 SENATOR GAETZ: The Chair did not take
8 your comments as saying that at all.

9 Mr. Guthrie, other plans that you wish to
10 highlight today for the southwest for Senate
11 districts?

12 MR. GUTHRIE: Okay. So the next plan we
13 want to look at is plan number 92 by Michael
14 Weinbaum. Again, we have extensive use of
15 county and municipal boundaries for drawing the
16 districts.

17 In this case, we end up with District 16
18 in Tampa. We don't cross the bay with a
19 minority district in Tampa, St. Pete,
20 Bradenton. District 16 is 22.6 percent black,
21 versus the benchmark of 39.5 percent, and it is
22 30 percent Hispanic versus the benchmark of 23.
23 So we are losing an African-American access
24 seat in the Tampa Bay area.

25 As Senator Latvala mentioned earlier, in

1 1992, failure to provide such a district was
2 the basis for the U.S. Department of Justice
3 interposing an objection under Section 5 of the
4 Voting Rights Act.

5 The next map that we wanted to --

6 SENATOR GAETZ: Excuse me, Mr. Guthrie.
7 So is it your view, and I would ask Mr. Bardos
8 to comment if he wishes, is it counsel's view
9 that this map would present constitutional
10 difficulties?

11 MR. GUTHRIE: The retrogression or
12 diminishment of opportunity for racial
13 minorities in the Tampa Bay area I think would
14 be scrutinized.

15 SENATOR GAETZ: Mr. Bardos, any comment
16 there, sir?

17 MR. BARDOS: I agree with that.

18 SENATOR GAETZ: All right. Let's move on
19 to the next map.

20 MR. GUTHRIE: Next we look at plan number
21 60. It was presented at the Naples public
22 hearing. It shows that if your focus was
23 entirely on Lee County, the way that you would
24 draw a district to best meet the needs of that
25 community, what you see is that all of Lee

1 County, except for the Cape Coral area, is
2 included in a single Senate district, District
3 27 in this instance.

4 SENATOR GAETZ: Mr. Guthrie, since that
5 plan appears -- and if I am wrong, please
6 correct me -- appears to be a one-district
7 plan, how could we evaluate its consequences
8 for everything else that it would affect?

9 MR. GUTHRIE: Well, a challenge you would
10 have plugging this district in is -- I mean,
11 the question is, how do you make that work --

12 SENATOR GAETZ: Yes.

13 MR. GUTHRIE: -- with District 39 -- the
14 current District 39 to the east, which includes
15 significant portions of Hendry and Collier
16 Counties. So you may have a pocket of
17 population in the Naples area that is left over
18 and is not nearly large enough to constitute a
19 Senate district if you were to drop this plan
20 in exactly as it is proposed.

21 Now, it is quite possible, as Senator
22 Negron mentioned earlier, that you could create
23 a district that ties together most of the
24 communities of Lehigh Acres, Ft. Myers and
25 Bonita Springs in a single district, but you

1 need to have a way for the district to the
2 south, the district including Collier -- the
3 portion of Collier County not in the minority
4 district to get it up to the 470,000 person
5 required population. That possibly could be
6 done by putting coastal Collier together with
7 coastal Lee County.

8 SENATOR GAETZ: All right. My
9 recollection, and I defer to my partners here,
10 who have I am sure better memories, but my
11 recollection of the extensive testimony that we
12 heard in hearings in this part of the state
13 was, first, that we needed to absolutely kill
14 this cross-state district, and secondly, that
15 there was -- that there was a substantial
16 commonality on the coastal areas that was not
17 shared as one goes further inland.

18 Do we have a -- any of the maps that you
19 have chosen today reflect that testimony, or
20 would you disagree with my characterization of
21 the testimony?

22 MR. GUTHRIE: I think that is a good
23 characterization of what we heard. Here is --
24 here is an example, the plan 92, where you have
25 a district including -- well, this really isn't

1 coastal, this is more east and west, I would
2 say. It puts -- it breaks the City of Ft.
3 Myers, puts half of it with Bonita Springs and
4 then the other half with Cape Coral. Let's
5 move on.

6 Here is the current -- well, this is the
7 NAACP map, which follows the boundaries very
8 similar. Here is the current District 37.
9 Here is what the NAACP proposed. Both of those
10 tie together coastal Collier County with
11 coastal Lee County.

12 SENATOR GAETZ: And so there -- just to
13 keep the record straight, there in that
14 particular NAACP map, we do have substantial
15 similarities to the current district lines, is
16 that correct?

17 MR. GUTHRIE: For that particular
18 district.

19 SENATOR GAETZ: For that particular
20 district, okay.

21 MR. GUTHRIE: That is correct.

22 SENATOR GAETZ: Comments? Questions?
23 What else?

24 MR. GUTHRIE: The last Senate plan we
25 wanted to take just a very quick look at is by

1 Mr. Bruce King. We've looked at his map
2 before. You will remember that Mr. King
3 applied a grid pattern to the state and tried
4 to carve the districts in a manner that would
5 be maximally compact. What he discovered in
6 that process, and he wrote an extensive
7 explanation of his methodology, was that the
8 census geometry does not confirm very well with
9 a grid pattern, so that created more deviations
10 in the boundaries than he would have liked, and
11 also that using that methodology of focusing
12 primarily on compactness has the impact of
13 undermining your ability to achieve the Tier 1
14 objectives.

15 In southwest Florida, Mr. King's map has a
16 Tampa Bay district which is 23 percent black
17 and 27 percent Hispanic, significantly less
18 than the 39.5 percent black VAP benchmark of
19 the existing district in the Section 5 covered
20 area. And then also, in south Florida, he has
21 the covered counties. He has no minority
22 access or majority districts.

23 SENATOR GAETZ: And so then in the Tampa
24 Bay area -- what is this gentleman's name?

25 MR. GUTHRIE: Bruce King.

1 SENATOR GAETZ: -- Mr. King then runs
2 afoul of Senator Simmons' admonition about
3 splitting minorities and creating really two
4 watered-down districts.

5 Senator Detert.

6 SENATOR DETERT: Thank you, and I took
7 particular note of this map, and I haven't
8 spoken to the gentleman, but he is from my
9 district and I know who he is, an actual, real
10 citizen who probably made an honest attempt at
11 this, but he did not take into consideration
12 minority districts at all, and he ends up
13 splitting Sarasota, once again, unnecessarily,
14 I think. So while it is a really good effort,
15 I think he probably learned what we learned
16 when we tried drawing our maps: It seems real
17 easy, but it's just not. So I would suggest
18 that we would be forced to reject this map
19 because it didn't take into consideration
20 minority districts, I don't think, anywhere,
21 did he?

22 MR. GUTHRIE: I believe that is correct,
23 yes.

24 SENATOR DETERT: Yeah.

25 SENATOR GAETZ: Are there other maps?

1 MR. GUTHRIE: That's it.

2 SENATOR GAETZ: Okay. Let's see what we
3 -- if we can, if we can, let's see what we can
4 agree to in terms of guidance for our
5 professional staff. Let's start, if we may, in
6 the north part of southwest Florida, in the
7 Tampa Bay area, and I am going to posit an
8 instruction and then ask you to comment on a
9 proposed instruction.

10 We heard, as I recall, substantial
11 testimony, and Senator Latvala reflected on it,
12 as to east and west Pasco and the commonalities
13 of east Pasco that are uncommon to the
14 commonalities of west Pasco. Is it -- is it a
15 fair characterization of the testimony we have
16 heard, of the input we have received, that east
17 and west Pasco would be treated separately as
18 to Senate maps?

19 And, I'm sorry, Senator Benacquisto, were
20 you seeking recognition?

21 Senator Latvala, were you?

22 SENATOR LATVALA: Mr. Chairman, I think
23 you got to tie a couple of issues together
24 there, and one is, you know, actually
25 increasing the number of times Hillsborough

1 County is being split from what we've got now
2 when we have gone in the opposite direction
3 almost everywhere else in the state of trying
4 to keep, you know, larger blocks of people
5 together. And so, I mean, I got two major
6 concerns: One, the east/west split in Pasco
7 County, and secondly, that we do not have more
8 districts -- more splits in a given county than
9 what we have right now.

10 Now, in Pasco County right now, we have --
11 three different districts have little pieces of
12 Pasco County.

13 SENATOR GAETZ: Hmm.

14 SENATOR LATVALA: So we are not -- you
15 know, certainly if you go from three to two,
16 you are going down, but three to three would be
17 the same, but in Hillsborough, we are actually
18 increasing the number of different Senate
19 districts of which Hillsborough would be part
20 of.

21 SENATOR GAETZ: May we -- may we take it,
22 then, as an instruction to professional staff
23 that we don't want to bifurcate and trifurcate
24 and quad-furcate and other-furcate Hillsborough
25 County anymore than it has been, and that we

1 would want to, if anything, not make it worse
2 in terms of splits, and if possible -- if
3 possible, make it better, bearing in mind what
4 we have learned here about the minority
5 district that we -- that we are admonished not
6 to -- not to diminish for legal reasons.

7 Is that -- I am not doing a good job here,
8 Senator Latvala, but --

9 SENATOR LATVALA: I mean, is to not -- not
10 make more splits in Hillsborough County than
11 what we've got now, but we would still be able
12 to preserve the minority district. And then,
13 you know, look at the -- at least an east/west
14 split in Pasco, but maybe even an east and
15 middle and a west split, a little similar to
16 what we've got now.

17 Most of the population is in western Pasco
18 County. Well over half of the population is in
19 the west side of the county, you know. So the
20 -- as the further you go east, the more kinship
21 you get with the rural counties in the middle
22 of the state, whether it be Sumter, Hernando or
23 Polk, more rural, more agriculture, the further
24 east you go.

25 SENATOR GAETZ: Does everyone -- did

1 everyone follow that, what I think is a very
2 clear explanation of that issue, the divisions
3 with respect to Hillsborough County and then
4 the east/west divisions with respect to Pasco?
5 Is there any dispute of that analysis, which I
6 think is faithful to the testimony that we have
7 heard all the way around?

8 If not, Mr. Guthrie, consider that without
9 objection to be instructions to the
10 professional staff as to -- as to the Tampa Bay
11 area and as to the Pasco area.

12 MR. GUTHRIE: Uh-huh.

13 SENATOR GAETZ: Then is there further
14 comment on that area? Senator Detert.

15 SENATOR DETERT: I'll comment on the next
16 --

17 SENATOR GAETZ: Take us there, please,
18 ma'am.

19 SENATOR DETERT: Thank you, Mr. Chair, and
20 as your staff described District 21 as
21 interesting, I think we can fix that. And from
22 the testimony we heard and what I know of my
23 community, I think if we took that green area
24 and just made it into as good a rectangle as we
25 possibly could, keeping the numbers in mind, it

1 is not a minority district, so I don't think
2 that is problematic, but if you just followed
3 the Manatee County borders, I think that that
4 would -- it certainly meets my standard for
5 fairness.

6 SENATOR GAETZ: Senator Detert, let me ask
7 you this, and I don't have the numbers
8 memorized, and we may want to chat separately,
9 or you may want to chat with professional
10 staff, but let us imagine that Manatee -- let
11 us imagine that there had to be one other
12 county that was married with Manatee in whole
13 or in part.

14 SENATOR DETERT: Uh-huh.

15 SENATOR GAETZ: What would you -- based on
16 your knowledge of the community and your
17 recollection of the testimony and of legal
18 constraints that we are under, do you have any
19 observations there?

20 SENATOR DETERT: Well, I would say, number
21 one, I have a very small portion of Manatee,
22 which is Long Boat Key. Long Boat Key runs
23 from Manatee to Sarasota, and it literally is
24 split, I think, by a bridge. So half of Long
25 Boat could go to Manatee to give them some more

1 numbers. And if you squared it off and then if
2 they needed more people, I think it would be
3 acceptable to take a slice there out of Hardee.
4 It is not far-fetched to think that they have
5 commonalities there, because I think they do.
6 And then if you kept Sarasota along the
7 Sarasota boundary lines and dropped it into
8 Charlotte to get the proper amount of numbers,
9 I think that would suffice. Or see the green
10 part that is part of Sarasota?

11 SENATOR GAETZ: Yes, ma'am.

12 SENATOR DETERT: You could just square
13 that off, taking that little blue part, which
14 is now in 23, and giving it to 21, and then
15 just take off a slice of Hardee, I would
16 imagine.

17 SENATOR GAETZ: We don't we keep that in
18 mind as an option? We don't have the numbers
19 here in front of us, but let's keep that in
20 mind as an option.

21 SENATOR DETERT: Well, the real purpose
22 is, you know, that is historically considered,
23 and still is considered a Manatee seat. It
24 does not need to be in Cape Coral or anyplace
25 down there is the main point of that exercise.

1 SENATOR GAETZ: Yes, ma'am. Yes, ma'am.

2 SENATOR LYNN: Mr. Chairman?

3 SENATOR GAETZ: Yes, Senator Lynn.

4 SENATOR LYNN: I don't know this area well
5 enough to speak on it, but I am speaking for
6 the entire map. Throughout the entire map, off
7 and on, that we've -- all the maps that we have
8 looked at, we see some of these districts that
9 seem to be a lump and then a teeny sliver going
10 down to something and another lump, or whatever
11 you call it, and the constituents that I have
12 seem to always think that that is definitely a
13 gerrymandered kind of district. While we know
14 we have to preserve the minority areas as our
15 top priority, I am just wondering and asking,
16 is it not possible to do that while avoiding
17 some of these extremely long, winding, tailed
18 districts? Because it doesn't matter what you
19 do with the map. The minute constituents see
20 that, or voters see that, in their minds, you
21 have gerrymandered. And I didn't know how you
22 avoid it, but is that possible?

23 SENATOR GAETZ: Well, I think it is not
24 only -- it is not only possible, it is
25 mandatory that we -- that we bear in mind the

1 constitutional requirement for compactness,
2 where feasible. And so I would hope that we
3 would judge for the PCB in that way, and that
4 any odd geometry would have to be justified
5 very -- you know, would have to be justified on
6 the basis of either needing that area in order
7 to achieve the proper number of voting age
8 population, or for some other hierarchal need.
9 But, yes, the Constitution tells us that we
10 must be -- compactness where feasible is a
11 mandate. So I think you are absolutely right,
12 and the optics of a map often -- sort of our
13 conversation starters are stoppers.

14 Senator Detert.

15 SENATOR DETERT: Along those same lines,
16 Mr. Chair, why couldn't we do what I had
17 suggested last time, which is to have a totally
18 blank map of Florida with an overlay of just
19 the minority districts so people can understand
20 why we had to do what we did? Because you
21 can't have squares and rectangles when they
22 have to blend in with the pretzel next door to
23 you.

24 SENATOR GAETZ: Well, that is true, and
25 so, Mr. Guthrie, when you do come back to us at

1 our next meeting, let us have as one of the
2 visual displays the minority districts as a --
3 as a -- laid onto a clean map of Florida as a
4 way of responding to Senator Detert's well-made
5 point and then I think depicting sort of how we
6 build the building blocks after that, and that
7 is consistent with the Unanimous Consent
8 Agreement that we are operating under.

9 Let us, if we may, then see what we can
10 agree to a bit further south. Are we in
11 agreement that the cross-state Senate district
12 that currently exists should be no longer? Are
13 we in agreement that that is a -- that is an
14 anomaly of past redistricting that we should --
15 that we should find an alternative to? Is
16 there objection to that? All right.

17 Yes, sir, Senator Latvala.

18 SENATOR LATVALA: When you -- you know, I
19 mean, it is all in the details. When you say
20 cross-state, are you just eliminating something
21 that starts on one coast and goes to the other
22 coast, or, you know --

23 SENATOR GAETZ: Well --

24 SENATOR LATVALA: I mean, you are kind of
25 maybe leaving a little bit open to the

1 imagination there.

2 SENATOR GAETZ: Well, the -- thank you,
3 Senator Latvala, and I take that point. The
4 district that -- which was called by so many
5 people in testimony -- and I say this with
6 respect to our former colleague, the Aronberg
7 district, that the shape of the Aronberg
8 district, which was a -- virtually a
9 coast-to-coast district, that we leave that
10 behind us and we seek a more compact and more
11 logical district than that --

12 SENATOR LATVALA: I agree --

13 SENATOR GAETZ: -- that is what I meant.
14 And I'm sorry, Senator Latvala, your point was
15 well -- any objection? If not, then let that
16 be an instruction to professional staff.

17 Obviously, maintaining compliance with
18 Section 5 is -- it would seem to me to be
19 indisputable, unless you want to take on the
20 Justice Department, and so we would maintain
21 that as an instruction to the staff. You have
22 the Thrasher hierarchal -- the hierarchy of
23 values, which is a -- basically a restatement
24 of Amendments 5 and 6.

25 Other -- other instructions? Other

1 instructions?

2 SENATOR THRASHER: Mr. Chairman, maybe --

3 SENATOR GAETZ: Yes, sir, Leader.

4 SENATOR THRASHER: And I don't remember
5 the numbers, but there were serious objections
6 to a number of the maps that you put up, John,
7 that were shown, I mean, I would just call your
8 attention to those objections. I wrote down
9 just two, 147, I think there was a unanimous
10 concern about that particular map, and then a
11 couple of others that had some serious
12 concerns. You can go back and check the record
13 on that, but I would certainly call your
14 attention to those major objections on those
15 maps.

16 SENATOR GAETZ: Senator Latvala.

17 SENATOR LATVALA: And I would support what
18 he said. I think there were some points that I
19 think it was Senator Negron made about --
20 revolving around the Lee County testimony and
21 so forth, and I think we want you to take those
22 into consideration also.

23 SENATOR GAETZ: Senator Sachs.

24 SENATOR SACHS: Thank you, Mr. Chair.

25 When we make these -- these comments on

1 the maps, are they duly noted in the record so
2 that when it comes up in time for committee,
3 that we can revisit these comments as well for
4 the maps, such as the one previously, the King
5 map, that there were some comments made with
6 regard to not respecting the minority districts
7 and mandates by the Supreme Court, that maybe
8 we need to make note of those so that when they
9 come up in committee?

10 SENATOR GAETZ: Well, first, we would
11 encourage all Senators to maintain your own
12 recollections and however you wish to maintain
13 them, but in answer to your question, Senator
14 Sachs, and I stand to be corrected, a recording
15 of this meeting is included in the archives of
16 the Senate and would be a cherished momento for
17 all of us to refer to.

18 SENATOR SACHS: Just a follow-up,
19 Mr. Chairman, if I may?

20 SENATOR GAETZ: Yes, Senator Sachs.

21 SENATOR SACHS: Besides the fact of having
22 them in the archives, when -- when these --
23 when we review the bills that really consist of
24 the maps, as we've discussed --

25 SENATOR GAETZ: Yes.

1 SENATOR SACHS: -- will those comments be
2 available to us? I mean, is there any way that
3 we can revisit -- I have seen a lot of maps,
4 and they all look very current right now, but
5 when I think back in the last couple of weeks
6 in the maps, and it may not be that current, is
7 there a way, sir, that we can have these
8 collated so that, you know, there's some memory
9 of it, or should we just remember our comments?

10 SENATOR GAETZ: No, we -- Jay, did you
11 wish to remark to that?

12 MR. GUTHRIE: I was pointing to the
13 binders there, which have a compilation of the
14 157 maps that were submitted by the public. We
15 expect that to grow.

16 An easier way, in my opinion, to get at
17 all of that content is using the submitted
18 plans page on the Senate redistricting website
19 where all of the maps and all of the statistics
20 are just a click away.

21 SENATOR SACHS: Okay. Thank you.

22 SENATOR GAETZ: And if any member of the
23 Committee wishes to revisit comments that are
24 specific to a particular plan, we welcome you
25 to do that for all of us, or we welcome you to

1 do that with professional staff.

2 Are there any other comments as to -- as
3 to Senate districts in southwest Florida by
4 members of the Committee?

5 If not, thank you very much, Mr. Guthrie,
6 for that information, and I think you have a
7 sense of some of the concerns and cautions of
8 the Committee, you have a sense in specific
9 areas as to where we -- we want to be not only
10 faithful in all cases to the law, but also
11 faithful to the ways in which our constituents
12 in southwest Florida wish to have the law
13 fairly and equitably applied to their areas.

14 Now what we would like to do before we
15 turn to other discussion is to hear from
16 members of the public who are here today who
17 may wish to comment. We have several
18 individuals who were here, some of whom came a
19 good ways, and we will -- the prerogative of
20 the Chair, we will take individuals who have
21 driven here a ways, we will take lobbyists last
22 and we will take frequent visitors to the
23 Committee second to last.

24 And with that in mind, in the order in
25 which they were received, Marjorie

1 Starnes-Bilotti, I believe. Are you here,
2 ma'am? We would love to hear your testimony.
3 Ms. Starnes-Bilotti comes all the way from Ft.
4 Myers, Florida. Would you come forward,
5 please, to where Mr. Guthrie is standing? That
6 way we can all hear what you have to say.

7 In fairness to others who wish to testify
8 and to the need of members of the Committee who
9 may want to ask questions, if you can keep your
10 testimony to three or four minutes, we would be
11 grateful.

12 You are recognized. Welcome to the
13 Senate.

14 MS. STARNES-BILOTTI: Thank you. Good
15 afternoon, Chairman and members of the
16 Reapportionment Committee. I am Marjorie
17 Starnes-Bilotti, and I am from Ft. Myers in Lee
18 County. I reside in House District 75.

19 I come to you expressing the sentiments of
20 my neighbors and friends in Ft. Myers, Estero
21 and Bonita Springs to urge you to take these
22 cities together in a Lee County-based Senate
23 district.

24 You have already heard and I have heard
25 reference to today to the citizens in Bonita

1 Springs and Estero particularly wanting to join
2 Ft. Myers. They earnestly desire this very
3 rational configuration.

4 I speak to you as a long-term resident of
5 Lee County. My family has deep roots there,
6 having had a presence since 1910. We are
7 voters, active in the community. We have a
8 family history of the practice of law and
9 ranching since the 1930s. My dad was the
10 founder of the largest law firm in town,
11 Henderson, Franklin, Starnes and Holt, that is
12 Ft. Myers, my brother is a circuit -- senior
13 circuit judge, and I founded a law practice
14 there beginning 30 years ago, a family law
15 practice. My siblings continue their ranching
16 interests.

17 I know well the pulse of Lee County, and I
18 can tell you that the voters of Lee County
19 desire a district consisting of or
20 incorporating Bonita Springs, Estero and Ft.
21 Myers. They don't wish to be in a group -- in
22 a district with Collier County. We ask you for
23 a Lee County-based Senate district.

24 Thank you for your attention.

25 SENATOR GAETZ: Thank you very much,

1 ma'am, and thank you for coming all this way to
2 be with us.

3 Next we have Tom Leonardo. Mr. Leonardo
4 is a city councilman in Ft. Myers, and thank
5 you for your service to the people of Ft. Myers
6 and your service to the people of Florida.

7 And, Mr. Leonardo, welcome to the Senate.
8 You are recognized.

9 COUNCILMAN LEONARDO: Thank you. Recently
10 I received an e-mail invitation to attend this
11 hearing from Senator Gaetz, and I replied,
12 "Only if I am reelected on Tuesday,
13 November 8th." Well, here I am.

14 SENATOR GAETZ: And just -- Mr. Leonardo,
15 just so that we all stay on the same page, I am
16 pleased that you got the e-mail. We -- and I
17 am delighted you are here. We did not
18 selectively send those e-mails out.

19 COUNCILMAN LEONARDO: I understand.

20 SENATOR GAETZ: We sent e-mails out to
21 everyone who gave us their e-mail address when
22 we were in your community and who expressed an
23 interest to stay involved in the process. So
24 we are awfully glad you are here, and you are
25 special because you are a citizen of Florida,

1 but we had a lot of special citizens we sent
2 the e-mail to.

3 COUNCILMAN LEONARDO: Thank you, sir, and
4 I appreciate that.

5 First of all, thank you all for your
6 wonderful work. It is very difficult what you
7 do, and your travel has been very extensive,
8 and I happened to be one of the people
9 attending and speaking at Lehigh Acres. It
10 was -- I enjoyed that very much. It was great
11 participation.

12 Having worked on redistricting the City of
13 Ft. Myers, our wards, I can appreciate how hard
14 you work. Ours is a small task relative to
15 yours.

16 Let me offer you two suggestions on how to
17 make these hearings more beneficial. I happen
18 to have brought an iPad, and, fortunately,
19 there was a gentleman here that helped me get
20 on the site to help me look at your maps. But
21 I was kind of upset because I couldn't follow
22 the proceedings earlier. So my thoughts to
23 share with you to make this easier for the
24 public attending is if you would have an agenda
25 to hand out when people come in, as we do at

1 city council meetings, that would be helpful.
2 And for those who wish to have maps and don't
3 have the benefit of an iPad or their computer
4 with them or have somebody to tutor them as I
5 had somebody tutor me, you might have those
6 maps handed out, too. It is awful difficult to
7 follow without those maps.

8 Let me say that I don't speak in my
9 official capacity as a member of the Ft. Myers
10 City Council, or in an official capacity
11 representing Lee County as a member of their
12 MPO Board, but I do speak on behalf of several
13 citizens who have asked me to come here and
14 speak, and that is to kind of echo what
15 Ms. Bilotti had already said, and that is to
16 keep a Senate seat based in Lee County. That
17 is very important to us.

18 And the second thing is, please don't
19 split Bonita Springs and Estero into two
20 separate districts. You have heard that
21 testimony before. If the two of us can prevail
22 upon you and your staff to make that happen, we
23 would be very grateful.

24 Thank you very much for your time and for
25 this opportunity.

1 SENATOR GAETZ: Thank you, Councilman, and
2 congratulations on your reelection.

3 Yes, Senator Detert.

4 SENATOR DETERT: Could we just quickly ask
5 the staff if Lee County has the numbers to
6 support their own Senate seat? I mean, it is
7 an easy question.

8 MR. GUTHRIE: The population of Lee County
9 is 619,000 people. So it would be enough for a
10 Senate seat with 150,000 left over.

11 SENATOR GAETZ: So there would be -- if
12 you -- just on simple arithmetic, two Senate
13 seats would -- would touch Lee County?

14 MR. GUTHRIE: Yeah.

15 SENATOR GAETZ: Next, Vivian Garner.
16 Ms. Garner comes from Hudson, Florida, and we
17 are delighted to have you here, ma'am. It says
18 here that you are a teacher.

19 MS. GARNER: Yes.

20 SENATOR GAETZ: What do you teach?

21 MS. GARNER: I teach physical education.

22 SENATOR GAETZ: Physical edu- -- well, we
23 need that, that's for sure. Thank you for
24 being here, and you are recognized, ma'am.

25 MS. GARNER: Thank you very much, Chairman

1 and the Committee members.

2 I wanted to speak on behalf of members
3 from Pasco County, and Senator Latvala is real
4 familiar with our county, and I am a resident
5 of Pasco County for 45 years. I have lived on
6 both the east side of Pasco County in the
7 Lacoochee area, and I presently live on the
8 west side in Hudson.

9 So as Senator Latvala has said, the Senate
10 districts that we currently have, which are
11 three different districts, Senate districts, in
12 Pasco County, we have one that is based out of
13 Tampa, Senator Norman, then we have Senator
14 Storms, which is out of Lithia Springs, which
15 is the Brandon area.

16 I have been coming up here for around 15
17 years. What I have noticed is that those
18 Senators who have their offices down in the
19 Hillsborough County area, they do come and they
20 listen to what we have to say, but they don't
21 have the ownership of Pasco County residents
22 that we would like to see as constituents.
23 Pasco County people would like to be able to go
24 to a Senate office that is right within our
25 county boundaries. So I agree with Senator

1 Latvala that if we could have at least two
2 separate Senate boundaries, one for the west
3 and one for the east. Land O' Lakes,
4 Zephyrhills and Lacoochee and Dade City all
5 have commonalities, and I don't like to see
6 people have to travel all the way down to Tampa
7 to be able to meet with their Senator.

8 So we also have that same thing that
9 happens in the House district, and I know we
10 haven't brought that up, but I am going to go
11 ahead and testify for that. We have four
12 different House districts in Pasco County for
13 the State House, and we have the same thing
14 happen in that. Well, one is in -- up in
15 Hernando, we have one that kind of dips down
16 that takes part of Tampa, and it makes it
17 extremely difficult.

18 So if we can look more at the county
19 boundaries in Pasco County and have that be the
20 Senate seat as far as representation, I think
21 the people in Pasco County would be better
22 served. Okay. Thank you so much.

23 SENATOR GAETZ: Thank you. Senator
24 Latvala I think may have a comment or a
25 question.

1 MS. GARNER: Yes, sir.

2 SENATOR LATVALA: So are you -- I am not
3 exactly sure what you are saying there. I
4 think you are agreeing --

5 MS. GARNER: What I am saying is that I am
6 agreeing with you that we need two that
7 represent Pasco County, one east and one west,
8 and because we have a lot of population on the
9 west side where I live, but the east side is
10 more rural, and I am hoping that Senator
11 Bullard and Senator Siplin, as far as the
12 minority numbers, we need to look at that and
13 make sure we have enough, and I do believe we
14 do, minorities in both the Dade
15 City/Zephyrhills area, to support two Senate
16 districts that would meet the needs for the
17 minorities.

18 SENATOR LATVALA: Thank you.

19 MS. GARNER: Thank you.

20 SENATOR GAETZ: Thank you, and thank you
21 for your service in the classroom.

22 MS. GARNER: Thank you.

23 SENATOR GAETZ: Next we will hear from
24 Ryan Terrell, who is a frequent visitor. I
25 think this may be the fifth or sixth

1 appearance. And in the interest of time,
2 Mr. Terrell, we are going to ask you to be
3 brief today.

4 MR. TERRELL: Okay. Thank you,
5 Mr. Chairman and members of the Committee.

6 Today I am mainly only going to be talking
7 about Section 2 and Section 5 issues related to
8 the Hillsborough and other Section 5 counties
9 in the southwest region. There were some
10 comments that were made earlier by some of the
11 Senators that were suggesting that if you were
12 to split the current district represented by
13 Senator Bullard, which includes Collier, Monroe
14 and Hendry, which are Section 5 counties, that
15 if you were to split those up, that it would be
16 a potential violation of Section 5. I wanted
17 to clarify that it would be a potential
18 violation only if you were unable to do that in
19 a way that preserved the district that still
20 provided enough of a chance for that minority
21 population to elect the Senator of their
22 choice.

23 SENATOR GAETZ: Mr. Terrell, you have
24 offered legal opinions in each of your
25 testimony, and do I gather that you are a

1 member of the Bar? Are you an attorney?

2 MR. TERRELL: No, but the court cases are
3 outlined --

4 SENATOR GAETZ: Then what -- I understand.
5 Then I just want to make sure that we
6 understand it is the custom of this Committee
7 that when we seek a legal opinion, we turn to
8 counsel for a legal opinion. So would you
9 please qualify your comments that you are not
10 rendering a legal opinion?

11 MR. TERRELL: Yes.

12 SENATOR GAETZ: Please don't tell us what
13 is against the Constitution and for the
14 Constitution and --

15 MR. TERRELL: I apologize, Mr. Chairman.
16 I must have -- I am misspeaking then when I am
17 trying to say that.

18 What I meant to say is it is within my
19 opinion, looking over that, that those cases
20 that -- that might be the issue, and, of
21 course, counsel can correct me if I am wrong,
22 but looking over those opinions, if you can
23 take those Section 5 counties and provide and
24 show that you can make those minority districts
25 that would have that substantial population

1 voting age that would allow you to elect a
2 minority of their choice, then you are within
3 your realm to do so, and you are -- not
4 advised, but encouraged to do so.

5 In the case of -- is it District 39 or
6 District 38 -- whichever district number that
7 Senator Bullard represents, in her case, in my
8 map, what I show in plan 95 is that you can
9 actually take her district, and by separating
10 the Collier and Hendry portion of that district
11 and making it into a separate district, you can
12 actually create two minority seats compared to
13 the one that is currently represented by
14 Senator Bullard.

15 So I may be wrong, and if I am wrong,
16 Counsel, please correct me on this, but my
17 understanding is it would be a violation if you
18 were to diminish the opportunity of a minority
19 to elect in a district, but in the case that
20 you can create more minority seats out of the
21 same area in a more compact way that is
22 narrowly tailored to meet that interest, in
23 this case, it would be narrowly tailored by
24 including Hendry, Collier and a small portion
25 of Miami-Dade, I believe only 10 percent of the

1 district would be in Miami-Dade, I don't have
2 the map in front of me, but that particular
3 district would be 51.3 percent Hispanic
4 majority, which would allow the minority
5 population of that area the opportunity to
6 elect a minority of their own choice while
7 still allowing the minority populations in
8 Monroe and Miami-Dade a minority district that
9 they could still have the ability to elect a
10 candidate of their choice. And that is the
11 point that I was trying to make, not that I am
12 reading legal opinions, but I am saying that if
13 you can take those counties that are Section 5
14 when you are going before the Department of
15 Justice and there is the ability to say you can
16 create more districts than what you are
17 creating, the Justice Department wouldn't
18 necessarily require you to do so, but what they
19 would say is that you would have to have a
20 pretty compelling reason not to, because you
21 could create more districts than you are
22 creating under the current plan.

23 And I just wanted to bring up something
24 that was brought up earlier that Senator Siplin
25 made about -- a comment that Senator Siplin

1 made about the current plan. The current plan
2 wasn't challenged ten years ago, so -- the
3 Senate plan. The House and the congressional
4 plans were both challenged, but the Senate plan
5 wasn't challenged ten years ago. So even if
6 the Amendments 5 and 6 were in place ten years
7 ago, they weren't challenged, so there is no
8 way to actually know whether or not it would be
9 compliant the way the minority districts were
10 drawn ten years ago compared to how they need
11 to be drawn today. And the only comment I
12 would make on that is that if you are going to
13 draw districts that are similar to that, I
14 would urge you to look at the community of
15 interest argument that I was making two weeks
16 ago in that when you are comparing a minority
17 population from one district -- I mean, from
18 one area and stretching to it a far-off
19 minority community that is a substantial
20 distance away, if they both share similar
21 communities of interest, that might hold up in
22 court, but I would just be -- I would be
23 advised to take caution --

24 SENATOR GAETZ: In your opinion as a
25 layman?

1 MR. TERRELL: Right. And I would just --
2 I would use a little bit of caution in terms of
3 connecting a district that is far-off
4 communities of interest. And that is the only
5 -- the only comment I would make. So if I said
6 anything wrong, I would like counsel to kind of
7 fix that.

8 SENATOR GAETZ: No, no, no. We just want
9 to make sure that folks knew that you and I are
10 both laypeople.

11 Anything else, sir?

12 MR. TERRELL: Nope, that is it.

13 SENATOR GAETZ: All right. Thank you very
14 much.

15 Next, Carole Green. Ms. Green? Ms. Green
16 is representing the City of Ft. Myers -- I'm
17 sorry, the City of Bonita Springs.

18 MS. GREEN: Yes, sir, I am. Thank you
19 very much, Chairman, and I will not belabor the
20 point. I appreciated the fact that I had some
21 of my other folks that were here from Lee
22 County today, too.

23 I am the lobbyist for the City of Bonita
24 Springs, I have been in that capacity for four
25 years, but I am also a 30-year resident of Lee

1 County, so I have had an opportunity to know
2 the county very well.

3 I am here on behalf of the City of Bonita
4 Springs to again respectfully request that we
5 hold the city intact. It is about a
6 44,000-member residents in that city, and as
7 you have already noted during the time that you
8 all visited in Lehigh Acres, including Senator
9 Negrón mentioned that, too, that there was a
10 considerable amount of testimony to that fact.
11 So I just wanted to make sure and go on record
12 for the City on that behalf, and I won't waste
13 anymore of your time.

14 SENATOR GAETZ: No, very fine, thank you
15 very much.

16 MS. GREEN: Thank you.

17 SENATOR GAETZ: Any comments or questions
18 for Ms. Green? If not, thank you for coming,
19 and we --

20 MS. GREEN: Thank you, by all means.

21 SENATOR GAETZ: -- appreciate your
22 testimony.

23 MS. GREEN: It is always good to be here.
24 Thank you.

25 SENATOR GAETZ: Yes, ma'am.

1 And now, before we go to any final
2 comments here, Senator Gibson, you had wanted
3 to return to some comments you wished to make
4 about the NAACP maps, and if you would like to
5 do so, you are recognized, ma'am.

6 SENATOR GIBSON: Thank you, Mr. Chair, but
7 I think I pretty much laid it out, not only
8 just the NAACP map, but other maps that were
9 submitted that we ultimately won't go back to
10 because we've already passed them. So it's
11 part of our procedure, I guess, that once we've
12 finished with an area, we were done with that
13 area, regardless of any maps we got later on?

14 SENATOR GAETZ: No, and, again, if I -- I
15 apologize if I or the professional staff have
16 led you to that erroneous assumption. We have
17 passed no maps. We have not voted on a single
18 map.

19 What we have done is achieved a small
20 number of unanimous consent instructions to the
21 staff and a small number of Unanimous Consent
22 Agreements as to our procedure. But when we
23 arrive at this hearing, or at this -- at the
24 next meeting on December 6th with a proposed
25 committee bill, you may return to any part of

1 the state and offer any amendment you may wish
2 to offer, so long as it is a strike-all
3 amendment and you can show the consequences to
4 other districts.

5 Now, this leads, Senator Gibson, to
6 another suggestion I would make, and it is up
7 to every member of the Committee as to how you
8 want to proceed. You can -- you can either
9 submit an amendment to the proposed committee
10 bill when we take up the second reading of that
11 bill, or the first reading of the bill, for
12 that matter, and then, of course, if you do,
13 you have to get a majority vote on the
14 Committee for your point of view to prevail.

15 There is another option, and the other
16 option is that we are still taking input from
17 this Committee, we still are anxious to have
18 observations made that will assist us in
19 complying with Amendments 5 and 6, complying
20 with the Voting Rights Act, complying with the
21 other legal strictures under which we operate,
22 and being consistent with the testimony that we
23 have heard from members of the public, and so,
24 therefore, any Senator is -- and all Senators
25 are invited to visit with our professional

1 staff at your convenience, make an appointment.
2 And if you didn't -- if there's something that
3 you didn't want to share today or you think of
4 tonight or tomorrow and you believe it might be
5 helpful in assuring that we are faithful to our
6 legal responsibilities, you are welcome to do
7 that then. We are in the market for good
8 ideas. If, however, you wish to wait and offer
9 a formal amendment and argue for that amendment
10 and take a vote, as is the custom in many
11 cases, you are welcome to do that, too,
12 whichever is your preference.

13 SENATOR GIBSON: Well, let me just clarify
14 then since you clarified. What I meant was for
15 the purposes of this committee meeting, the
16 meeting of the entire Committee, we are not
17 revisiting maps in areas that we have already
18 passed, obviously, because we are out of time?

19 SENATOR GAETZ: Well, you may -- at the
20 meeting that we are going to hold on
21 December 6th, that is a time when we will see a
22 proposed committee bill, and that is a perfect
23 opportunity, not the only one, not the last
24 one, not the first one, but it is a perfect
25 opportunity for you to revisit any part of the

1 state of Florida, any boundary of any district,
2 any assumption that has been made, any
3 agreement that has been arrived at. The only
4 thing that I would insist upon as the Chair is
5 if you wish to change the rules of engagement
6 that we have agreed to without objection, that
7 we achieve a similar kind of consensus.

8 Is there anything else that -- yes, sir,
9 Senator Negron.

10 SENATOR NEGRON: Thank you, Mr. Chairman.

11 I just wanted to make a very brief comment
12 following up on Senator Simmons' analysis today
13 and Senator Thrasher's comments at an earlier
14 meeting that when we are talking about not
15 diminishing and having no retrogression
16 according to Amendments 5 and 6 and then the
17 mandate with minority voters, that this applies
18 equally to racial minorities and language
19 minorities, that both of those groups, in my
20 view, are to be treated equally as we put the
21 maps together. And I know that Senator Simmons
22 had partially addressed that in his comments,
23 but I just wanted to reiterate that that is my
24 interpretation of Amendments 5 and 6 is that
25 those -- that those two groups should be

1 treated equally and in the same fashion as we
2 draw the maps. And I know you are going to
3 have a map -- at least you had directed staff
4 to have a map with the minority seats on it for
5 our next committee meeting, so in light of
6 that, I would just make that comment.

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

9 Are there any other comments that members
10 of the Committee would wish to make, any other
11 observations, any other direction or assistance
12 or guidance to professional staff?

13 Leader Gardiner, any final comments? I
14 believe your mike is not on, sir.

15 SENATOR GARDINER: Thank you,
16 Mr. Chairman, and I appreciate your diligence
17 and leadership. And as I mentioned before, as
18 we are moving forward, whether it is Senator
19 Gibson or others, that we take into
20 consideration, if we are interested in a
21 specific area, that we bring forward a plan
22 that shows the impact across the state. I
23 think that is very, very important that the
24 members see that.

25 And to Senator Negron's point, I think

1 when we are addressing and looking at minority
2 districts, that we do not diminish and we
3 really look at the percentages. If a
4 particular district is at a percentage, I think
5 it is very important across the minority
6 districts that that stays within that
7 percentage.

8 So I want to thank you, Mr. Chairman, for
9 such a great and open process, and we look
10 forward to the product that comes forward.
11 Thank you.

12 SENATOR GAETZ: Senator Simmons.

13 SENATOR SIMMONS: Yes, thank you,
14 Mr. Chair, and I do want to agree with Senator
15 Negrón, the examples I gave, for example, the
16 one about African-Americans, but the Amendments
17 5 and 6 deal both with language minorities as
18 well as race minorities, and all I was doing
19 was giving an example. But both language
20 minorities and race minorities are encompassed
21 within the examples that I -- or the whole
22 conversation that I made.

23 SENATOR GAETZ: Points well taken.

24 Leader Rich, do you have any final
25 comments before we leave, ma'am? Thank you

1 very much.

2 The next time we meet, now, let's just --
3 I don't mean to prolong the agony here, but the
4 next time we meet will be December 6th. But on
5 November --

6 Yes, ma'am, Senator Benacquisto.

7 SENATOR BENACQUISTO: Thank you,
8 Mr. Chairman.

9 I just wanted to take this moment that
10 before a single map is produced, to thank you
11 for your leadership as Chair to navigate what
12 are sometimes tenuous and difficult decisions,
13 but you have done it very well, and we thank
14 you for your time and concern, and we look
15 forward to the maps being published.

16 SENATOR GAETZ: Thank you very much,
17 Senator.

18 Our next meeting will be December 6th. We
19 will -- the professional staff will take into
20 account the input that we have received in all
21 of the 26 public hearings, the 1,700 people who
22 have testified, some of whom have testified
23 against each other, many of whom gave
24 conflicting testimony, so, you know, some
25 people call it a ball, some call it a strike,

1 but that is being sifted through by each of us
2 and by professional staff, the 158 maps, I
3 guess, that we have received, 157, and the
4 guidance from this Committee and the discussion
5 that professional staff has heard from this
6 Committee, as well as the testimony that we
7 have received from members of the public who
8 have come to these committee meetings, as well
9 as to the 26 hearings. So we will have a PCB
10 on the 28th.

11 And remember that by our Unanimous Consent
12 Agreement, we are not going to have any
13 midnight amendments, we are not going to have
14 any surprise gotcha's. Instead, we are going
15 to follow the guidelines that we have all set
16 out that provide a seven-day rule for public
17 notice, that provide a 48-hour rule for any
18 amendments by any members of this Committee.
19 We are not going to do Sunday afternoon at two
20 o'clock when nobody is around and looking. We
21 are going to follow a five o'clock Friday
22 deadline, as we explained at the beginning of
23 the meeting, and then we will vote on
24 December 6th to introduce a PCB, and before we
25 vote, we will hear the public testimony that

1 might be given that day, we will also have the
2 advantage of The Florida Channel's production
3 that I described earlier that gives people six
4 different ways to contact us and share their
5 views on the PCB that will be available to the
6 public on the 28th of November, we will vote to
7 introduce the PCB on the 6th, and then when we
8 return after the Hanukkah/Christmas break, we
9 will have another committee meeting. By then,
10 I believe that our Rules Chair and our
11 presiding officer will have had the opportunity
12 to consider re-referring the PCB to the
13 Reapportionment Committee. We will then have
14 another full debate and discussion and take a
15 vote and hopefully have a product that we can
16 hand to our Rules Chair and our presiding
17 officer for action at their pleasure early in
18 the session.

19 This has been an extraordinarily ambitious
20 undertaking from the beginning to the end, and
21 the end is not in sight, you know, we have a
22 lot more to go through. But I want to thank
23 particularly the Minority Leader, Senator Rich,
24 the Majority Leader, Senator Gardiner, and
25 members of the Committee, Democrats,

1 Republicans, people of different points of
2 view. Undoubtedly we will have differences,
3 and undoubtedly there will be, you know, votes
4 up and down, but to this point, we have seen a
5 group of legislators who have taken the legal
6 requirement seriously and taken their public
7 trust seriously, and I think have acted in a
8 way that is a model for Florida and all of the
9 nation.

10 And with that, Senator Sachs moves we
11 rise.

12 (Whereupon, the proceedings were
13 concluded.)

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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 123 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 28th day of November, 2011.

CLARA C. ROTRUCK

Notary Public

State of Florida at Large

Commission Expires:

November 13, 2014